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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty and ever-living God, who is our light and our salvation, because of You we have a future and a hope. Your loving kindness is from everlasting to everlasting. Thank You for our opportunities to make this world better and to be instruments of Your love. Make us fit ambassadors of Your kingdom, as we invest in eternity.

Today, teach our Senators what You want them to do. Help them to trust Your wisdom and depend upon Your guidance. May they prosper and be in health even as their souls prosper.

In this Thanksgiving season, we praise You because You are our rock, our fortress, our strength, our salvation, our savior, and our shield. We pray in Your holy Name. Amen.

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 THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. This morning the Senate will conduct a period for morning business until 10:30 a.m. Following morning business, we expect to begin the Energy Policy Act conference report. If we are unable to reach consent for a time limit on the Energy conference report, it may be necessary to file cloture during today's session. In all likelihood, the Senate also will be taking up other conference reports as they become available, as well as nominations

NOTICE

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By order of the Joint Committee on Printing.

ROBERT W. NEY, *Chairman.*

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

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on the Executive Calendar during tomorrow's session. Therefore, rollcall votes should be expected throughout the day. Leadership on both sides of the aisle has notified Senators that in all likelihood it will be necessary for us to work through the weekend. We are on target to complete our work this week, but it looks as though we will be in session working on Saturday and perhaps Sunday to complete action on the Energy and Medicare conference reports, as well as the appropriations measures.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The assistant minority leader.

Mr. REID. Mr. President, it is my understanding on the conference report it is privileged, but it could require a vote. On our side, we have no request for a vote to get the conference report on the floor. So on our side we do not need a vote, and I want the leader to know that. We worked last night with a couple of people who thought a vote would be necessary, but they no longer believe it is necessary, so we are ready to move to that as soon as it is here.

Mr. FRIST. Mr. President, responding through the Chair, we very much appreciate that because we are very eager to get to this Energy conference report and want to do it as soon as possible this morning. I have a couple of colleagues to talk to. A final decision will be made whether or not a vote will be required. If so, I would expect to have that vote very shortly after morning business.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes of the time under the control of the Democratic leader or his designee, and the second 30 minutes of the time under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

HAPPY 80TH BIRTHDAY

Mr. SCHUMER. First, I want to wish the President of the Senate a happy 80th birthday. I come from New York. We pride ourselves on good salmon. At his little gathering last night, the Alaska salmon looked beautiful and tasted as good as any salmon I ever tasted. I want to wish him a happy birthday and thank him for celebrating it with all of us.

ENERGY POLICY ACT AND MTBE

Mr. SCHUMER. Mr. President, what I would like to talk about today is the Energy bill that is coming upon us. I want to talk about one provision in there which I find to be one of the most abusive provisions that I have ever seen come down the pike, and that is the provision of a safe harbor for the MTBE producers.

As everyone knows, we have found that while MTBEs did work at cleaning air, they also worked at polluting the groundwater. What has happened in my State and in 38, I believe it is, of the 50 States is that when the MTBEs were spilled, they went into well water, into aquifers, and basically made the water undrinkable and unusable. This has left thousands and thousands of families in terrible shape, probably tens of thousands, and it is going to grow. It is going to be millions of families down the road because we are just learning of the extent of the MTBE spills.

We are being very generous, even without this safe harbor, to the MTBE producers. We are giving them $2 billion to shut down. How many small business men and women in America, when they shut down, get a Government subsidy? I think very few. But we are giving it to them and I am not arguing against that right now, as much as I oppose it.

We have also given them a safe harbor. We have said to them that you cannot be sued, and we have set a retroactive date of September 5 in this Energy bill. I should not say ''we.'' Two people who crafted the Energy bill did it. Nobody else had much say.

What will this mean? Let me tell you the situations I have found on Long Island and the Hudson Valley, in Orange County and Dutchess County, throughout my State.

MTBEs were spilled and have leaked into either individual wells of family homes or into aquifers upon which towns and villages depend. The water supply is gone. The people cannot use the water or drink the water. What does that mean? The least of it is they need bottled water to do everything—to drink, to brush their teeth, et cetera. They have to go out and buy bottled water. That is a significant expense to these families.

In most of the places I visited, the homes are modest. They are small homes. They are typical American families who have worked their lives and their little piece of the rock is their home.

Worse, however, is that you can't even take a shower because the MTBEs, it is said, give off some kind of vapor that could be very harmful if you shower regularly. So the families have to go to neighbors. Since often the spills are in whole tracts of land, it is not just walking across the street and knocking on the door. In some cases that is possible because some houses are not polluted and some are, that are next to each other. But usually they have to get in the car and drive the kids, drive themselves to take a shower. That renders their home—if not valueless, it knocks out their investment.

We have lots of people struggling with these MTBEs. What they have done, of course, is gone to the people who have created the problem. They have gone to the service station owner who might have spilled the gasoline, or the pipeline that ruptured. But the bottom line is, in most cases those people are out of business or not able to help.

So what happened was, because of lawsuits—and I am not one of the Democrats who is the leading advocate for the trial lawyers, but I do believe there are instances where lawsuits are the only solution. They went to oil companies with lawsuits, one in California, several in other parts of the country, and showed not only that the companies knew MTBEs were harmful but, worse, they didn't tell anybody.

If in the mid-1980s we found that MTBEs were polluting the groundwater and permanently doing such severe damage, wouldn't it have made sense for the oil companies and the producers to send notifications to the service stations, to the pipelines, to the trucking companies, and say: If this stuff spills, it could be dangerous. Be very careful. Here is what you do in the immediate case that there is a spill.

None of that happened. It is reminiscent of the cigarette industry. We knew cigarettes were harmful. Most people sort of had an inkling after 1965. I, for one, believe that just to do a lawsuit because you later find a product is harmful is not the strongest case. But in the cigarette industry, and now with the MTBEs, when the producer knew it and not only continued to produce it but didn't let the information out, that to me is egregious because you could have prevented a whole lot of harm.

So what we had throughout New York was the following. We had lawsuits, and even in many of the cases when it wasn't lawsuits, the oil companies were beginning to come forward. In Fort Montgomery, right near West Point, Orange County, are a lot of retirees from the military, in lovely homes near the banks of the Hudson River. The oil companies paid to put on these filters that would prevent the MTBEs from going into the drinking water, the bathing water, et cetera. In some places, up in Dutchess County, they were beginning to negotiate with the law firm. The town would pay some money, the oil companies would pay some money, and they would put in a water system of piped-in water because the entire drinking water, under a large number of homes, was gone.

Many of these cases didn't reach lawsuits because they were trying to sit down and work out a negotiation. But we all know that the threat of a lawsuit is the only thing that brought the oil companies to the table. But progress was being made dealing with this bad problem. I don't want to cast blame here; it is just a serious problem.

I ask my colleagues, if you are a homeowner and you bought your home and this stuff leaked half a mile away and leached into your aquifer and your home is worth half the value it was, and it could be made whole again by simply putting in a water supply, should we just say to the homeowner: Tough luck? Or should we try to figure out a way to have those who knew this horrible thing was happening help pay?

I would have felt better—maybe some of my colleagues don't like the idea of lawsuits; in this Energy bill we have $30 billion to fund everything under the Sun—had there been a fund to help the homeowners. If you don't like the way of lawsuits, that is fine, and if you believe the Government has some responsibility—which it probably does because the Government sanctioned MTBEs—fine. But what we are saying is, with this safe harbor, to the tens of thousands, soon to be hundreds of thousands, and probably into the millions of homeowners whose whole life savings are destroyed: Tough luck. You can't sue. You can't negotiate.

This is a classic case of what is wrong, sometimes, with the things we do here. We have sided with the oil companies that, at least, have as much blame as the innocent homeowner—more blame. And we have told the homeowners: Tough luck.

It is not fair. As I say, these are hard-working people. There is no fault of their own. No one thinks there is any culpability on the part of the homeowners.

We had things beginning to move in the proper direction, and because of the power of a limited few, and, frankly, because of the way this bill was created, with no debate, no chance for amendment—what we did here on the floor I think many on our side regret because we passed last year's Democratic bill which modified the safe harbor provision, due to the work of the Senator from California and some of the others, and then it was totally ignored and basically two people—both of whom I have a lot of respect for but they have a point of view quite different than many of us here on energy issues—negotiated the entire proposal.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SCHUMER. I ask that I be given another 5 minutes since none of my colleagues is here.

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

Mr. SCHUMER. Mr. President, many of us believe this whole Energy bill is a travesty. Many of us believe there are three major energy issues that have occurred in the last 3 years. One was 9/11. It showed us the need to be independent of Middle Eastern oil. And China, of all places, because they are worried about dependence on Middle Eastern oil, is now instituting CAFE standards in their automobiles that are higher than ours. That should make every American think. If our country cannot take the necessary preparations to deal with a problem that is going to be nipping at our heels and then create real problems in America a few years from now, that is a sign of weakness of our country, and I love this country and I don't like to see us be weak. But we have done nothing on oil conservation.

I am not one of those who says we shouldn't produce new oil. I was one of six Democrats who voted to look in the east gulf, much to the chagrin of my friends from Florida. I think on Federal lands—certainly not in parks or monuments but on the huge forest land—we should not be so doctrinaire. If there is a good amount of oil and gas that can be recovered in an environmentally sound way, I think we should do so. We need to increase supply and decrease demand. But we are doing nothing to decrease demand. On that issue, we have done nothing.

The second issue that occurred with California and the way electricity flows in this country—again, talk to my colleagues from Washington and talk to my colleagues from California; they will tell you; they know this issue better than I—we are doing nothing in this bill to prevent another fiasco like the one which occurred in California, and the one I find most amazing is the recent blackout that many of us in the Northeast and Midwest suffered. We all know the reason is that no one is in charge of the grid. In some places, it is power companies; in some places, it is a conglomeration; in some places, it is ISOs.

There was consensus immediately after the blackout that we ought to have one national grid governed by someone who will look out for the transmission of electricity.

The analogy ought to be the highway system. We have one national highway system. Even though people drive within the States, commerce flows across State lines. So does electricity.

The idea of not creating a strong national unit that can determine how our power flows because we are going to need more power—again, I don't like those who say we shouldn't grow. We should grow, but we are going to need more power to grow. To not have a national grid after what we saw on August 14, I believe the date was, and to just sort of ignore history because a few special interests or a few power companies didn't like it—I try to read a little bit of history. When the special interests, whether they be left, right, or center, whether they be rich or poor, overcome the national interests, that is a sign of weakness. It is a sign of failure. And energy and power are two issues that demand some kind of national solution and some kind of long-term solution.

This bill, aside from the MTBE provision, is a hodgepodge of little special interest things. I know what it does. I ought to vote for it. I am getting a few things for New York State. If each one of us is going to say we got our little thing for our States and we are not dealing with the national problem—and the two are not mutually exclusive in most cases—then we are not serving America.

I predict that within 5 years we are going to need to do another Energy bill. I think the last one we did was in 1992. We are going to need to do another Energy bill because the best that can be said about this bill is it sidesteps the major problems. The worst that can be said about it, or one of the harshest things that can be said about it, is if you hired the right lobbyist and had the right connections, you got something in this bill.

But the thing I most object to is not all those little things in there but, rather, that they have taken the place of a national policy on energy which we do not have. If there was ever a time to have it, after 9/11, blackouts, and Enron in California, now is the time we should have created it. If we can't create it now, when?

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

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

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

ENERGY AND MEDICARE

Mrs. HUTCHISON. Mr. President, I rise today to talk about two monumental pieces of legislation that are coming this way and, hopefully, will be passed in the next 48 hours. I am hopeful that we will pass the Energy bill. The House has passed this Energy bill. I have heard a lot of discussion about it. It was a very hard-fought bill.

Since coming to the Senate 10 years ago, I have tried to have a part in passing energy legislation that would make our country self-sufficient. Ten years ago, I said we were too dependent on foreign oil. We were dependent upon foreign oil for about 50 percent of our energy needs. Today, 10 years later, it is 10 percent more. We are 60 percent more dependent on foreign oil for our energy needs.

It is a very important issue for our economy. Our economy is not the most stable right now, but it is in a recovery. We are dependent on energy for our factories, for our businesses, for our economy to remain stable, and for us to be able to continue to increase the number of jobs in our country. Having more energy self-sufficiency

will be very important for our country to be able to strengthen our economy, put people back to work, and go into a full recovery.

The bill we will have before the Senate in the next 48 hours is not a perfect bill, but it is a bill that I am very hopeful will pass so that we can start the process of having an energy policy that includes conservation, incentives for production, incentives for nuclear power. We have not had a nuclear powerplant built in America since 1978. It is our cleanest source of energy and it is energy that has the capacity to meet our needs. I am very hopeful we will pass this bill and we will work to fix some of the things not fixed in the bill.

I am hopeful also that we will pass Medicare prescription drug benefits. That is a bill in progress. We are going to have an incredible ending to this legislative session if we are able to work those bills out and pass them, including the jobs created in the Energy bill and to begin the process of providing our seniors a prescription drug benefit.

I see the Senator from the State of Oregon is on the Senate floor, and I yield to him up to 8 minutes.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. I thank the Senator from Texas for yielding to me.

ENERGY

Mr. SMITH. Mr. President, in thinking about my remarks today, I was reflecting back upon the investments made during the Great Depression in the Pacific Northwest by President Franklin Roosevelt, by his congressional friends. They were at the time expensive, but they were done at a time in America, particularly the Pacific Northwest, when only 30 percent of the American people had electricity. One had to live in the city to have electricity.

President Roosevelt went to Oregon and Washington and dedicated the Bonneville Dam. At the time, in 1937, it was an enormous undertaking. He was a visionary when he dedicated that dam. He foresaw the benefits of universal electrification of our Nation from an economic and from an environmental point of view.

There were those who expressed concern about the cost of this Energy bill. In preparing for these remarks, I read the address of Franklin Roosevelt those many years ago because it is applicable even today. He ends his address with this adage, which is as true today as it was then:

> We in America are wiser in using our wealth on projects like this which will give us more wealth, better living, and greater happiness for our children.

It seems to me the difference between those for the bill and those against it has to do with money and the picking of winners and losers supposedly in this bill, and the difference of approach.

The American people want affordable energy. The American people want a clean environment. It does seem to me there are those on the other side who believe the best approach to get energy and to get more green policies in place is through regulation. Indeed, I saw with some interest an article in the Washington Post this morning in which the probable Democratic nominee, Howard Dean, calls for: An age of reregulation. There is the headline. He was apparently a born-again reregulator. He wants to reregulate American industry, and specifically energy.

It seems to me you can get different outcomes at the heavy hand, the club, of government. But I think what this legislation does is try to get to green results with affordable energy by incentivizing it with carrots. So you really have a choice between carrots and clubs, depending on which side you want to support in this debate and how you vote.

But, Mr. President, I rise today to speak in support of the conference report on H. 6, the Energy Policy Act of 2003. All of the conferees are to be congratulated for their tireless efforts to craft a bill that provides for real progress in securing our Nation's energy future. It is a positive step toward ensuring our farms, factories, and homes have energy they need at affordable prices.

The bill provides significant incentives for diversification of our energy sources and for investment in needed energy infrastructure.

I am pleased the bill authorizes $550 million in grants for biomass programs, which will help Oregon's communities and small businesses treat forested lands at high risk of catastrophic fires. This bill will promote the generation of electricity with the wood and brush removed from lands when lands are treated to reduce wildfire dangers.

The extension and expansion of tax credits for the generation of electricity from renewable resources will also benefit Oregon, which has been a leader in renewable energy production, particularly in wind energy.

There are tremendous amounts of incentive here for windmills. In fact, I heard Pete Domenici say: In 10 years, you are going to be tired of seeing all the windmills that will be produced from this.

Now, the Federal Government can mandate it and impose it on electrical utility companies, or it can incentivize it by helping these renewable types of energy to be more affordable and more marketable in the marketplace of today. Again, it is the carrot approach, not the stick approach.

We will further improve the environment by establishing tax credits for energy-efficient homes and appliances, and for energy efficiency improvements to existing homes. Expansion of the Energy Star program builds on the success of the collaborative effort between Government and industry to inform consumers about energy-efficient appliances.

Mr. President, hydroelectric facilities in the Pacific Northwest provide almost 60 percent of the region's electricity. That is why I am so supportive of the provisions in this bill that authorize $100 million for increased hydropower production through increased efficiency at existing dams. People worried about global warming ought to be very interested in this provision because hydroelectric power produces abundant electricity without global warming.

The bill also contains important reforms to hydroelectric relicensing laws, allowing for increased production while maintaining existing environmental safeguards.

Our Native-American tribes in Oregon will benefit economically from provisions that promote the development of energy resources on tribal lands and extend the accelerated depreciation benefit for energy-related businesses on Indian reservations. I thank Senator CAMPBELL for his leadership on this important Indian energy title.

The bill also recognizes that not everyone is sharing in the Nation's economic recovery. It is very important that we approve the authorization in this bill of $3.4 billion a year from 2004 to 2006 for the Low Income Housing Assistance Program, known as LIHEAP. It is an important addition to this bill.

Nationally, we have finally established mandatory reliability standards for the electric transmission system, including enforcement mechanisms. This is something the Senate has attempted to do for the past three Congresses. These standards will help avoid future blackouts like those that plunged the east coast into darkness last August 14 or the August 1996 event which paralyzed the Western United States.

Finally, let me turn to the electricity title. This has been an issue of particular importance to my constituents in Oregon and to the West in general. In recent years, Oregon ratepayers have been harmed as a result of market problems that spread from California throughout the West. Most Oregonians have seen their electricity rates increase by around 50 percent in the past 3 years.

FERC's proposal on standard market design, SMD, threatened to raise Oregon's rates even further. As originally proposed, it simply would not have worked in the Northwest, where hydroelectricity is the dominant resource.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SMITH. Might I have another 2 minutes?

Mrs. HUTCHISON. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Eighteen minutes 50 seconds.

Mrs. HUTCHISON. I yield 1 more minute to the Senator from Oregon, and then I will yield up to 8 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. In short, SMD was bad for the consumers of Oregon, particularly those in rural areas.

Led by the Senate, this Congress has taken the extraordinary step in this bill of blocking FERC from continuing with this rulemaking that would have been so harmful to so many areas of the country.

Unfortunately, the SMD is only part of a FERC vision for restructuring the wholesale electricity industry in a way that puts consumers at risk. FERC appears bent on ''competition at all costs,'' regardless of the costs to consumers, and without justifying the need for its draconian proposals.

We have stopped SMD in this legislation, but other proposals are out there. Even now, utilities in the Northwest are concerned that they will once again be harmed by California's efforts to get FERC approval for new market structures under what is commonly known as MDO2.

We cannot continue to legislate against specific FERC proposals for market design.

I do hope that FERC gets the message we are sending them, however. The goal of Federal policy, which I believe is furthered by this electricity title, is to promote universal access to electricity at affordable prices.

Electricity is too fundamental to our lives, and to this Nation's economic well-being to be subjected to radical experiments, such as the one proposed by SMD.

In closing, Mr. President, I congratulate Senator DOMENICI and Senator GRASSLEY for their leadership in crafting this important legislation.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Mississippi is recognized for 8 minutes.

Mr. LOTT. Mr. President, I appreciate the remarks of the Senator from Oregon and his thoughtful comments about the electricity section. I do think this legislation includes good language in that area that will be fair to all sides of electricity production.

I do believe, as a result of this legislation, we are going to have a better grid. There are incentives to expand the grid where it is needed. In my part of the country, there have been significant investments in the grid already. We have a surplus of power. We are delighted to have more competition. We are delighted to work to have interconnectibility.

But my concern had been that this language, this section, was not written properly, that the Federal Energy Regulatory Commission would have come up with a plan that would have forced ratepayers in my State to pay for additional transmission lines which would not benefit them. So it is a delicate balance.

It has been very hard to work through this with regional differences, with Senators on both sides of the aisle coming at it from a different viewpoint. But through the efforts of Senator DOMENICI and Senator CRAIG THOMAS, and the interest of Senators such as GORDON SMITH and LARRY CRAIG, and the chairman in the House, BILLY TAUZIN, we came up with a good package. I appreciate the efforts of all concerned.

We will hear from the chairman and ranking member about details of this legislation. I am sure they will go into some of the specifics about policy decisions that were made in the electricity section and also give us detailed information about some of the tax policy, the tax incentives that were included in this bill.

I guess there is some sticker shock when we learn that the tax section would actually wind up being some $23.5 billion. But it is a diverse package and one that I do believe will produce more energy in this country.

It has a lot of incentives. Some of them will not produce that much, and I acknowledge that. Some of it I would not have included. Probably two-thirds of it I would not have included. But this is the art of legislating.

So I want to speak to the broader perspective of what we are doing.

We have not passed major energy legislation in the Congress for 10 years. The truth is, we have done very little since 1979, when we were dealing with lines at gas stations and unreliability of supply. Frankly, it has not been getting better over the years. It is getting worse. We are becoming more and more and more reliant on foreign oil for our energy needs—now well over 50 percent, probably headed for 60 percent. This is dangerous. We are relying on Saudi Arabia, Iraq, Venezuela, Nigeria, and other countries such as Canada and Mexico, countries on which it makes me very nervous that we are dependent for their oil to power this country.

This issue is about the future of America. Are we going to continue to be dependent on this foreign oil and, if we are, what will that mean for our economy if they decide to jack up the prices or cut off the supply, or if there is a change of government that produces uncertainty as we have seen to a degree in Venezuela, not to mention Iraq, of course.

That leads to the national security aspects. If we don't have a reliable energy supply, it will affect our ability to power our ships, our planes. I thought it was so ironic last year that we were involved in a direct conflict with Iraq and yet we were winding up relying on Iraqi oil which we brought to the United States, refined, and put in airplanes to bomb Baghdad. This is a dangerous situation.

What is the solution? Produce more energy supply of our own. The whole package, not just oil but, yes, oil. We have a lot of oil in America that is captured in these stripper wells, these small wells. We have natural gas that we could produce more of. What we have done in America is there is no incentive to produce it, and by the way, we have locked up lots of it. You can't drill in most of the Gulf of Mexico, not on the Atlantic or Pacific coasts, not in certain areas in the west. So slowly but surely we have stopped production in America.

This bill will produce some more oil and natural gas. We will be able to have greater use of coal because we are going to put an investment in clean coal technology. We are going to have more hydropower and, yes, more nuclear power. The cleanest power producers are natural gas and nuclear power. Why don't we encourage more of that?

And we have lots of incentives in here for alternative fuels: ethanol, biodiesel, whatever that is. We are going to use biomass, and some of that will be done in my State. I don't think it is going to produce a whole lot. I think it is going to eat up a lot of money. But we will look for alternative fuels, and that is good. So that is part 1: more production.

Some people say we don't need more production; we can conserve ourselves into an energy policy. How ridiculous can you get. What are we going to do, go back to just burning coal in the fireplaces? I used to have to bring in a scuttle of coal every morning before I went to school, and I didn't like it. It was cold to bring in the coal, and it was dirty burning. I never liked it. Well, what are we going to do? Just produce more blankets. They would probably be sent to us from China.

Let's get real. In conservation, yes, give incentives to people to better insulate their homes and to maybe buy more fuel-efficient and better appliances that don't create pollution. Let's include that. More production: let's go after alternative fuels. Let's have conservation. Let's have the whole package.

What will be the result? America will be more secure. Our economy will be stronger because this bill will produce jobs. You may say, well, they are not real jobs or maybe they are temporary jobs. A job is a job where I come from. Where I come from, if you want to eat and live and do well, you have to find a job. You take what you can get. This will produce over 800,000 jobs. This is a jobs bill.

It is about the future reliability of our economy, about the future of our national security, and it is about jobs, which will help our economy.

It is also about ensuring clean, affordable, and reliable energy—the whole package. I think we have good legislation here. We do have incentives in it for ventures such as geothermal energy. That will bring a renewable energy online, could create a few hundred jobs. We also are going to put a real emphasis on clean coal technology. We have an abundant supply of coal, and we are developing the technology to be able to use it, burn it, and in a clean way.

I commend my colleagues for producing this bill. It is like every legislative piece. It has a few warts on it. If you are expecting the perfect, this is not it. But we need to do this. We have been arguing about it for 3 or 4 years. The things that held us back in the past we did set aside. Now we are going to be able to get this legislation.

When you look back on this year, there is going to be a lot the Senate can take credit for having made a difference in the country—the tax bill, the partial-birth abortion legislation, energy legislation, and transportation bills.

I am glad we have this legislation. I urge my colleagues to support it. It will make a difference for the future.

I thank Senator HUTCHISON of Texas for putting together this opportunity for us to speak.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I appreciate the remarks of the Senator from Mississippi. He was on the conference committee. He worked hard, knows how hard the compromises were. I appreciate his leadership because we can't depend on foreign countries for 60 percent of our energy needs and have a stable economy and keep the jobs we have and create more jobs for our recovery. I thank the Senator from Mississippi and the Senator from Oregon. The Senator from Oregon also has been a leader in this field. I appreciate so much his remarks and his leadership in this area.

I ask how much time remains in morning business?

The PRESIDING OFFICER. Eight minutes ten seconds.

Mrs. HUTCHISON. I yield the remainder of our time to the Senator from Pennsylvania, Mr. SANTORUM.

MEDICARE REFORM

Mr. SANTORUM. Mr. President, I thank the Senator from Texas and thank colleagues for their remarks this morning. I rise to talk about the Medicare prescription drug bill that is still being worked out. I think it needs to be stated that this is still a process. We have an agreement in principle, but there are still issues having to do with how much the bill will cost and whether it is going to be within the $400 billion framework that has been laid out by both Houses of Congress and by the President. They are still working through that.

As a result, there will be some changes, probably, over the next 24 to 48 hours as to what this bill is going to look like in particular. But we do have a sense of what the broad outlines are. I have to tell you in all honesty, it is like any piece of legislation. There are some things that I really like, and there are some things that are good and I am in favor of. There are some things I don't like, and there are some things that I just darn well wish were not in the bill.

The question is, How do you come out? That is a decision that every one of us is going to have to make on both sides of the aisle, because there are things I am sure every Member in this Chamber can look at and say: This is a good thing. The problem is, for about half of us who say it is a good thing, the other half will say it is a bad thing. But that is the nature of compromise. You try to come together to work out an overall package that is going to be beneficial to seniors, beneficial to taxpayers, and beneficial to the Medicare system over the long haul.

That is what I want to talk about today. I think on balance this is a bill that achieves that.

Let me lay out sort of my thoughts. No. 1, I am concerned with the overall Medicare system, the long-term health of that system. I think in part that is dependent upon the private sector system of this country upon which Medicare was built.

You have to remember, Medicare was built on a 1965 Blue Cross plan. That was a private sector plan. The reason we are doing Medicare prescription drugs is because the private sector has been offering that for some time. So Medicare tends to follow what the private sector does.

The question is, What is the private sector doing now? They are doing a lot of managed care, HMOs, PPOs, and other things insurance companies are trying to do to try to get costs under control, to increase quality and efficiency.

Well, what are we trying to do with reforming the Medicare system? We are trying to put PPOs into Medicare. We already have some HMOs there. We are trying to expand that. What we are trying to do here is to conform Medicare to sort of a current state of play, as it was in 1965, and we are trying to conform it to what is working best in the private sector today. So that is one of the objectives we are trying to accomplish.

This is my problem. I don't think, necessarily, that the current private sector—just as in 1965—is necessarily the most efficient way to run a health care system. I think there are fundamental underlying problems in the health care system that we are paying the costs for today. That is why our health care costs continue to go up. I think the fundamental problem is that people are not paying for their health care. When I say that, it is not that people are not paying for it through insurance. They are, and their premiums and copayments are going up to some degree.

The overall cost for employers is going up, no question. One of the reasons the cost is going up is that utilization is going up, is that people's out-of-pocket expenditures don't conform to the benefit they are getting. In other words, they are paying $2 for $10 worth of service. As long as you are paying $2 out of pocket for a $10 benefit, you are probably going to continue to consume that benefit, disproportionate to other activities where you put $2 out of pocket and get $2 of benefit. We have to change that dynamic in health care, while maintaining insurance for people who need that coverage.

The way this bill does that is just crucial. One of the reasons I am very excited about the bill is it puts in a provision called health savings accounts, which sets up a system in the private sector—it is not a Medicare provision but it is in the Medicare bill—it sets up a private sector reform to allow people to set up accounts so they can take more responsibility and more control over their health care expenditures. In a sense, by living healthier lives, by doing preventive care, doing all the things to maintain good health, they can actually save money and—this is the kicker—keep it. The insurance company doesn't benefit if you stay well and do the good things and you don't end up in hospitals or having surgeries. You benefit.

So we are fundamentally changing the dynamic at the private sector, pre-Medicare level. Why is that important? If this is successful—and I believe it will be—it becomes a building block for future reform of Medicare, because once the employee population with private sector insurance, pre-Medicare, becomes used to and comfortable with this kind of program, they will be demanding it when we get to Medicare.

It will infuse in Medicare what I believe is ultimately necessary, which is more individual control and responsibility for their health expenditures. So I argue that of all the things done, interestingly enough, in this Medicare bill, the most important thing I think we do, as a conservative, as somebody who believes in giving people more power and giving individuals more control, more choices, the most important thing we do in the Medicare bill isn't in Medicare but it is going to be a dramatic impact on it when the baby boomers retire and the costs go out of control.

I make the argument—and we can get into the details of the Medicare bill—from the standpoint of a Republican conservative and to conservatives across this country, what we are doing with the reform in health savings accounts—they used to be referred to as medical savings accounts—is probably the most important, I argue, for the long-term future of Medicare because, as I said before, Medicare reform follows private sector reform. When the private sector changes, eventually Medicare will change to reflect that because that is what the public will want and demand.

Within the Medicare system, we do put some reforms into place that are important. We have the reforms to Medicare Part B. We do put a Medicare drug bill in. Some people are saying: Well, as a conservative Republican, why do you want to put in a $400 billion new entitlement?

The fact is, we have a health care system that doesn't cover health care

expenses. If we have a health insurance system that doesn't cover 50 percent or, in some cases, more than 50 percent of the actual costs most people consume in health care expenditures, what kind of health care system is it, as far as insurance is concerned? It is not a very good one.

Again, some Republicans are saying, well, we should be doing what the market is doing. Well, what the market did was cover drug costs. For us not to do that—I think it is a little disingenuous to make the argument that we should not take on this liability. I agree we need to have reforms and control costs, but we need to take on this responsibility because it is part and parcel of good quality health care in America today.

The PRESIDING OFFICER. All time has expired.

Mr. SANTORUM. I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

The majority leader is recognized.

Mr. FRIST. Mr. President, first, I very much appreciate our colleagues talking on two very important issues this morning in morning business. In a very productive way, it highlights the issues that we will continue to debate and discuss over the next several days.

As I mentioned earlier this morning, the plans are to address the issues of the Energy bill, as well as the Medicare bill, as well as the appropriations bills, over the next several days and bring them to the floor as soon as possible, as soon as they are ready, so we can proceed with this debate in an orderly fashion.

As I mentioned earlier this morning, the plans will be to work through this week and through the weekend and, hopefully, that will be it. Possibly, we might go into the early part of next week.

ENERGY POLICY ACT OF 2003—CONFERENCE REPORT

Mr. FRIST. Mr. President, at this point, I move to proceed to the conference report to accompany H.R. 6, the Energy Policy Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (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, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same, with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

(The text of the conference report is printed in the proceedings of the House in the RECORD of November 17, 2003.)

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I want to first say to the Senate, a little over a year ago the Senate changed committees and I had the luxury of moving from the Budget Committee to the Energy Committee—perhaps not a luxury in everyone's sense but from my standpoint it was, indeed, a great opportunity and a tremendous change for me. I took that opportunity with a great deal of relish and enthusiasm and decided I would do the very best I could to produce an energy policy, broad based, for this country.

The House agreed on that conference report yesterday by an overwhelming vote. That means that one body has looked at that conference report and, with bipartisan support, said this is a good policy for the United States to follow in the future, and it will do good things for our people and for our growth and development.

The United States of America spends annually $440 billion, roughly—and that is on the low side—on energy. That energy is the underpinning of our economy and is a principal component of our quality of life. For most Americans, the complex system of energy production and distribution is something they take for granted. When they turn on the lights every morning, they give absolutely no thought to the turbines powered by coal, gas, oil, hydropower, or nuclear power spinning around to produce that electricity. Only during hurricanes or blackouts are they reminded of how complex the system of transmission lines is that brings that power to their homes and to their businesses sometimes across many States.

Americans almost never give a thought to the fact that beyond the complex physical system that produces and generates our energy is a massively complex system of rules and regulations. These rules and regulations govern, one, who pays for power and who pays for the powerplants and transmission lines; two, how the emission from the plants is regulated; three, who can own them; four, how the fuels can be shipped; and five, what costs can be charged and to whom.

Some of my colleagues are critical of this legislation. Who would not expect that to be? This bill is put together by the House and the Senate, each with different ideas about what they think is the best way to solve our problems, if we can. Clearly, each body has strong feelings about certain issues that they match up when we attempt to move ahead in some positive direction.

Some will get up here in the next couple of days and argue about some of the provisions in this bill. I say right now to the Senate and to the American people, some of the provisions that will be argued I agree with. Some of the provisions I don't agree with; that is, some that people suggest should be changed in this bill. But I remind everyone that we didn't get to this point without giving and taking, without putting and taking back, without arguing one way and then not winning it and having to go the other way. I suggest that everybody in this body knows—and if they don't right now, they will soon—that across this land there are millions of farmers, who farm all kinds of products, who are either up here on the Hill or on the telephones talking about passing this bill because it has a giant provision to convert corn and related products of our country over time to ethanol which will, in turn, be used in our automobiles in lieu of gasoline that comes from crude oil.

We in the Senate, I say to my good friend, were led in those negotiations for ethanol by the distinguished Senator from Iowa, Mr. GRASSLEY. He has been a staunch advocate, along with the minority leader, Senator DASCHLE, for a major American ethanol program. I can tell my colleagues that in negotiating with the House, they weren't as excited about the program, the project, or the size as we were under the leadership of Senator GRASSLEY. So to get what we wanted, we had to ask them what they wanted. They didn't wait around for us to ask. That is sort of a way of saying it. They told us what they needed. In other words, they said: You want that, we want something.

I will tell my colleagues shortly of the numerous provisions they wanted that are in this bill that brought us forth today with the most significant program for farmers and the production of ethanol to take the place of crude oil that we have ever had in this country.

Let me proceed with my original thoughts and then move over to the subject matter which has brought a number of people into a state of opposition to this bill. Let me complete a few thoughts.

The Congressional Budget Office estimates that this bill will cost $26 billion over 10 years. Some people have much bigger numbers, but what they are talking about in those numbers is not where we have obligated the expenditure of funds. They are authorized. They are to be funded, if ever, later. They are statements of policy, but not statements of policy accompanied by programs that must be paid for.

What I am talking about is $26 billion that has to do with the taxes that are included in this bill. That averages $2.6 billion a year. People can talk about

how much we are spending and who we are giving it to, and I remind them one more time, America at work, day by day, spends about $440 billion annually on electricity. We, who were charged in our committee with making things better for the future, said let's have some production tax credits and the like to bring on more energy and cause more alternatives. If we took that number of $2.6 billion per year on average, and then figure that up against $440 billion a year, it would seem to me that some might say: You didn't do enough; you can't move this system with that little tiny bit of money.

I will, before we are finished, calculate this over 10 years. I will take $440 billion times 10 and then the little bit we are spending, and the number will then be such a tiny number that people will wonder whether we can really get much done. I think we can.

In exchange for that investment of about one-half of 1 percent, in summary, for there is time to go into detail, we will diversify our resources of electricity to build new, clean coal-burning powerplants, solar facilities, relicense our hydropower, and build new geothermal plants and, yes, perhaps build some nuclear powerplants.

For the same one-half of 1 percent, we will impose mandatory reliability standards on our transmission systems to ensure that blackouts, such as the one in August, will not occur again.

This legislation will also streamline the permitting process for oil and gas production on Federal lands. I want to be clear that this legislation does not change the standards. We are not reducing the requirements to produce energy on Federal properties, but we require Federal agencies to coordinate so that the regulatory process is more straightforward. I would think anybody would expect that of us in these days when we have shortages and when we have resources of our own.

This bill did not shy away from controversy. Some of the most difficult issues we faced were the regional differences on how to regulate electricity generation and transmission. This Nation is divided on the issue. If they are not divided, it is because they don't know the issue. But if they knew the issue, they would be divided, and that is unavoidable.

As I have said before, if I could have written four different laws, cutting our country into four pieces, we could have provided each region of the country its own set of laws. But we cannot do that.

There is one America, not four. We were asked to write a reform of the Federal Power Act for the whole country. So without the luxury of doing it in pieces, we think we have achieved a fair middle ground.

In exchange for compromise, all market participants can now conduct their business understanding what rules and regulations will be applicable. I believe that certainty will allow new capital to enter the electricity transmission business and encourage new construction and thereby create a more reliable transmission grid.

In some cases, I wish we could have done more. I think it is known that I support the opening of ANWR. I wish we could have had it in here, but we know the bill could not have passed with it. In addition, I wish we could have inventoried the resources of the Outer Continental Shelf, just to know what we own, but the House would not hear of that either. However, to the extent possible, the conference report avoids those two issues and issues of that type.

There are some issues this conference report contains that concern my colleagues, and I have heard much about them already. I want to take a visit to one of those.

First, there is an issue that is called MTBE. Those provisions were not in the Senate bill but the House was adamant about the provision. Similarly, the House insisted on an amendment called the bump-up provision. They made a case and then they voted again on that case on the floor of the House and repeated their support of it overwhelmingly. In due course, if we want a discussion of it, we can have it.

While these provisions are controversial, I am convinced the policy behind them is sound, and I will discuss them in detail as we debate each provision.

This bill is not just about producing energy. To the extent we can, we try to save energy. Some wish we could have done something more radical, such as imposing very high CAFE standards for automobiles. That continues to come up when we are asked how much gasoline are we going to save and how much oil will we import, how much will that be reduced.

I say, we will do whatever the Senate and/or the House would vote for, and everybody knows they will not vote for changes in the existing law with reference to automobiles. That is not a question of copping out, it is a question of taking the vote and finding there are not the votes.

So for those who would like to say we should have done something in that area, I think it is fair to say they either know something none of us knows about—they have a secret weapon to get the votes—or they are just making a statement to make this effort look less effective.

We know neither the House nor the Senate has the will to modify the CAFE standards to any significant degree. We have done everything else we could do short of that. I am a pragmatist, but I believe this bill will indicate we will go only so far and then we have to draw a line and say that is as far as we will go.

We did what was politically feasible. We increase efficiency standards for appliances, Federal buildings, and we provide tax incentives to use fuel-efficient cars and to build energy-efficient buildings. Many of these are not new and have been espoused by others before me as part of an energy program, including many of them by Senator BINGAMAN heretofore.

This bill is an investment. It will pay off in affordable, reliable energy that will underpin our economy. It will pay through savings we are going to enjoy from increased energy efficiency, and this bill is one-half of 1 percent investment in our economy and our future. I think it is worth it. There is no doubt in my mind that if we do this, the country will be much safer, much better off in the years to come. After all, if one takes on a job such as this, they can end up saying they at least have done that. Much more cannot be asked for.

I wish to comment on MTBE. MTBE was a product authorized by the United States of America years ago to be used in the process of oxidation in this country. It was an acceptable product to be used in a regulated manner. Many companies did that. Some companies did not use it correctly and may have violated rules, may have been negligent, may have thrown it around, may have spilled it where it should not be, but the House had in mind—and we had no alternative but to agree in order to get the rest of this bill—that for those companies that produced a valid, legal product and used it validly and legally, they should not be liable if there are damages that are forthcoming.

I might say to the Chair and all Senators, the same thing is going to apply to ethanol.

Now, going back to MTBE, it is a prescribed product. The U.S. Government prescribed it and authorized it. This bill says if it is used improperly, the companies are liable. If it is used properly, this says lawsuits do not lie for damages.

I have heard many Senators come to the floor and abhor lawsuits that seek damages from companies for products they produced that were legal and valid but some damage occurred to somebody through no fault of the product, of the production of the product or its proper use. I have heard Senators on my side of the aisle say it is time we stop those kinds of suits; those are lawyers just trying to attack, sue, and gain big settlements. In this case, we decided that for using the product improperly, lawsuits can maintain; for using it properly, lawsuits cannot be maintained.

I am very sorry there are Senators in this room whose States either were or are ready to file lawsuits claiming damages. There is surely nothing new about that, for I am sure, just as sure as I am standing here, that if this does not become law, there will be hundreds of them filed across this land. I do not think they are justified under the theory I have expressed and the theory the House expressed to us. Nonetheless, it is probably one of the most contentious issues in this bill.

I suggest that it seems to this Senator we ought to look at the overall bill. The overall bill—I cannot do justice to it in 8 minutes, but I can tell

you one more time, in summary—will make America stronger, will minimize our dependence upon foreign products, in particular should make us less and less dependent upon the potential of foreign natural gas being needed in this great economy. We are moving rapidly in that direction.

The last 15 powerplants in America were built with natural gas. If we build 15 or 20 more, just as certain as I am standing here, we will be importing gas from overseas. So we will just get out of the muddle of importing crude oil and we will have sat by and watched ourselves get back into the middle of importing natural gas.

We have done everything we can, that we could come up with, that we could understand, that we could be informed on, that says America is going to produce as much natural gas as possible. As a matter of fact, things indeed could work out under this bill where Alaska—not ANWR but Alaska—could be selling natural gas to the lower 48 in large quantities.

We have given some tax credits to companies that would do that. We are all hopeful that before too much time passes they will agree to get started.

In addition, we have said there is a great deal of natural gas that lies off the shores of America in valid, not prohibited areas, very deep. We have said: Why isn't it getting produced? It is gas; we can use it; it is ours.

The issue was it was too expensive. We chose in this bill to do what everybody on this conference overwhelmingly supported and that was to substantially reduce the royalty payments so as to make that abundant natural gas available. We believe with the passage of this bill they will be out there drilling for that, adding it to America's reserves, quickly.

There are many more issues like that. I regret we could not produce a bill that would alter the current makeup of the use of fuel in America to produce energy and electricity without some stimulating and some production tax credits that would go to the industries that were not currently involved in producing energy for the American mix.

Incidentally, in that regard, we produced a tax credit for wind and solar energy the likes of which will yield wind energy for America in abundance. I ran into a gentleman yesterday whose company produces windmills and wind energy for America. He thanked me for this bill. I don't know him. I didn't know him. I met him right there. He said he was visiting with a few Senators just to make sure they understood that with this bill wind and solar energy will continue as they are but will strive to move ahead exponentially.

He said: I currently produce more wind energy than anyone, and we will be able to double and triple it with this bill because there is a good credit that is going to continue under this bill.

Incidentally, for those who want that, you should know if this bill doesn't pass, that tax credit is gone. You can wish all you want about wind energy, if that is what you like, but by not passing this bill you will have wished that away. It will not be part of any mix for the future.

In my judgment, when you add up all those pluses and you take all the negatives that are going to be spoken of here, you have a bill that deserves the U.S. Senate follow suit with the House and approve this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Parliamentary inquiry: I have not been able to locate this bill. I understand under rule XI the bill should be printed. I understand it may be printed in the House calendar, but I am interested to know whether or not printing in the House Journal represents having the bill before the Senate.

The PRESIDING OFFICER. I have been informed that the bill is printed in the CONGRESSIONAL RECORD.

Mr. GREGG. Does that qualify as having the bill before the Senate for purposes of debate?

The PRESIDING OFFICER. Yes, it does.

Mr. GREGG. I thank the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I thank Senator BINGAMAN for a chance to talk for a few minutes now. He has done a tremendous job in terms of advocating so many issues vital to the public, and I thank him for his thoughtfulness letting me begin this debate.

Throughout this discussion, we have been told this legislation should not be looked at in terms of any particular provision, but it should be evaluated on its overall merit. We heard that yesterday. We heard that again today.

We have been told that a conference report, particularly, is part of a give-and-take kind of discussion among various legislators and the various parties. Let me be real clear on that. If we are using the give-and-take measure as a barometer of evaluating an Energy bill, it ought to be clear that on this one, it is the public that is giving, and the powerful and the influential are taking a whole package of goodies.

In my view, if you look at this legislation and its provisions that in effect begin with the ''get out of jail free'' card that is given to the MTBE producers, and you go on to this grab bag of tax goodies that are given to powerful interests, on every measure this overall legislation breaches the fundamental principles of good energy policy.

Let me begin by talking about how it would affect our dependence on foreign oil. I believe reducing America's dependence on foreign oil is the dipstick for measuring an Energy bill. By that measure, this legislation is more than several quarts low. Thirty years ago the people of this country waited in long lines to fill up their tanks. They dreamed then of the day when the United States would no longer be dependent on foreign oil. Our citizens were asked to hold their thermostats down, and they said: What is going to be done to make this country and our electric supply less dependent on fossil fuels?

We all understand our dependence on foreign oil has increased. Fossil fuels still provide more than 85 percent of all the energy produced in the United States. If you look at this legislation, what it does is it gives, on a virtual 5 to 1 ratio, most of the tax relief to those powerful interests that, in my view, have contributed mightily to the mess that our country is in.

What is needed, of course, is a bold and aggressive approach in terms of clean and renewable energy. That is regrettably sorely lacking in this legislation.

So the Senate is aware exactly of the numbers: Renewable energy in this legislation gets about $3.4 billion over the next 10 years. The combined credits for those involved in fossil fuels comes to well over $15 billion.

I am of the view that when you look at this legislation and the fact that it does virtually nothing in terms of the key areas like transportation to promote conservation and help us find a way to a different energy future. This legislation simply does not meet the need at this time for a fresh approach in energy.

What is so unfortunate about it is, I believe, a new approach on energy is just about the most patriotic thing our country could do. We all understand the role of oil and energy dependence with respect to global security. Yet this legislation is basically a tribute to yesteryear, a hodgepodge of subsidies for the well connected, and these huge energy conglomerates basically would get additional funds for what they are already doing.

We tried over the last couple of days to amend the legislation. On all of the pro-consumer amendments, they were just gunned down almost in a perfunctory manner. The American people were given 2 days to scan 1,100 pages, more than 40 percent of which by some estimates was brand new text that was not in either the House or the Senate bill. Essentially, we have 500 pages of brand new text that had not been seen by either the Senate or the House.

For purposes of this opening discussion, let me talk about some of the areas about which I am particularly concerned.

The people of my part of the country were shellacked by the Enron scams. One of our major utilities used up hundreds of thousands of dollars of scores of workers' retirement accounts. Now these workers have virtually nothing as a result of Enron. The conference report did virtually nothing to deal with the market manipulation that went on in the Enron case—all of the smoking gun memos we read about in the papers for days involving Death Star, the Ricochet tactics that were used to drive

up market prices, the energy traders who used schemes such as Get Shorty or use a Fat Boy to manipulate energy markets with impunity.

What this legislation does, in effect, is say we will ban just one of the manipulative practices used in Enron but for everything else you have free rein to manipulate the American consumer. It is sort of like building a 4-inch dam across our mighty Columbia; you stop one relatively small practice, but it is going to be drowned out by all the other manipulative schemes.

In my view, this legislation is an open invitation to future Enrons.

With respect to other priorities about which we felt strongly, I tried, for example, to prevent the weakening of current export controls on highly enriched uranium. It seems astounding that at a time when President Bush correctly talked about how important it is to fight terrorism—and we have all been concerned about yellowcake.

I sit on the Intelligence Committee. Of course, I can't get into what is discussed there. But I don't think anybody in the United States doubts the seriousness of the terrorist threat around the world. Controls in current law are intended to end the dependence of foreign companies on nuclear-bomb-grade materials, but the conference report, incredible as it may seem, goes in just the opposite direction and is going to make it easier for terrorists to traffic in these nuclear-bomb-grade materials.

The conference report would give foreign producers a fresh 9-year holiday on converting highly enriched uranium into the much safer low-enriched uranium, a conversion, in my view, that should have happened years ago. I fought in the conference to keep in place the current export controls on highly enriched uranium. I believe had my amendment passed, it would have empowered President Bush to be able to fulfill his goal of keeping nuclear materials out of the hands of terrorists. Unfortunately, this too went down on strictly party lines.

There are other areas with respect to pro-consumer amendments I thought were important which I will discuss briefly.

Many of our parts of the country have been subjected to price spikes in the gasoline market. We saw last summer that many consumers were spending more than $2 a gallon for gas. In parts of the Southwest, it was up to $4 per gallon for gas.

I sought to give the Federal Trade Commission authority to go after documented anti-consumer practices such as redlining and zone pricing. At present, every time there is a price spike, Secretary of Energy Spencer Abraham most recently put out various kinds of press releases saying they are doing an inquiry into why gasoline prices have spiked up. Just as sure as the night follows the day, the next time there is a price spike we will hear the very same thing from the Secretary of Energy.

The fact is when you look at the statutes on the books, you will find that the Secretary of Energy has absolutely no authority to do anything with respect to skyrocketing gasoline prices.

What I have sought to do in the conference and over the last few months is give the Federal Trade Commission the authority to go after documented anti-competitive practices in markets where you basically have three or possibly four of the oil companies controlling more than 60 percent of the gas that is sold in this area.

Many Members of the Senate represent just those communities—communities where in effect you have seen the competitive marketplace forces sucked right out of the gasoline markets in their communities. Unfortunately, that too was rejected on a straight party line vote.

In addition, I offered an amendment to create an advocate for the energy consumer. I believed that if you were going to have a whole passel of deregulation and regulatory changes, somebody ought to have the authority to stand up for the consumer. The great majority of our States do exactly that. We all understand that the energy markets have changed. Now there is much more being done in terms of interstate trading of energy, and there is nothing the States could do to go after abuses in the interstate trading of wholesale power.

In the conference, I offered an amendment. I made it clear I was willing to work with both Republican chairs, Senator DOMENICI and Congressman TAUZIN, on it. Yet that went nowhere as well despite bipartisan support.

Pat Wood, head of the Federal Energy Regulatory Commission, thought it was ''a great idea'' to have an advocate—those are his words, not mine—for the consumer. Regrettably, that idea went nowhere as well.

I have talked about what the conference report doesn't do. I want to talk for a few minutes about what it does do. It gives, for example, oil and gas extractors a blanket exemption under the Safe Drinking Water Act from pumping noxious and carcinogenic fluids underground. It gives energy producers immunity from Clean Water Act protection to present contaminated storm water runoff from polluting our lakes, streams, and marshes. It gives $30 million to a whole host of mining interests to pursue direct leaching of radioactive mine tailings into the ground.

In other words, the conference report either explicitly allows or it pays to create America's future Superfund sites.

I have talked about the get-out-of-jail-free card for the MTBE producers. This in effect would allow these producers protection from lawsuits that forced them to clean up the problem they created.

In our State, even Republicans in the State legislature are concerned about not only losing the ability to fund MTBE cleanup in Oregon but they are concerned about the precedent it sets for future cleanup of various other dangerous materials such as perchlorate and TCE.

I think this is part of what concerns me the most. I have always believed that anything important in this town has to be done on a bipartisan basis. It is probably the concern I have that has dominated my career in public service. I think we had an opportunity for a bipartisan bill in this area. As I have been able to do in my home State with our colleague, Senator SMITH, I think there was an opportunity for common ground on a whole host of key kinds of cases that would have laid out a vision for a very different energy future. But essentially what you had for weeks and weeks was a blackout. You had energy blackouts last summer with respect to this legislation. Senator BINGAMAN and I and others who were in the conference faced an information blackout. Any time you go behind closed doors, any time you do something along the lines of a conference in secret, it is an invitation to special interests to exploit their clout and their influence. That is exactly what has happened here.

I will outline one other provision. I know colleagues are waiting, and I am particularly grateful to Senator BINGAMAN for this chance to take a few minutes at the outset of the debate and touch on the proposal with respect to standard market design.

In our part of the world, in my home state, we have the highest unemployment rate in the country. Reasonable energy prices have been a key to our well-being. What we have now in this legislation is a glidepath to set up something called standard market design, a one-size-fits-all approach with respect to energy regulation.

I come to that view because there are two provisions in the report and they are essentially contradictory in nature. The first part of the conference report says you cannot engage in a standard market design regulatory regime in effect until 2007. The second part says it is basically OK for FERC to do anything they want. At a minimum, we have a lawyer's full employment program as a result of this regulatory limbo. But what is more likely to happen, because of the power of the interests that want the standard market design, they are going to exploit the regulatory confusion in this legislation to work their will.

On September 30th I received a letter from a Republican FERC commissioner, Joseph Kelliher, in which he explicitly told me that standard market design is a bad idea for Oregon, a bad idea for the Pacific Northwest, and should not be implemented in our region.

I say to the people of my State and my region, I am still going to fight this with everything I have.

Finally, at a time when our country can be held hostage by oil-producing

nations, we had a chance to go forward with legislation that would make us truly energy independent. At a time when cutting-edge renewable resources are at our fingertips, what this conference report does is it lets these exciting technologies slip through our fingers. At a time when the people of our country have been clamoring for a fresh approach, a different energy future, this conference report looks at energy policy through the rearview mirror. I hope my colleagues will reject this conference report and look forward over the rest of this day and perhaps others to talk about it at some length.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise to raise my serious concerns with this piece of legislation. I appreciate the excellent statement of the Senator from Oregon which touched on a number of the issues this legislation raises.

The purpose of an energy policy should be, obviously, to make our Nation more independent of international fuels, to allow energy to be more readily available, and allow more productivity in our society as a result of having energy at a reasonable cost.

There are a number of ways to approach this. Any energy policy should be balanced. First, it forces conservation. Any energy policy should significantly encourage Americans, and Americans in business especially, to use appropriate conservation which does not undermine lifestyle dramatically and does not undermine efficiency but, rather, improves efficiency in order to reduce the amount of energy used.

Second, after conservation, we should use energy products which are renewable, things we can use over and over or at least produce over and over and as a result not be so dependent on international sources of oil.

Third, of course, is production. We should increase production, especially production within the United States or within regions which the United States has a relationship which is more positive and constructive than the Middle East and other areas of significant international attention.

Good energy policy requires those three elements. However, the bill before the Senate does not accomplish that. It does have some conservation. It does have some renewable language and it does, obviously, have some production language but on balance it does not have any of those at a level of intensity or effort, at least in a constructive way, that outweighs what is basically a grab bag of special interest projects directed at benefiting one segment of the economy or one segment of the population at the expense of other segments of the population.

There are a lot of examples of this. The most significant is the overall cost of the bill. This bill was suppose to have $8 billion of tax credits in it and it is up to $25 billion. That difference between $8 billion and $25 billion is almost entirely filled not by a broad approach to energy policy but by very targeted, very specific programmatic initiatives directed at certain interest groups in order to give them benefits to pervert the marketplace, to basically say: Here is a winner; everyone else is a loser.

The most classic example is the ethanol package which makes up one of the biggest initiatives in this bill. It is hard to figure out how much subsidy is in this bill for ethanol but it is huge. We know there is at least $5.9 billion, which is double the present subsidy, and we know on top of that there is probably $2.5 billion of tax credit. That is probably not all, and as people review this bill, we will find it is even more obscene than that. This is more a product which cannot stand on its own, a product which essentially has been brought to the marketplace because it has been subsidized at such a high level and because it is now, by law, required to be used, it therefore becomes viable. It does not become viable because it can compete in the marketplace—even with lower subsidies.

Some modicum of subsidy might make sense but to basically take a product and say, we essentially are going to pay more for it than it probably costs to produce and we are going to require that it then be used, is hardly a subsidy. It is basically, to be honest, a socialistic approach to managing an economy. The ''pick a winner'' and decide that winner, whether it works or not, will be paid for, and then you subsidize it at an extraordinary level.

There are, of course, a variety of different projects in here which are essentially projects in home States, projects of people who are friends of somebody, projects of people who happen to be able to get into that room that the Senator from Oregon mentioned was closed to most Members.

We have the advance reactor hydrogen cogeneration project for $1.1 billion. This appears to be not only for building of the plant but for the operating of the plant, which is an incredible concept. First, the taxpayers will pay to build this plant and then the taxpayers are going to pay to operate the plant. I am wondering what the purpose of the plant could be that has any commercial interests at all and the taxpayers are picking up $1.1 billion for construction and building costs.

We have $2 billion to pay for companies to assist them in phasing out MTBE, which is something I will get back to, but there is an irony in that because, of course, the bill limits the liability of those customers and then it pays out the program.

We have authorized loan guarantees for using certain types of coal that come from the Midwest and to build a plant in the Midwest which does not even exist. Basically, we are going to say, there will be a plant out there somewhere and we will put this money into it to build it. We do not know where the plant will be. We suspect it will be in North Dakota. It is a new concept in taking care of one's constituency to essentially create a plant somewhere in theory. It is a virtual plant that we are going to spend all this money on, and I guess in today's world of virtual reality it is probably appropriate that this bill have some virtual things in it because it does not have much else because the rest of the bill is equally unsubstantive.

As to the abandoned mines provision in this bill, we are essentially going to take an account which was supposed to help in cleaning up the mines which were used in the West, and we are going to take the money out of that account and we will redirect it so, basically, none of those dollars will flow into the cleanup which they are allegedly being raised for.

We have a proposal to build some sort of green shopping centers, whatever those are. That is a great concept. I always wanted to build a green shopping center. I like blue, purple, yellow. Why did we leave those colors out? We are gone to build a green shopping mall in Shreveport, LA. We are going to build a green shopping center in Atlanta. We are going to build a green shopping mall in Syracuse. And the taxpayers are going to pay for that.

Building shopping centers is a new concept for energy, for having a national energy policy.

We will spend a lot of time on this over the next week as we debate this bill, because it will take at least a week to do this bill. The most significant detriment in this bill is the fact that it is essentially structured to benefit one region of the country significantly over another region of the country.

It is almost a gratuitous attack on the Northeast from the standpoint of the way it has been put together. The most glaring example of that is the way this MTBE issue is handled.

MTBE is an additive put in gasoline. It was decided by the EPA, in the early 1990s, that this additive should be put in gasoline to make it oxidate faster, thus getting cleaner burning gasoline and reducing air pollution.

It turns out one of the unintended consequences of this legitimate desire to make gasoline burn faster is it is an incredible pollutant, an extremely difficult pollutant to deal with if it gets in the groundwater.

So States which were put under the authority of the EPA to clean their air, and which were then required, in order to accomplish this, to essentially use this additive, now find that although their air may be marginally cleaner, their groundwater is dramatically more polluted.

If you have ever been in a house—and I have been in a number of them—that has an MTBE pollution issue, it is essentially unlivable. You cannot use the shower, you cannot use the sinks, the smell is just overwhelming, and the

water cannot be drunk. It cannot be put on your body to clean. It is a horrific situation.

People in community after community in my State—small communities, cul-de-sacs, groups of homes—have found they are basically unable to live in those houses until the water system has been fundamentally repaired. Sometimes you have to bring in new water because they are on wells in order to address the pollution coming from MTBE.

Thirty-three percent of one of my counties has a serious problem of MTBE pollution, and the percentages are in the midteens and higher in other towns, counties. So it is a serious environmental hazard.

Yet this bill says we will continue to use it and States that are under these orders will have to continue to use it for another period of years, increasing the amount of pollution.

Then this bill does one more thing that is really—I already used this term once, so I hate to use it again, but really is a gratuitous shot. It says States which have pursued a legal remedy for the damage caused by MTBE will no longer be able to pursue those lawsuits.

This bill—because somebody got in that room the Senator from Oregon was talking about got somebody's ear—has language in it which specifically goes back before the lawsuits were brought by some of the New England States and eliminates the ability of those suits to go forward.

Now, when I was in law school that would be called an ex post facto law and would be subject to some significant debate. However, obviously, the people who drafted this have figured out a way around that ex post facto attack, and they figure they are going to survive this attack and, therefore, they are going to eliminate the capacity of States such as New Hampshire to try to get redress on the issue of the fact that in some counties, up to 33 percent of the water is not usable because of the MTBE pollution.

It is a truly ironic situation that this has happened, that a bill proposed to reduce our reliance on energy would have innumerable special initiatives in it that have no relationship to actually increasing energy production but actually perverts the marketplace, and, on top of that, would take a policy which is being debated in the court system between the States and the producers and essentially wipes that policy, which is in an environmental fight, off the books in an attempt to protect those industries which produce this product.

We heard the Senator from New Mexico defend the position on the grounds that—I believe he used the term—I have it right here; I wrote it down because it is a unique term.

Well, I guess I can't find it right now. Anyway, it was a term that I found interesting because it basically implied that well, really, States should not be able to bring these lawsuits. These people should just have to have this groundwater pollution. And, what the heck, why not do it? Why not protect these companies from that sort of pollution forever?

Well, I think you do not protect them because, as a practical matter, you let the court decide whether the liability exists in this instance. This is not a question that is appropriate to this Energy bill, to say the least. It is, in fact, a question which should have been allowed to be resolved by the New England States as they dealt with this question of MTBE pollution in groundwater.

So this bill has some very serious problems independent of the fact that it is philosophically wrong, that it takes a marketplace, and does so much tweaking of the marketplace that you have no longer any semblance of market force in the issue of the production of energy. You simply have a grab bag of winners and losers.

The grab bag is unique. It really is unique. I would have loved to have had a fly on the wall in that room because there must have been just a parade of people coming in and out who had their special projects.

I remember this happened once before back in 1979 or 1980 when we were just coming out of the energy crisis of the 1970s, and we had the Arab oil embargo, and we decided to put money into trying to pick winners and losers in oil production. We put money into shale oil and we put money into wind and we put money into solar. At the time, I supported a lot of that exercise and said, well, that is something we ought to try.

Unfortunately, what we failed to recognize was unless the market makes the product viable, it usually never works. That has been proven because all those initiatives—synthetic fuels, shale oil, things like that—have fallen by the wayside simply because they were not competitive in the marketplace.

So to abandon the market and to pick winners and losers is not that great a policy approach to the issue of energy. It is better to level the playing field and give the producers the opportunity to choose those products which are going to make sense. That happens to be why I was for opening ANWR, for example.

But if you had been in this room, it would have been an interesting experience because as you go through this bill you find it is replete with these little special, targeted items.

Here is one. I just opened the bill because I finally got a copy of it. I just opened it. I arbitrarily opened it to a page. This is so amusing—it is not amusing; it is horrible. But the interest is so apparent and so outrageous you have to smile about it. It is so obscene in its attack on the American taxpayers. This section is called the Geothermal Steam Act. Basically, what it says—and I am almost tempted to read the whole thing—is anybody who wants is now going to be able to apply to go on to Federal lands and produce geothermal energy.

Well, geothermal energy probably has some productive capability that makes sense. I am not sure it does because no one, other than icelandic countries, has been able to make it efficient. They have an efficiency with it because they have so much of it, and they are so small.

But basically what this bill says is, all right, you can go on public lands—let's say Yellowstone Park—where there is a lot of geothermal, and you can have the Federal Government evaluate whether or not geothermal energy should be produced there. Obviously, they are not going to do it in Yellowstone Park. That was an excessive statement, but that is where we know there is geothermal power.

Then, if you, the person getting a fairly significant subsidy in this bill for geothermal production, want to, you can then decide you are going to pursue energy there. The Department is under some significant direction to actually give you a permit, at which time you have to go through something called a NEPA process, which means you have to go out and prove there is an environmentally sound way to produce this geothermal power.

All that is outrageous in and of itself because it is basically putting a put to our national lands for geothermal power that is independent of just determining whether or not that is the appropriate use for those natural lands. This is where it gets very entertaining. Then they say, you—us, the taxpayers—have to pay for the NEPA study. We have to pay to reimburse the company that wants to do the drilling or use the geothermal power for the environmental study which they are required to produce in order to prove that the power can be produced in that area. That is a very interesting concept. That is like saying to a drug company, we, the Federal Government, must pay to produce the research to produce your drug, even though you are going to get the profits from selling the drug, or any other business that has to make a basic investment to get the asset which they are going to then sell and make money on because the only significant cost for determining whether or not they are going to get their geothermal power will be the environmental impact study. So to ask the taxpayers to pay for it is, to say the least, an unusual approach.

In the context of this bill, it is very mainstream. It is very much consistent with the rest of the bill, the fact that you are going to have $1 billion worth of land or purchases made in order to protect the shoreline. But where is it all going to be purchased? Louisiana. Ninety percent of the $1 billion is going to be spent in Louisiana; or the fact that you are going to have these shopping centers in various locations; or the fact that you are going to have an ethanol program which will probably

cost more in tax subsidy than what it cost to produce the product, certainly more than what the net income is going to be of that product, no question about that; or that you are going to have a subsidy for a variety of initiatives which are now allegedly commercially competitive—the list goes on interminably of tax credits which are now going to be put in place for different industries which already are, theoretically, producing a competitive product. But we have to expand that tax credit.

I won't read them all, but a few of them: There is a credit for production for advanced nuclear power; to repeal the 4.3-cents motor fuel excise tax on railroad and inland waterways; a credit for natural gas distribution; a credit for electric transmission properties—that this is an expensing item—an expensing for capital costs incurred in complying with EPA sulfur regulations; modifications to special rules for nuclear decommissioning costs; treatment of certain income as expenses; arbitration rules not to apply to prepayments for natural gas; a temporary suspension of limitation based on 65 percent of taxable income and extension of suspension of taxable income limit with respect to marginal production—that is stripper wells, I presume—amortization of delayed rental payments—that, I presume again, is a stripper well type of thing—amortization of geological and geophysical expenditures—these are all significant tax benefits—temporary repeal of the alternative minimum tax preference for intangible drilling costs—again, a significant tax benefit—credit for clean coal technology units—that is a tax credit.

Then, of course, relative to the natural gas business, there is a dramatic change in the way they account for their taxes. There is even a credit in here for ceiling fans, for certain steam generators and certain reactors and vessels used for nuclear technology. The list goes on and on: Energy production incentives; there is a special tax credit for granular mine tailings. Maybe that is not tax. I just noted that because it seems as if that may be a misapplication of that or the use of that.

The tax credit section, which makes up the difference between the $8 billion requested and the $25 billion that is actually being incurred here in tax credits, is just replete with special interest efforts to try to pervert the marketplace for the purposes of picking winners and losers in the energy production business. That might work at some level. There is no question there may be a legitimate need to do some of that. But this bill is excessive.

It is also clearly not being driven by energy policy but, rather, by parochial interests and by interests who see the opportunity to have significant gain at the expense of others—specifically, the general taxpayer.

We will spend a lot of time talking about these various issues. I think the more light shown on this bill, the better. I think we do need to spend a few days discussing the issues within the bill. Most specifically, we want to spend more time on this issue of MTBEs and the fact that this bill has essentially been structured to target one region of the country in a manner which seems highly inappropriate and punitive and which is clearly inconsistent with what historically has been the case, which is that you don't pass a law which says the legitimate activity of a State or group of States, in trying to defend the quality of their environment, will be wiped off the books. That is something the Federal Government should not be doing. It should certainly not be being done by a Republican-dominated Congress which theoretically still believes there are States out there that have some rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, if the Senator from New Hampshire would stay on the Senate floor for a moment, I don't blame him for being frustrated about the MTBE.

Mr. BINGAMAN. Mr. President, parliamentary inquiry: I would ask my colleague to yield for a question.

The PRESIDING OFFICER. Will the Senator yield?

Mr. BINGAMAN. I was just wondering if those of us who are on the Senate floor could agree on an order so my colleague from Illinois would know when he should be planning to come to speak. I know the Senator from Idaho plans to speak and Senator THOMAS would then want to speak. Would that be the order? And then I would speak and Senator DURBIN after that.

Mr. CRAIG. Certainly. I have no problem with an order.

Mr. THOMAS. Well, you have also been here. If you care to speak after Senator CRAIG, perhaps I could be after you, and Senator DURBIN after that.

Mr. BINGAMAN. I ask unanimous consent that following Senator CRAIG's statement, I be recognized to speak, then Senator THOMAS, and then Senator DURBIN in that order.

Mr. THOMAS. Fifteen minutes apiece?

Mr. BINGAMAN. Whatever period of time the Senator would want.

Mr. CRAIG. No more than 15 minutes for me.

Mr. BINGAMAN. Fifteen minutes for each of us, and a half hour for the Senator from Illinois. I think my statement will probably be closer to a half hour as well.

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

The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senator from New Hampshire has left. I don't blame him for his frustration over MTBEs. What he didn't say was that it was a Federal program and a Federal mandate. If there is a liability, maybe it ought to be the Federal Government. It was the Clean Air Act that drove States in meeting their air shed requirements to address additives to gasoline that would result in some improvement in that pollution. I don't blame him for his frustration in all of that.

I hope we can sit down and resolve this issue apart from the bill that is currently on the Senate floor as it relates to the concern of the Northeast or any State that has experienced pollution and now has a groundwater problem as a result of a Federal program and a Federal mandate passed by this Congress in a Clean Air Act. The product, yes, produced independently by a private company to meet a Federal mandate and now, of course, years later, after the application of that product, we find that there were environmental consequences.

For a few moments this morning I want to talk about the energy bill we have before us, the Energy Policy Act of 2003, and to bring some context to it, on where I believe we are and how I believe we ought to approach this particular piece of legislation.

I came to the Senate in 1990. I went on the Energy and Natural Resources Committee in 1990. In 1990, we began to talk about the need for a national energy policy because we were growing increasingly dependent upon foreign sources for our energy—primarily hydrocarbons—but we had a myriad of Federal regulations that were in large part driving energy policy into a nonproductive approach.

We were basically saying to the energy companies of our country, whether electrical, hydro-based, or nuclear-based, or whether they were coal-based—we were saying to the hydrocarbon companies: You really ought not do business here because it is going to be so expensive to meet all of these Federal rules and regulations.

We had the Clean Air Act and the Clean Water Act. National environmental policy has been talked about by the Senator from New Hampshire. That was in play, and it was beginning to have very real consequences in the ability to produce an abundance of energy for our country at a reasonable cost to the consumer.

Our economy has been based on—historically and even today—an abundant supply of low-cost energy. Every American is the beneficiary of that. From the car you drive to the toys you play with out there in recreational ways, to the home you heat, to the products you use—all of them have been tied to an abundant supply of energy at a relatively low cost. But that was because we had always been producing a lot of energy.

In the 1990s, all of the environmental regulations came into play. Attitudes shifted there. There seemed to be an attitude on the part of policymakers that energy was always going to be in abundance, always going to be there; therefore, you could begin to regulate and control it for a variety of different reasons and it would just keep coming.

That is not so. The decade of the nineties proved it. In the decade of the nineties, we experienced unprecedented economic growth, but we also became increasingly huge consumers of energy at a time when we were no longer producing much energy. We were living off the surpluses that had been built into the capacity of the energy development and producing system in our country and a delivery system that was produced in the sixties and the seventies and the 1980s.

Guess what began to happen in the latter part of the nineties. The lights went out. The lights dimmed and, of course, energy costs began to go up. That once 75 cents or 80 cents a gallon for gas all of a sudden went to $1.25, $1.60, and not long ago, in some areas, it spiked at $4 in one instance. We saw what happened to electrical energy. No longer was that switch that you woke up to every morning and flipped expecting your home and bedroom and bathroom to be filled with light—no longer was that switch something you considered automatic, that you just flipped and it was always going to be there. The generation at hand always accepted that energy was always there and relatively inexpensive, but, more importantly, they believed it was always going to be there: Just throw the switch and on came the lights.

In the late part of the nineties, they threw the switch in California and the lights didn't come on. What happened this summer in the Northeast? They threw the switch and the lights didn't come on. Somebody has to be to blame; the lights are not coming on. We went to the gas pumps, and all of a sudden it was costing us an arm and a leg to fill up our cars or SUVs; any form of transportation was beginning to cost more.

What happened? Why are we here? This President, George W. Bush, before he came to office as President elect, met here with the majority leader and leaders in the Senate and said: We have to get this country back into the business of producing energy—all forms of energy, including hydrocarbon, electrical, green energy, black energy, but environmentally sound in all respects. We have to get back into the business of production.

No longer were we 35, 40, 45, 50 percent dependent; now we were 55 percent dependent upon some other country to supply our hydrocarbon base. We had to begin to extend our politics around the world to secure the stability of that market and that supply because we decided here at home that we were no longer going to be producing it because there was an environmental cost to that production.

If you were witnessing the Senate floor a couple of years ago, the debate was on producing oil in Alaska. This Senate basically said: No, we are not going to do that anymore; the environmental consequences are too great. So we will let somebody else produce it in Saudi Arabia or in Iraq or Russia, and we will pay them and we will ship it over here. They will profit by it and we will spend it, we will use it.

That is really what our policy said—not in a spoken way but in an unspoken way.

That is why this President and it is why others—I and others who work on the Energy Committee and studied the market and watched the trends over the past decade—realized something had to be done. We began to try, as Republicans and then as Democrats.

The Senator from New Mexico is in the Chamber. He chaired that committee. He worked mightily hard to produce an energy bill a couple of years ago, and we got it to the floor and we passed it out of the Senate. I voted for it. Why? Because it was a major step in the right direction. In fact, it was the bill of the Senator from New Mexico that passed out of the Senate this year because we could not get our bill out. We could get enough votes for that bill.

What was happening out there was a growing consensus in the Congress, the House and the Senate, that something had better get done.

Now, let's take the Clean Air Act. To maintain clean air quality, you heard about the problems we created in the Northeast with MTBEs—that additive to fuels. We have another problem as it relates to all of that. The lights went out up there this summer because we had not created an environment in which investment in a profitable way could be put back into the electrical grids and electrical systems, that could be returned to the investor so that these kinds of problems would not exist. There were a lot of other things we tried to do.

Out of all of that, there clearly came a consensus that something ought to be done. What you have before you now—and my guess is we ought to debate it for a good long while—is the Energy Policy Act of 2003. It just passed the House. It is a mighty big piece of legislation, no question about it. What does it do? It puts the United States back into the business of producing energy. That is what it does. It didn't pick winners or losers. It largely said, pick it all, get it all, advance solar power, advance wind power, advance conservation, take the old technologies of gas, coal, and oil and put new technology to them so that we can use those abundant resources in a way that they will be environmentally cleaner.

That is what we are saying here. We are not subsidizing. We are saying that if you invest your dollars into the market, you are going to get a tax credit in return. That is called incentivizing investment. That is why those who look at our work product say that over the course of the decade this bill could produce over 800,000 new jobs in the lower 48 States and Alaska and Hawaii. Why? Because we are asking the marketplace to invest, and we are incentivizing all of the bits and pieces of the marketplace.

I used to be a bit selective—solar is only a percent; wind may be a couple to 3 percent. Was it worth doing? Yes, it is worth doing. It is clean. So we add it up and it is 4, or 5, or 6 percent in the total marketplace over the next decade, and it is clean energy. Americans want clean energy, and we ought to be doing that. So we are doing it in this bill.

We are also saying, without question, that coal is a huge producer of electricity today and it has caused problems in the past. We have a Clean Air Act, and we want to drive ourselves toward ever cleaner air. Here we are continuing to incentivize the substantial investment in clean coal technology.

What is also transpiring here—and we heard it debated on the floor a good number of times—is the issue of greenhouse gases and climate change, a product of burning of hydrocarbons. This bill goes more toward climate change and improving our environment than any climate change bill we ever had on the floor of the Senate, and here is the reason: Every new technology, every new dollar invested in the marketplace puts down a cleaner form of energy and brings down the overall emission of greenhouse gases. That is what happens when you create new technologies and you bring on line new approaches. It was the old approaches that were producing the greenhouse gases using hydrocarbons. The new approaches are producing substantially less greenhouse gases.

As this economy comes back under new technologies, already per unit of production in our economy we are using less carbon, and that has already been shown. We are leading the world as it relates to unit of production as to the amount of energy or carbon produced by that production. This bill drives us even further toward a cleaner environment because we are investing in the environment, and we are incentivizing that investment.

Madam President, how much time do I have?

The PRESIDING OFFICER (Ms. MURKOWSKI). Two minutes remaining.

Mr. CRAIG. Madam President, another area that is significant in this bill—and I will be talking later about a variety of the approaches we have taken—is the area of nuclear energy, without question one of the cleanest forms of energy out there. There are no emissions. There has always been a concern about waste management and the waste stream that comes from nuclear plants, but we also have recognized our ability to manage it and other nations' ability to manage that waste stream in a responsible fashion.

In this bill, we clearly incentivize the marketplace to get back into the business of electrical production through nuclear generation. We have even proposed a new reactor concept called a passive generation 4 reactor, and also we will tie to that an electrolysis process to produce hydrogen, to begin to fuel this new exciting initiative which our President led in saying the transportation fuel of the future ought to be

hydrogen. Why? We can produce it, and we can produce a lot of it. We ought not be producing it from natural gas; we ought to be producing it from water. Let natural gas heat space. Don't ask natural gas to generate electricity or create hydrogen. That is not the way to use natural gas. That is part of what has driven the cost of it up. So another new initiative.

While anyone can stand on the floor and pick at the pieces, look at the whole. It is a market basket full of energy for the future of this country to ensure reliability so that when you wake up in the morning and you turn on the light switch, the light comes on; when you plug in your computer, the screen lights up; when you go to the Internet, you can communicate across the world instantly, and it is all driven by energy.

Every single minuscule thought is driven by energy, and this country hasn't been producing energy for over a decade. We have been only the consumer of that energy basket. I think we ought to be proud of this work. I think we ought to be energized to pass it for the future of our country, for the future of our economy. We incentivize the marketplace to go back to work and produce all forms of energy from every concept and every idea.

Let's not pick winners and losers. I am sorry, we don't pick winners and losers. The Senator from New Hampshire is wrong. We say do it all and do it well. Out of it may come new sources that 30 or 40 years out dominate the energy supply of this great country.

I am proud of the work we have done. I hope the Senate will join collectively in adopting the conference report. The House has already seen the merit. The President strongly supports it. Let me tell you, the American people support this package because they don't want $4-a-gallon gas, and they want the light to come on in the bathroom when they wake up.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I thank the Chair.

Madam President, I will speak for a few minutes about the Energy bill. I know we will have additional opportunities to speak as the day wears on, but I wish to give a few comments before my colleague, Senator THOMAS, speaks.

We are beginning today the debate on H.R. 6, which is entitled the Energy Policy Act. We have had many hours of debate on this subject in the Senate over the last few years. The debates we have had before in the previous Congress and then this year in this Congress have resulted in our passing an Energy bill with an overwhelming vote.

I am very gratified to recount that the Senate did vote with a large majority, a bipartisan majority, in favor of an Energy bill in 2002. In the 107th Congress, we passed an Energy bill by a vote of 88 for the bill and 11 against and 1 not voting. Earlier this year, we passed the same bill we had passed in the previous Congress again with a large bipartisan majority: 84 Members voted for it, 14 against, and 2 did not vote.

Of those who opposed the bill, I would say there is fairly good representation from both parties. So this has not been a bill that has gone through the Senate, as previous energy bills, on a partisan basis. I think we can all take some gratification in that.

It is important, in my view, that we deal with these issues—the issue of energy supply, the issue of energy sufficiency, concern about the important connections between energy policy and environmental policy, including global warming, to which my colleague, Senator CRAIG, was just referring. Those are all issues that I think deserve substantial attention as, I have said, we have devoted substantial time to them.

It is not easy to bring together all the competing views and points of view that come together in this legislative body and come out with an end product. I congratulated my colleague, Senator DOMENICI, the other day when we concluded the conference on the fact that he had been able to produce a conference report. I did not congratulate him on the content of that report because I had serious disagreements with it, and I expressed those views. There is a substantial amount involved in producing a conference report, and he deserves credit for doing that.

The chairman of our committee said—and the chairman of the conference said—he did not consider this report to be perfect. I could not agree with him more. I recognize that it is not fair to expect perfection in this process, but we could have done much better had the process been a better process. We could have done much better in terms of the product that was produced.

I believe we find ourselves now with a bill that does not command the broad support and staying power we should have in a national energy policy.

I think the entire country should be brought into a national energy policy and support a comprehensive approach to dealing with our energy problems.

Our difficulty, of course, is we now are presented with a bill that we either vote for or against. I have been one who has advocated adopting an Energy bill. I have advocated for essentially the basic premise that President Bush campaigned on when he ran for office. He said that we needed to try to put in place something that was a coherent national energy policy, and I essentially agreed with that idea.

I remember former Chairman Bob Galvin of Motorola saying at one point there are certain things that the country should set out to do on purpose. To me, establishing a national energy policy seems to be one of those things that we should set out to do on purpose, because if we allow the issue to go unaddressed and the subject to go unaddressed, we can find ourselves substantially disadvantaged economically and in many other ways by virtue of not having an energy policy. I fear that is where we find ourselves today in many respects.

So while I compliment the President for recognizing the importance of an energy policy, I do not think he got us off on the right foot once he became President in trying to develop that comprehensive, coherent energy policy. By that I am referring, of course, to the process that the Vice President was tasked to perform and did perform of trying to come up with a blueprint. That was a closed process. There have been efforts through the courts and otherwise to try to find out precisely who was talking to whom and which groups and individuals were consulted, but clearly that was a closed process. There was no reaching out to Democrats in the Congress. To my knowledge, there was no reaching out to many of the groups that have a vital interest in this issue. That was a mistake. At the time, I said it was a mistake. It prevented policymakers from hearing the broad range of views that would have been offered, I believe, in a constructive manner.

In addition, the conduct of that exercise, in that closed process, failed to generate the public trust and confidence that we ought to have behind the energy policy we adopt. So I think the President made a mistake in the way he got us started on developing an energy policy. Unfortunately, that mistake has been repeated in the process that we have seen leading to this final conference report.

My colleagues and I on the Democratic side of the aisle in the Senate have voiced our concerns about this many times. The conference was a closed process. In my view, clearly that was not designed to get us a product that would enjoy broad support, and it has not. We did have a meeting. We had, of course, one early meeting where conferees were permitted to come forward and make opening statements. Then some 71 or 72 days later, we had a final meeting, which lasted approximately 3½ hours, where Democratic conferees in the Senate offered 20 substantive amendments on a wide variety of topics. None of those amendments can be found in the conference report today. That leads me to conclude the exercise was cosmetic and that there was no real intent, as we went into that final conference meeting, of seriously considering any of those Democratic amendments since none of them were agreed to.

In fact, one that was agreed to by the Chair when it was offered was, of course, rejected by the House, as were all the others.

Of the 4 that slipped through the process—16 of the 20 that we offered were rejected out of hand. Four of them did get through the process, but they were all rejected on a party-line basis by the House Republicans as the first order of business when they convened later that same evening.

We went to conference on this bill expecting we would be able to participate in a meaningful way. That was not permitted. I regret that it has gotten to the point we are at now.

The common ground that was reflected in the Senate-passed bill was based on a few basic principles, and I will allude to those. First, perhaps most importantly, was the basic agreement that we needed to have an energy policy that struck a balance between increasing energy supplies and encouraging additional energy efficiency or conservation. I think all of us can agree, at least at some level, of a conceptualization that both have to be done in order to deal with energy problems. Supplies have to be increased. Usage has to be decreased. That is the only way to begin to make up the enormous deficit which we are currently operating under with regard to energy, where we are importing a tremendous amount of energy.

The reality is that our country does need new policies in both areas, and that was what we set out to do. On the energy supply side, one of the most important national needs is to meet the need for natural gas. Natural gas is the fuel of choice for most electric generation that is now being planned. We know there have been plans to construct substantial additional electric generation that uses natural gas.

Natural gas will play an important role in any new distributed generation that is planned in the future. It is favored by alternative fuel vehicle programs in both the Government and in the private sector. It is the most likely feedstock to produce hydrogen.

The President has indicated his strong support for moving to a hydrogen-based economy. The point which I think often gets lost is that the most logical and ready source for that hydrogen is natural gas. So it is not possible to just say, OK, let's not use oil and gas, let's use hydrogen. Natural gas has to be used, or at least that is what most people think is the most economic course to follow.

Apart from its energy uses, of course, natural gas is also a critical feedstock for the petrochemical industry and the fertilizer industry.

Over the long haul, natural gas consumption in this country is outstripping the amounts we are able to produce in the lower 48 States. We as a nation are in the early stages of developing a substantial dependence on foreign sources of natural gas. Just as we find ourselves today dependent upon foreign sources of oil, in the near future, the next decade or so, we are going to find ourselves substantially dependent upon foreign sources of natural gas. That is not a good result, and it is not one that we should sit by and idly allow to occur.

We all know, and the Presiding Officer today knows better than any of us, that there are at least 35 trillion cubic feet of natural gas that are stranded on the northern slope of Alaska, Prudhoe Bay. That gas has been produced and is being produced every day, along with the oil that we now produce at that location. The gas is currently being pumped right back into the ground because there is no way to transport it to the lower 48 where it is needed.

As we see the price of natural gas go up in the lower 48, as we may well this winter—we do not know—we need to remember there is a substantial supply of natural gas that we are not accessing. We need to provide financial incentives to the private sector to help in the construction of a pipeline to bring that gas to the lower 48. Such a project would not only help with our national energy needs, national energy security, it would also, of course, be a great boon to construction in this country, and to the domestic steel industry.

We hear a lot of talk about how this bill before us is now a jobs bill. To the extent that one cannot argue the virtues of it from an energy perspective, they have to talk about it as a jobs bill. There are jobs that will be created from this bill. There are a great many more jobs that would be created if we provided an adequate incentive for the construction of the pipeline in Alaska. On this topic, the conference report does not measure up. It does not do what we did in the bills that we passed through the Senate, in the bills that we passed through the Senate both last year and this year.

It does contain regulatory streamlining procedures for the pipeline that former Senator Murkowski and I worked hard on in the previous Congress. That is a critical part of the problem. But in order to get the pipeline constructed, we also need to have fiscal incentives. The Senate voted for those. The administration opposed them.

Once Chairman DOMENICI announced publicly that they would not be part of the conference report, all of us who were officially conferees received a letter from the CEO of the gas company that has been most active in promoting going forward with the design and construction of such a pipeline, and that corporate executive stated that based on his understanding of the conference report, his company could not proceed with the project in face of the extraordinary financial risk that it would have to bear if gas prices were to drop below what the Energy Information Administration agrees is the likely level.

So the lack of a risk mitigation mechanism, that probably would never have cost the taxpayers a dime, and even if it had cost taxpayers, there was a provision to ensure that those funds would be repaid when the price went back up again—but because of the lack of that risk mitigation mechanism, the likelihood is that our Nation will forego the possibility of using that Alaskan natural gas for future supply needs.

We will, instead, depend on imports of liquefied natural gas. We will bring our natural gas from places like Nigeria and Trinidad. Those are places, of course—some of those places, at least—that have their own problems with regard to political stability and the security of that supply.

Building the necessary transportation system for LNG, liquefied natural gas, will create jobs for shipyard workers in Korea, but we will not have the jobs for pipeline construction for Americans on this continent.

I believe this is an unfortunate policy mistake that our country will come to regret. I am disappointed we were not able to maintain in the bill the financial incentives that we put in the bill when the Senate acted previously, both in the last Congress and this Congress.

Along with providing for more robust domestic supplies of natural gas, we need to look for ways to diversify our energy generation away from such reliance, such strong reliance on gas. One important arena in which we can do this is in electricity generation.

The bill the Senate passed earlier this year focuses this diversification strongly on new technology, including ultraclean ways of burning coal. Ultraclean coal is the most sustainable way over the long term to ensure that coal maintains its key position in our national energy mix. This is because concerns about the levels of pollution emitted from coal-fired plants are only increasing. It increases, of course, as the concern about the contribution of coal-fired generation to global warming increases.

This conference report unfortunately takes a step backwards from what we passed through the Senate in its commitment to ultraclean coal. The percentage of funding dedicated to these purposes is cut by 20 percent. A new competing program of direct grants to companies to pay for half of the cost of current technology pollution equipment, and current technology coal-fired generation is also put in place.

In my view, we have limited Federal funds. Focusing those Government subsidies to buy today's technology instead of investing to create tomorrow's coal technology, risks coal's ultimate ability to maintain its position in our energy mix. I think that is unfortunate and a policy mistake as well.

Another key part of the strategy of diversifying away from natural gas would be to tap into opportunities for distributed generation, such as combined heat and power at industrial facilities. Here again, the conference report falls short as it does not address the barriers that have been erected to uniform interconnection of distributed generation to the grid. It is not enough to have the technology. We need to rid ourselves of the redtape that is keeping that technology from being used. Again, I believe our previous bill facilitated that. I don't believe this bill does.

Along with these steps, we also need to make a greater push to introduce renewable energy technologies for electricity generation. Some of these renewable technologies are already cost competitive. Wind is the prime example. But in order to see widespread use of these technologies, both financial and regulatory incentives should be put in place. That means both a meaningful production tax credit—and there is a meaningful production tax credit in this conference report. I commend the drafters for that. We would need that, but we also need a flexible renewable portfolio standard for electric utilities.

For those who have not been studying this area, a renewable portfolio standard essentially means a requirement on utilities to produce a certain portion—in the case of our bill, 10 percent—of the power they produce or that they sell, 10 percent of that power should come from renewable sources. That is what our Senate bill provided. That provision, of course, has been deleted from the bill that is now before us. I think that, again, is a mistake in policy.

The lack of an effective renewable portfolio standard is a major missed opportunity for our country. There are those who argue that we should leave this to the free market. But the reality is that a majority in the Senate, a majority of Senate conferees have disagreed with that. In spite of that, we have deferred to the House, and the House says they don't like it. We say fine; if you don't like it, we will drop it.

The conference report is pretty much status quo on the future of renewables and the future role of renewables in our energy mix. Tax credits are extended for a few more years and slightly broadened, but renewables do not get anywhere near the attention lavished on them in this legislation that the coal industry gets or that the nuclear power industry gets.

Coal and nuclear power have problems with regard to social acceptance. So in the absence of a stronger push forward on increasing renewables I think the conference report is basically making a choice in favor of the existing trends toward an overreliance on natural gas for future electric generation. That choice leaves our citizens' future natural gas and electricity prices that are more volatile than they should be, resulting in more frequent price spikes than we would like to see. People will come back and say: Why did you in the Congress not try to deal with this problem and anticipate this problem and head it off in a more meaningful way?

Renewable energy technologies can help with another energy supply issue that we face and that is of transportation fuels. The conference report mandates a phase-in, an introduction of up to 5 billion gallons of ethanol in our gasoline supply by 2012. This has been coupled in the conference report with the issue that has already been discussed fairly broadly here in the Senate this morning, and that is the issue of how to treat the gasoline additive MTBE, methyl tertiary-butyl ether. One provision in the ethanol title purports to ban MTBE by the year 2014, but when you look at the rest of the language, it is clear the ban is full of loopholes.

For one thing, each State Governor can opt his or her State out of that ban, if the Governor determines. This language is sufficiently vague that it appears that States can opt out, even after the purported national ban goes into effect.

I do not know if that was intended, but that certainly is the way it appears.

One other problem with the language is that the President is given extraordinary powers to make the statutory ban null and void by a stroke of the pen in the year 2014 before it takes effect. With these kinds of loopholes, it is not likely MTBE will actually be banned nationwide in 2014.

In addition, the conference report provides product liability protection for MTBE and does so retroactively as to September 5 for any lawsuit filed after that date. The Senator from New Hampshire spoke about his objection to this as it affects his State. I can certainly understand that objection. I think it is one other provision that undermines the broad bipartisan support we really ought to be able to enjoy for this bill.

Even with the greater use of renewable fuels in cars, we still will be very dependent on oil for the transportation sector. It is in our national interest to support domestic production of oil. But many of us know our domestic production of oil is not adequate. We are more and more dependent on foreign sources of oil, and most of that growing dependence on foreign sources of oil is occurring in the transportation sector as we are using more and more gasoline for larger and larger cars every year.

I notice, as everyone else does, all of the advertisements for Hummers. I am sure that is a great vehicle, but the reality is that when you have such a focus on larger and larger vehicles and less and less efficient vehicles, as we have and have had for some time in this country, it is clear that our dependence on foreign oil will grow, as it has been growing.

I understand that the answer to our doing nothing there—we did not do a great deal in the Senate bill on this subject, and we did much less than I wanted to do. But we did adopt an amendment by the Senator from Louisiana, Ms. LANDRIEU, that set a goal for reducing the amount of oil consumed in our transportation sector, and we gave broad discretion to the President and the Secretary of Transportation as to how they achieve that goal. That provision, modest as it was, has been deleted from this bill. That, in my view, was an unfortunate deletion and, again, a wrong direction for us to be going in our national energy policy.

I have various other points I wish to make. I know my colleagues are here ready to speak. I will have opportunities to speak later and conclude my remarks on a whole range of issues since this is such a comprehensive subject. It is a comprehensive set of provisions with which we are being presented.

At this time, in deference to my friend, Senator THOMAS, let me yield the floor so he can speak. Of course, the Senator from Illinois is also here ready to speak. I will defer to him as well.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, I thank my friend from New Mexico and the ranking member on our committee. I thank him for the work he has done.

I think it is interesting, as we hear people begin to talk about this bill and talk about the need for an energy policy, to say how important it is for us to have one and then spend the rest of the time opposing the things that are there.

The fact is we do need an energy policy. We haven't had one for a very long time. It has been something we have been working on now for 3 years. The other side of the aisle was unable to get one for the last year, and we worked right up to the end and it didn't get through. Now we have worked on it another 2 years, and we ought to be able to get it finished. I am disappointed that everyone talks about the need and then begins to talk about why they don't like this bill and this little piece and that little piece. I understand. It is a broad bill. But it is an important issue.

We need an energy policy. We need the kind of energy policy that gives us some direction for where we are going to be in the future. It is not designed to deal with all the problems that may exist today, although some of those are there of course. We ought to be looking to where we need to be in 10 years or 15 years down the road. That is what policies are for—to talk about the future.

It obviously has to be a balanced policy. Unfortunately, I am afraid very many of our friends here and very many of the folks in the country are just accustomed to turning on the lights, going to the gas station, and not thinking about how it happens to be there.

It is kind of interesting that for States that are dependent on all other sources, their representatives are more opposed to doing something than the people who are producing the product. I think it is time they begin to take a look at the fact that energy just isn't there naturally. There has to be a policy to do that. It has to be a balanced policy.

We are looking at conservation. We are looking at alternatives. We are looking at renewables. Of course, in the short term, in reaching those goals, the most important thing we have to talk

about is domestic production so that we aren't becoming more and more dependent on foreign countries to provide what we are using.

One of the reasons is that much of the opposition comes from environmentalists who only look at things from one side. This needs to be balanced. In my State of Wyoming, we are very concerned about the environment. We also know that you can have multiple use, you can have production, and you can also take care of the environment. You don't just have to say you can't touch these areas. These are the kinds of balances we have to find to really be able to move forward the way we would like to do.

I thank Senator DOMENICI and Representative TAUZIN and their staffs. They worked very hard. We worked on it very hard as well, prior to putting it together for the Senate and certainly from the House side, with a mix of domestic production, research and development, incentives to cause these things to happen, and conservation. We will be better off certainly with the passage of this bill and this legislation. It has been over a decade in coming.

It has been over 2 years—almost 3 years—since the President's office and the Vice President particularly set about to come up with an energy policy so we will have some direction on where we are going as the demands increase, which they are. There has to be some way to meet those demands.

The idea that you can suddenly go to alternatives and renewables—they produce now about 3 percent of the total we utilize, notwithstanding the dams and that sort of thing. But air, wind, solar are a very small percentage. They have great possibilities for the future, but that isn't going to happen next year, or the next year, or even 5 years from now. That is what this thing is all about—to make some movement.

We have experienced blackouts. We have experienced natural gas price hikes and all of those kinds of things. When that happens, suddenly everybody talks about energy. When that moves away from us, we forget about it again. We really ought to stay on the issue. I don't think we should, nor can we, wait for another crisis to be able to do something of this kind.

If there is anything we should have learned in the 21st century and the quality of life that we seek, the idea of creating jobs, the idea of having a vibrant economy is very closely enhanced and tied to reliable energy and a clean environment. Those are the goals that we have. We have to modernize conservation to be able to do that job more effectively.

Everyone is in favor of conservation. But how much have you done in your home in terms of having incentives to change the equipment you use to make it more conservation-like? Very little. We just want more power at a cheaper price.

What have we done to modernize our infrastructure? We see things changing. With more and more market generators who do not make the distribution and have to move it to a market, then you have to change the system, you have to change the system of moving power. Those things change. Indeed, they are changing.

We have to increase our energy supplies, including renewables and alternatives.

We can do a better job of protecting the environment. I am persuaded. Obviously, there are some places in our States that should be set aside—and they are set aside—national parks, wilderness areas, parts of the forests, and this and that. Half of our State land belongs to the Federal Government. It is public land. We have to find a way to have alternative uses and to have multiple use. We intend to do that.

Finally, one of our goals ought to be increased national security. What could be a more important goal than that? Are we going to be dependent on Iraq and Saudi Arabia for our energy? We need to change that. After years of talking about it, this is a good opportunity to do something.

In any bill as complex and as large as this, there will be items of disagreement, such as MTBE liability. Of course, we can talk about that the rest of the month. But we ought to give a little thought to where we need to be with energy and whether that is the tradeoff necessary to defeat a bill. I cannot imagine that tradeoff. We need to have a balanced approach. That is what we seek.

There has been a lot of talk about the tax credits. Let me state what they are for: tax credits for residential energy efficiencies; tax credits for producing electricity from certain renewable sources; tax incentives for fuel-efficient vehicles; tax credits for efficient appliances. All the talk of tax credits, and that is what they are for. That is how a private sector system gives incentives.

For reliability, accelerated depreciation of natural gaslines so we can have accelerated depreciation for distribution, electric transmission lines. We need reliability to move the energy; open transmission, to be able to deal with the changes taking place in the development of the energy we have now.

Production: How to get more production of gas and oil? Through incentives. Marginal wells, low-production wells, do not produce. There has to be an incentive to continue to produce, to continue to reintroduce CO_2 into the ground. These are not to make someone wealthy. These are designed to cause things to happen.

Suspended income in the percentage of depreciation for small producers, provide amortization for geophysical expenses to determine where we have production opportunities for oil and gas—these are the items we mean when we talk about tax credits.

Yes, there are substantial credits but that is how we move toward domestic production. We can do it in an economically and environmentally sound manner.

Oil and other fossil fuels provide 85 percent of all energy use in the United States. The fact is, we still depend on coal largely for the development of electricity. Quite frankly, we ought to depend on it even more because gas is so much more flexible for other uses. We are working on ways, with some of the dollars in the bill, to provide cleaner plants for the production of electricity with coal. That is part of the overall plan to move forward.

Renewables, including hydrogen, currently provide about 7 percent. Absent hydro, it is only about 3 percent. We built a building for a company I worked with in Caspar and we used solar. This was about 15 years ago. Quite frankly, it did not work. We had to remove the solar panels and do something else. We had to find another way. Now I think it probably would work. We have to move forward.

There is a difference in views depending on where you are from. The New Englanders have one point of view; of course, they use the energy. Some of the rest of the country produces as well as uses energy. My State produces about 35 percent of the Nation's coal and has the greatest coal reserves of any place in the United States. We are sixth or seventh in the production of oil. In gas, we are about fifth. We have come up with a methane production opportunity recently. There has to be a policy that encourages production so we can move forward.

We have to have investment in the transmission. We find increasingly the market is here and the energy use is over here. That is a problem in California. California is the biggest user of energy but that is not the energy development area. We have to move that energy, whether it is through pipelines or transmission.

In the bill we are trying to put together regional transmission organizations for electric transmissions so the States can collectively make some decisions with respect to interstate movement. No Member wants to leave it all in the hands of FERC, although there has to be some opportunity for FERC. We have to leave some responsibility there.

We have had a big hassle over standard market design. This bill puts in a standard market design as it was designed a couple of years ago. But it does recognize that FERC still has to ensure reliability so we do not have blackouts, to assure the opportunities for movement of energy among States, which is not always an easy thing to do. These are realistic issues.

I am surprised sometimes we find so much opposition to ideas. Ideas have to be here to accomplish our goals. That is what a policy is, to have a goal and decide how to get there. I cannot help but continue to be a little surprised at

the difficulty in getting an energy policy on the ground. In any bill as complicated as this, everyone has a different view and everyone can change things a bit. This has become a collective bill, put together by the House, the Senate, Democrats, Republicans, people from New England, people from all over. We have a mixture of ideas. I would not have done it exactly this way had I been doing it by myself, but I think it is important to have a policy to move on, dealing with our demand for energy, and moving in the direction we want.

In general, this is a good bill. This is a bill that moves us forward for energy in the future, the kind of future in which we can work on our conservation methods and, hopefully, reduce the demands we have—at least the growth level we have had in the past—and that we can find alternative fuels.

As we move forward, we are looking now at coal as the basis for hydrogen. That can be very important. Imagine if we developed hydrogen cars next year and were ready to go with them as a clean and available source. How long would it take to get the delivery system in place, to get hydrogen stations instead of gas stations all over the country?

When we think about potential changes out there, we have to think about reaching that point. We must continue to provide energy as we now know it, as we move toward something different. All this talk of more oil and gas, we will have renewables. Good luck. What are we going to do in the 15-year-period of transition?

I hope we continue to look at a balanced policy with conservation, alternatives, domestic production, research, more cleanliness in production, and so on.

We will continue, I suppose, to talk about this matter for a while. I am disappointed that apparently there is going to be a reluctance to let us move forward with it as quickly as we should. We are trying to complete some business this week, and yet it is going to be very difficult to do that.

VETERANS HEALTH CARE AUTHORITIES EXTENSION AND IMPROVEMENT ACT OF 2003

Mr. THOMAS. Madam President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 383, S. 1156.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1156) to amend title 38, United States Code, to improve and enhance the provision of long-term health care for veterans by the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to the title and an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1156

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

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Department of Veterans Affairs Long-Term Care and Personnel Authorities Enhancement Act of 2003''.

[TITLE I—EXTENSION AND ENHANCEMENT OF AUTHORITIES

[SEC. 101. EXTENSION AND MODIFICATION OF CERTAIN HEALTH CARE AUTHORITIES.

[(a) TREATMENT OF NONINSTITUTIONAL EXTENDED CARE SERVICES AS MEDICAL SERVICES.—Section 1701(a)(10)(A) of title 38, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2008''.

[(b) REQUIRED NURSING HOME CARE.—(1) Subsection (a) of section 1710A of such title is amended by striking ''70 percent'' and inserting ''50 percent''.

[(2) Subsection (c) of such section is amended by striking ''December 31, 2003'' and inserting ''December 31, 2008''.

[SEC. 102. ENHANCED AGREEMENT AUTHORITY FOR PROVISION OF NURSING HOME CARE AND ADULT DAY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES.

[Section 1720 of title 38, United States Code, is amended—

[(1) in subsection (c)—

[(A) by designating the existing text as paragraph (2); and

[(B) by inserting before paragraph (2), as so designated, the following new paragraph (1):

[''(1) In furnishing nursing home care or adult day health care under this section, the Secretary may enter into agreements for furnishing such care utilizing such authorities relating to agreements for the provision of services under section 1866 of the Social Security Act (42 U.S.C. 1395cc) that the Secretary considers appropriate.''; and

[(2) in subsection (f)(1)(B), by inserting ''or agreement'' after ''contract'' each place it appears.

[TITLE II—CONSTRUCTION AUTHORIZATION

[SEC. 201. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

[The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in an amount not to exceed the amount specified for that project:

[(1) Construction of a long-term care facility in Lebanon, Pennsylvania, $14,500,000.

[(2) Construction of a long-term care facility in Beckley, West Virginia, $20,000,000.

[SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There are authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2004 for the Construction, Major Projects, account, a total of $34,500,000 for the projects authorized in paragraphs (1) and (2) of section 201.

[(b) LIMITATION.—The projects authorized in section 201 may only be carried out using—

[(1) funds appropriated for fiscal year 2004 pursuant to the authorization of appropriations in subsection (a);

[(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2004 that remain available for obligation; and

[(3) funds appropriated for Construction, Major Projects, for fiscal year 2004 for a category of activity not specific to a project.

[TITLE III—PERSONNEL

[SEC. 301. MODIFICATION OF AUTHORITIES ON APPOINTMENTS OF PERSONNEL IN THE VETERANS HEALTH ADMINISTRATION.

[(a) POSITIONS TREATABLE AS HYBRID STATUS POSITIONS.—Section 7401 of title 38, United States Code, is amended—

[(1) in paragraph (2), by striking ''Psychologists'' and all that follows through ''other scientific'' and inserting ''Other scientific''; and

[(2) by striking paragraph (3) and inserting the following new paragraph (3):

[''(3) Audiologists, speech pathologists, and audiologist-speech pathologists, biomedical engineers, certified or registered respiratory therapists, dietitians, licensed physical therapists, licensed practical or vocational nurses, medical instrument technicians, medical records administrators or specialists, medical records technicians, medical technologists, nuclear medicine technologists, occupational therapists, occupational therapy assistants, orthotist-prosthetists, pharmacists, pharmacy technicians, physical therapy assistants, prosthetic representatives, psychologists, diagnostic radiologic technicians, therapeutic radiologic technicians, social workers, and personnel in such other positions as the Secretary designates (subject to section 7403(f)(4) of this title) for purposes of this paragraph as necessary for the medical care of veterans.''.

[(b) REPORT ON PROPOSAL TO DESIGNATE ADDITIONAL POSITIONS AS HYBRID STATUS POSITIONS.—Section 7403(f) of such title is amended by adding at the end the following new paragraph:

[''(4) Not later than 45 days before the date on which the Secretary proposes to designate a position as a position necessary for the medical care of veterans for which appointment may be made under section 7401(3) of this title, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the proposed designation.''.

[(c) TEMPORARY, PART-TIME, AND WITHOUT COMPENSATION APPOINTMENTS.—Section 7405 of such title is amended—

[(1) in subsection (a)—

[(A) in paragraph (1), by striking subparagraphs (B) and (C) and inserting the following new subparagraphs:

[''(B) Positions listed in section 7401(3) of this title.

[''(C) Librarians.''; and

[(B) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraph (B):

[''(B) Positions listed in section 7401(3) of this title.''; and

[(2) in subsection (c)(1), by striking ''section 7401(1)'' and inserting ''paragraphs (1) and (3) of section 7401''.

[(d) AUTHORITY FOR ADDITIONAL PAY FOR CERTAIN HEALTH CARE PROFESSIONALS.—Section 7454(b)(1) of such title is amended by striking ''certified or registered'' and all that follows through ''occupational therapists,'' and inserting ''individuals in positions listed in section 7401(3) of this title,''.

[SEC. 302. COVERAGE OF EMPLOYEES OF VETERANS' CANTEEN SERVICE UNDER ADDITIONAL EMPLOYMENT LAWS.

[Section 7802(5) is amended by inserting before the semicolon the following: ''. Employees and personnel under this clause may be considered for appointment in Department positions in the competitive service in

the same manner that Department employees in the competitive service are considered for transfer to such positions. An employee or individual appointed as personnel under this clause who is appointed to a Department position under the authority of the preceding sentence shall be treated as having a career appointment in such position once such employee or individual meets the three-year requirement for career tenure (with any previous period of employment or appoint- ment in the Service being counted toward satisfaction of such requirement)''.

[SEC. 303. EFFECTIVE DATE OF MODIFICATION OF TREATMENT FOR RETIREMENT ANNUITY PURPOSES OF CERTAIN PART-TIME SERVICE OF CERTAIN DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PROFESSIONALS.

[(a) EFFECTIVE DATE.—The effective date of the amendment made by section 132 of the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 (Public Law 107–135; 115 Stat. 2454) shall be as follows:

[(1) January 23, 2002, in the case of health care professionals referred to in subsection (c) of section 7426 of title 38, United States Code (as so amended), who retire on or after that date.

[(2) The date of the enactment of this Act, in the case of health care professionals referred to in such subsection (c) who retired before January 23, 2002, but after April 7, 1986.

[(b) RECOMPUTATION OF ANNUITY.—The Office of Personnel Management shall recompute the annuity of each health-care professional described in the first sentence of subsection (c) of section 7426 of title 38, United States Code (as so amended), who retired before January 23, 2002, but after April 7, 1986, in order to take into account the amendment made by section 132 of the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001. Such recomputation shall be effective only with respect to annuities paid after the date of the enactment of this Act, and shall apply beginning the first day of the first month beginning after the date of the enactment of this Act.

[SEC. 304. PERMANENT AUTHORITY FOR USE OF CONTRACT PHYSICIANS FOR DISABILITY EXAMINATIONS.

[(a) PERMANENT AUTHORITY.—Section 504 of the Veterans' Benefits Improvements Act of 1996 (Public Law 104–275; 110 Stat. 3341; 38 U.S.C. 5101 note) is amended—

[(1) in subsection (a), by striking ''may conduct a pilot program'' and all that follows through ''may be made by'' and inserting ''may carry out examinations with respect to the medical disability of applicants for benefits under the laws administered by the Secretary through''; and

[(2) in subsection (c), by striking ''the pilot program under''.

[(b) REPEAL OF LIMITATION AND OBSOLETE AUTHORITY.—That section is further amended—

[(1) by striking subsections (b) and (d); and

[(2) by redesignating subsection (c), as amended by subsection (a) of this section, as subsection (b).

[(c) CONFORMING AMENDMENT.—The heading for that section is amended to read as follows:

[''SEC. 504. AUTHORITY FOR USE OF CONTRACT PHYSICIANS FOR DISABILITY EXAMINATIONS.''.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans Health Care Authorities Extension and Improvement Act of 2003''.

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

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN HEALTH CARE AUTHORITIES

Sec. 101. Extension and modification of certain health care authorities.

Sec. 102. Enhanced agreement authority for provision of nursing home care and adult day health care in non-Department of Veterans Affairs facilities.

Sec. 103. Expansion of pilot program of Department of Veterans Affairs on assisted living for veterans.

Sec. 104. Improvement of program for provision of specialized mental health services to veterans.

TITLE II—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Construction Authorities

Sec. 201. Increase in threshold for major medical facility construction projects.

Sec. 202. Demolition of obsolete, dilapidated, and hazardous structures on Department of Veterans Affairs property.

Subtitle B—Construction Authorizations

Sec. 211. Authorization of major medical facility projects.

Sec. 212. Authorization of major medical facility leases.

Sec. 213. Authorization of appropriations.

Subtitle C—Designation of Facilities

Sec. 221. Designation of Department of Veterans Affairs outpatient clinic, Horsham, Pennsylvania.

Sec. 222. Designation of Department of Veterans Affairs health care facility, Chicago, Illinois.

Sec. 223. Designation of Department of Veterans Affairs Medical Center, Houston, Texas.

Sec. 224. Designation of Department of Veterans Affairs Medical Center, Minneapolis, Minnesota.

TITLE III—PERSONNEL MATTERS

Sec. 301. Modification of authority on appointments of personnel in the Veterans Health Administration.

Sec. 302. Coverage of employees of Veterans' Canteen Service under additional employment laws.

Sec. 303. Effective date of modification of treatment for retirement annuity purposes of certain part-time service of certain Department of Veterans Affairs health-care professionals.

TITLE IV—OTHER MATTERS

Subtitle A—Capital Asset Realignment for Enhanced Services Initiative

Sec. 401. Advance notification of capital asset realignment initiative.

Sec. 402. Authorization of major construction projects in connection with capital asset realignment initiative.

Subtitle B—Extension of Other Authorities

Sec. 411. Three-year extension of housing assistance for homeless veterans.

Sec. 412. Four-year extension of evaluation of health status of spouses and children of Persian Gulf War veterans.

Subtitle C—Other Matters

Sec. 421. Modification of eligibility of Filipino veterans for health care in the United States.

Sec. 422. Repeal of limits on terms of certain officials in Office of Under Secretary for Health.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN HEALTH CARE AUTHORITIES

SEC. 101. EXTENSION AND MODIFICATION OF CERTAIN HEALTH CARE AUTHORITIES.

(a) TREATMENT OF NONINSTITUTIONAL EXTENDED CARE SERVICES AS MEDICAL SERVICES.—Section 1701(10)(A) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2008''.

(b) REQUIRED NURSING HOME CARE.—Section 1710A(c) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2008''.

SEC. 102. ENHANCED AGREEMENT AUTHORITY FOR PROVISION OF NURSING HOME CARE AND ADULT DAY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES.

Section 1720 is amended—

(1) in subsection (c)—

(A) by designating the existing text as paragraph (2); and

(B) by inserting before paragraph (2), as so designated, the following new paragraph (1):

''(1) In furnishing nursing home care, adult day health care, or other extended care services under this section, the Secretary may enter into agreements for furnishing such care or services utilizing such authorities relating to agreements for the provision of services under section 1866 of the Social Security Act (42 U.S.C. 1395cc) as the Secretary considers appropriate.''; and

(2) in subsection (f)(1)(B), by inserting ''or agreement'' after ''contract'' each place it appears.

SEC. 103. EXPANSION OF PILOT PROGRAM OF DEPARTMENT OF VETERANS AFFAIRS ON ASSISTED LIVING FOR VETERANS.

Section 103(b) of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1552; 38 U.S.C. 1710B note) is amended—

(1) by striking ''LOCATION OF PILOT PROGRAM.—'' and inserting ''LOCATIONS OF PILOT PROGRAM.—(1)''; and

(2) by adding at the end the following new paragraph:

''(2)(A) In the addition to the health care region of the Department selected for the pilot program under paragraph (1), the Secretary may also carry out the pilot program in not more than one additional designated health care region of the Department selected by the Secretary for purposes of this section.

''(B) Notwithstanding subsection (f), the authority of the Secretary to provide services under the pilot program in a health care region of the Department selected under subparagraph (A) shall cease on the date that is three years after the commencement of the provision of services under the pilot program in the health care region.''.

SEC. 104. IMPROVEMENT OF PROGRAM FOR PROVISION OF SPECIALIZED MENTAL HEALTH SERVICES TO VETERANS.

(a) INCREASE IN FUNDING.—Subsection (c) of section 116 of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1559; 38 U.S.C. 1712A note) is amended—

(1) in paragraph (1), by striking ''$15,000,000'' and inserting ''$25,000,000 in each of fiscal years 2004, 2005, and 2006'';

(2) in paragraph (2), by striking ''$15,000,000'' and inserting ''$25,000,000''; and

(3) in paragraph (3)—

(A) by inserting ''(A)'' after ''(3)''; and

(B) by adding at the end the following new subparagraph:

''(B) For purposes of this paragraph, in fiscal years 2004, 2005, and 2006, the fiscal year utilized to determine the baseline amount shall be fiscal year 2003.''.

(b) ALLOCATION OF FUNDS.—Subsection (d) of that section is amended—

(1) by striking ''The Secretary'' and inserting ''(1) In each of fiscal years 2004, 2005, and 2006, the Secretary''; and

(2) by adding at the end the following new paragraphs:

''(2) In allocating funds to facilities in a fiscal year under paragraph (1), the Secretary shall ensure that—

''(A) not less than $10,000,000 is allocated by direct grants to programs that are identified by the Mental Health Strategic Health Care Group and the Committee on Care of Severely Chronically Mentally Ill Veterans;

''(B) not less than $5,000,000 is allocated for programs on post-traumatic stress disorder; and

''(C) not less than $5,000,000 is allocated for programs on substance abuse disorder.

''(3) The Secretary shall provide that the funds to be allocated under this section during each of fiscal years 2004, 2005, and 2006 are funds for a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.''.

TITLE II—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Construction Authorities

SEC. 201. INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS.

Section 8104(a)(3)(A) is amended by striking ''$4,000,000'' and inserting ''$9,000,000''.

SEC. 202. DEMOLITION OF OBSOLETE, DILAPIDATED, AND HAZARDOUS STRUCTURES ON DEPARTMENT OF VETERANS AFFAIRS PROPERTY.

(a) IN GENERAL.—Chapter 81 is amended by adding at the end the following new subchapter:

''SUBCHAPTER VI—OTHER MATTERS

''§ 8171. Demolition of obsolete, dilapidated, and hazardous structures

''(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund to be known as the Department of Veterans Affairs Facilities Demolition Fund.

''(b) ELEMENTS OF FUND.—The fund shall consist of the following:

''(1) Amounts authorized to be appropriated to the fund.

''(2) Any other amounts deposited or transferred to the fund by law.

''(c) AVAILABILITY OF AMOUNTS IN FUND.—Subject to the provisions of appropriations Acts, amounts in the fund shall be available to the Secretary for the purpose of the demolition and removal, whether in whole or in part, of obsolete, dilapidated, or hazardous structures on Department property.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 is amended by adding at the end the following:

''SUBCHAPTER VI—OTHER MATTERS

''8171. Demolition of obsolete, dilapidated, and hazardous structures.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Veterans Affairs for fiscal year 2004, $25,000,000 for deposit in the Department of Veterans Affairs Facilities Demolition Fund established by section 8171 of title 38, United States Code, as added by this section.

Subtitle B—Construction Authorizations

SEC. 211. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in an amount not to exceed the amount specified for that project:

(1) Construction of a long-term care facility in Lebanon, Pennsylvania, $14,500,000.

(2) Construction of a long-term care facility in Beckley, West Virginia, $20,000,000.

SEC. 212. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

(1) Lease for the relocation and expansion of a health administration center, Denver, Colorado, in an amount not to exceed $4,080,000.

(2) Lease for an outpatient clinic extension or for sharing of Department of Veterans Affairs and Department of Defense resources, Pensacola, Florida, in an amount not to exceed $3,800,000.

(3) Lease of an outpatient clinic extension, Boston, Massachusetts, in an amount not to exceed $2,879,000.

(4) Lease of a satellite outpatient clinic, Charlotte, North Carolina, in an amount not to exceed $2,626,000.

SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2004—

(1) for the Construction, Major Projects, account, a total of $34,500,000 for the projects authorized in section 211; and

(2) for the Medical Care account, a total of $13,385,000 for the leases authorized in section 212.

(b) LIMITATION.—The projects authorized in section 211 may only be carried out using—

(1) funds appropriated for fiscal year 2004 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2004 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2004 for a category of activity not specific to a project.

Subtitle C—Designation of Facilities

SEC. 221. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, HORSHAM, PENNSYLVANIA.

The Department of Veterans Affairs outpatient clinic located in Horsham, Pennsylvania, shall after the date of the enactment of this Act be known and designated as the ''Victor J. Saracini Department of Veterans Affairs Outpatient Clinic''. Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Victor J. Saracini Department of Veterans Affairs Outpatient Clinic.

SEC. 222. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITY, CHICAGO, ILLINOIS.

The Department of Veterans Affairs health care facility located at 820 South Damen Avenue in Chicago, Illinois, shall after the date of the enactment of this Act be known and designated as the ''Jesse Brown Department of Veterans Affairs Medical Center''. Any reference to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Jesse Brown Department of Veterans Affairs Medical Center.

SEC. 223. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, HOUSTON, TEXAS.

The Department of Veterans Affairs Medical Center in Houston, Texas, shall after the date of the enactment of this Act be known and designated as the ''Michael E. DeBakey Department of Veterans Affairs Medical Center''. Any reference to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Michael E. DeBakey Department of Veterans Affairs Medical Center.

SEC. 224. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, MINNEAPOLIS, MINNESOTA.

The Department of Veterans Affairs Medical Center in Minneapolis, Minnesota, shall after the date of the enactment of this Act be known and designated as the ''Paul Wellstone Department of Veterans Affairs Medical Center''. Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Paul Wellstone Department of Veterans Affairs Medical Center.

TITLE III—PERSONNEL MATTERS

SEC. 301. MODIFICATION OF AUTHORITY ON APPOINTMENTS OF PERSONNEL IN THE VETERANS HEALTH ADMINISTRATION.

Section 7401 is amended—

(1) in paragraph (2), by striking ''Psychologists'' and all that follows through ''dietitians,'' and inserting ''Dietitians,''; and

(2) in paragraph (3)—

(A) by inserting ''other psychologists,'' after ''approved by the Secretary,''; and

(B) by striking ''and occupational therapists'' and inserting ''occupational therapists, kinesiologists, and social workers''.

SEC. 302. COVERAGE OF EMPLOYEES OF VETERANS' CANTEEN SERVICE UNDER ADDITIONAL EMPLOYMENT LAWS.

Section 7802(5) is amended by inserting before the semicolon the following: ''. Employees and personnel under this clause may be considered for appointment in Department positions in the competitive service in the same manner that Department employees in the competitive service are considered for transfer to such positions. An employee or individual appointed as personnel under this clause who is appointed to a Department position under the authority of the preceding sentence shall be treated as having a career appointment in such position once such employee or individual meets the three-year requirement for career tenure (with any previous period of employment or appointment in the Service being counted toward satisfaction of such requirement)''.

SEC. 303. EFFECTIVE DATE OF MODIFICATION OF TREATMENT FOR RETIREMENT ANNUITY PURPOSES OF CERTAIN PART-TIME SERVICE OF CERTAIN DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PROFESSIONALS.

(a) EFFECTIVE DATE.—The effective date of the amendment made by section 132 of the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 (Public Law 107–135; 115 Stat. 2454) shall be as follows:

(1) January 23, 2002, in the case of health care professionals referred to in subsection (c) of section 7426 of title 38, United States Code (as so amended), who retire on or after that date.

(2) The date of the enactment of this Act, in the case of health care professionals referred to in such subsection (c) who retired before January 23, 2002, but after April 7, 1986.

(b) RECOMPUTATION OF ANNUITY.—The Office of Personnel Management shall recompute the annuity of each health-care professional described in the first sentence of subsection (c) of section 7426 of title 38, United States Code (as so amended), who retired before January 23, 2002, but after April 7, 1986, in order to take into account the amendment made by section 132 of the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001. Such recomputation shall be effective only with respect to annuities paid after the date of the enactment of this Act, and shall apply beginning the first day of the first month beginning after the date of the enactment of this Act.

TITLE IV—OTHER MATTERS

Subtitle A—Capital Asset Realignment for Enhanced Services Initiative

SEC. 401. ADVANCE NOTIFICATION OF CAPITAL ASSET REALIGNMENT INITIATIVE.

(a) REQUIREMENT FOR ADVANCE NOTIFICATION.—Before taking any action proposed under the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall submit to Congress a written notification of the intent to take such action.

(b) LIMITATION.—The Secretary may not take any proposed action described in subsection (a) until the later of—

(1) the expiration of the 60-day period beginning on the date on which the Secretary submits to Congress the notification of the proposed action required under subsection (a); or

(2) the expiration of a period of 30 days of continuous session of Congress beginning on such date of notification or, if either House of Congress is not in session on such date, the first day after such date that both Houses of Congress are in session.

(c) CONTINUOUS SESSION OF CONGRESS.—For the purposes of subsection (b)—

(1) the continuity of session of Congress is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

SEC. 402. AUTHORIZATION OF MAJOR CONSTRUCTION PROJECTS IN CONNECTION WITH CAPITAL ASSET REALIGNMENT INITIATIVE.

(a) AUTHORITY TO CARRY OUT MAJOR CONSTRUCTION PROJECTS.—Subject to subsection (b), the Secretary of Veterans Affairs may carry out major construction projects, and plan for such projects, as outlined in the final report of the Capital Asset Realignment for Enhanced Services Commission and approved by the Secretary.

(b) LIMITATION.—The Secretary may not exercise the authority in subsection (a) until 60 days after the date of the submittal of the report required by subsection (c).

(c) REPORT ON PROPOSED MAJOR CONSTRUCTION PROJECTS.—(1) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the major construction projects the Secretary proposes to carry out in connection with the Capital Asset Realignment for Enhanced Services initiative.

(2) The report shall list each proposed major construction project in order of priority, with such priority determined in the order as follows:

(A) The use of the facility to be constructed or altered as a replacement or enhancement facility necessitated by the loss, closure, or other divestment of major infrastructure or clinical space at a Department of Veterans Affairs medical facility currently in operation, as determined by the Secretary.

(B) The use of such facility to provide tertiary and acute care services to a population that is determined under the Capital Asset Realignment for Enhanced Services initiative to be in need of such facility and not currently served by such facility.

(C) The use of such facility as an outpatient clinic to provide basic care services to a population of veterans in need of such services, as determined by the Secretary.

(D) The need for such facility to further an enhanced-use lease or sharing agreement.

(E) Any other factors that the Secretary considers to be of importance in providing care to eligible veterans.

(3) In developing the list of projects and according a priority to each project, the Secretary should consider the importance of allocating available resources equitably among the regional health care networks of the Department and take into account recent shifts in populations of veterans among such regional health care networks.

(d) MULTIYEAR CONTRACT AUTHORITY.—To the extent that funds are otherwise available for obligation, the Secretary may enter into a multiyear contract for a major construction project under this section. The period of such a multiyear contract may not exceed five program years. If a multiyear contract under this subsection is not fully funded when entered into, the contract shall provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

(e) FUNDING.—To carry out major construction projects under the Capital Asset Realignment for Enhanced Services initiative, the Secretary may use any combination of funds appropriated for such initiative and funds available to the Secretary for major construction.

(f) MAJOR CONSTRUCTION PROJECT DEFINED.—In this section, the term ''major construction project'' means a major medical facility project, as that term is defined in section 8104(a)(3)(A) of title 38, United States Code, as amended by section 201 of this Act.

Subtitle B—Extension of Other Authorities

SEC. 411. THREE-YEAR EXTENSION OF HOUSING ASSISTANCE FOR HOMELESS VETERANS.

Section 2041(c) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2006''.

SEC. 412. FOUR-YEAR EXTENSION OF EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

Section 107(b) of the Persian Gulf War Veterans' Benefits Act (title I of Public Law 103–446; 38 U.S.C. 1117 note) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2007''.

Subtitle C—Other Matters

SEC. 421. MODIFICATION OF ELIGIBILITY OF FILIPINO VETERANS FOR HEALTH CARE IN THE UNITED STATES.

The text of section 1734 is amended to read as follows:

''(a) The Secretary shall, within the limits of Department facilities, furnish hospital and nursing home care and medical services to an individual described in subsection (b) in the same manner as provided for under section 1710 of this title.

''(b) An individual described in this subsection is any individual who is residing in the United States and is a citizen of, or an alien lawfully admitted for permanent residence in, the United States as follows:

''(1) A Commonwealth Army veteran.

''(2) A new Philippine Scout.''.

SEC. 422. REPEAL OF LIMITS ON TERMS OF CERTAIN OFFICIALS IN OFFICE OF UNDER SECRETARY FOR HEALTH.

Section 7306 is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

Amend the title to read as follows: ''A bill to amend title 38, United States Code, to improve and enhance the provision of long-term health care for veterans by the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, to authorize major construction projects for the Department of Veterans Affairs, and for other purposes.''.

Mr. SPECTER. Madam President, I have sought recognition today to explain briefly the provisions of S. 1156, the proposed Veterans Health Care, Capital Asset, and Business Improvement Act of 2003, as the ranking member of the Committee on Veterans Affairs, Senator GRAHAM of Florida, and I propose be amended to incorporate provisions contained in S. 1156 as reported by the Committee on Veterans Affairs on November 10, 2003, and also to contain provisions derived from H.R. 1720, passed by the House on October 29, 2003, H.R. 2357, passed by the House on July 21, 2003, H.R. 2433, passed by the House on September 10, 2003, H.R. 3260, passed by the House on October 8, 2003, and H.R. 3387, passed by the House October 29, 2003.

This bill, as so amended, incorporates agreements reached between the Senate Committee on Veterans' Affairs, which I am privileged to chair, and our counterpart committee in the House of Representatives, on legislation relating to the provision of health care services by the Department of Veterans Affairs. I thank the Ranking Member, Senator GRAHAM of Florida, and the Chairman and Ranking Member of the House Committee on Veterans Affairs, Representative CHRIS SMITH of New Jersey and Representative LANE EVANS of Illinois, for their advocacy for veterans and for their cooperation in resolving issues raised by the bills considered in our respective bodies. Inasmuch as S. 1156, as reported by the Committee on Veterans' Affairs, itself incorporated provisions drawn from nine separate Senate bills, S. 1156 as presented to the Senate today is properly viewed as a bill that incorporates provisions from 14 separate pieces of legislation. A bill containing such a range of material would not have been knitted together, as this one has been, without a spirit of cooperation and bipartisanship from the other body. The Ranking Member, Senator GRAHAM of Florida, and I appreciate the leadership of the House Committee on Veterans Affairs.

Since this is a lengthy bill—over 50 pages—I will not endeavor in this statement to explain in detail each and every provision. Rather, I will discuss the highlights briefly in this statement, and refer my colleagues to a Joint Explanatory Statement, which I ask be incorporated into the RECORD as if read, for a detailed explanation of the bill as amended.

The starting point for S. 1156, as presented to the Senate today, was S. 1156, the proposed Veterans' Health Care Authorities Extension and Improvement Act of 2003. That bill was marked up by the Senate Committee on Veterans' Affairs on September 30, 2003, and reported on November 10, 2003. S. 1156, as reported, contained a number of elements; its key provisions would have extended mandates that VA provide nursing home care and outpatient-based long term care services to our senior veterans; improved VA assisted living and mental health programs; modified VA personnel provisions relating to non-physician providers of healthcare services and employees of VA's Veterans Canteen Service; and authorized major medical facility projects and projects related to VA's Capital Assets Realignment for Enhanced Services, CARES, initiative. Each and all of these provisions, with some modifications as appropriate, are contained in S. 1156 as presented to the Senate today.

The major change between the bill, as reported, and the current bill is the addition of provisions contained in House-passed legislation. House-approved provisions incorporated into the bill would allow radiation-exposed veterans higher priority access to VA

health care; exempt former prisoners-of-war from pharmaceutical copayments; create in VA an Office of Research Oversight; authorize VA to allow ''Saturday premium pay'' to licensed practical nurses and nursing assistants; and authorize additional needed VA construction projects. All of these added provisions are constructive and useful.

I ask that my colleagues in the Senate approve this legislation. It is good bipartisan legislation that is supported by VA's extraordinary Secretary, the Honorable Anthony J. Principi, and by the major veterans service organizations.

I ask unanimous consent that the Joint Explanatory Statement that accompanies my statement today be printed in the RECORD.

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

EXPLANATORY STATEMENT ON S. 1156, AS AMENDED—VETERANS HEALTH CARE, CAPITAL ASSET, AND BUSINESS IMPROVEMENT ACT OF 2003

S. 1156, as amended, the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003, (hereinafter, ''Compromise Agreement'') reflects a negotiated agreement reached by the Senate and House of Representatives Committees on Veterans' Affairs concerning provisions in a number of bills considered by the House and Senate during the 1st session of the 108th Congress. The measures considered in this compromise are: S. 1156, as amended, as reported by the Senate Committee on Veterans' Affairs on November 10, 2003 (hereinafter, ''Senate bill''); S. 1815 introduced on November 4, 2003; H.R. 2357, as amended, passed the House on July 21, 2003; H.R. 2433, as amended, passed the House on September 10, 2003; H.R. 1720, as amended, passed the House on October 29, 2003; H.R. 3260, as introduced in the House on October 8, 2003; and H.R. 3387, as introduced in the House on October 29, 2003 (hereinafter, ''House bills'').

The House and Senate Committees on Veterans' Affairs have prepared the following explanation of the Compromise Agreement. Differences between the provisions contained in the Compromise Agreement and the related provisions of the Senate bill and the House bills are noted, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

TITLE I—HEALTH CARE AUTHORITIES AND RELATED MATTERS

IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR

Current Law

Section 1712 of title 38, United States Code, authorizes outpatient dental services and related dental appliances to veterans who are former prisoners of war (POWs) if they were detained or interned for a period of at least 90 days.

Section 1722A of title 38, United States Code, requires veterans who are not service-connected with a disability rated at more than 50 percent or eligible for pensions under section 1521 of title 38, United States Code, to make copayments for medications.

Senate Bill

The Senate bill contains no comparable provisions.

House Bill

Section 3 of H.R. 3260 would authorize veterans who are former POWs to receive outpatient dental care, irrespective of the number of days held captive, and would exempt former POWs from the requirement to make copayments on outpatient prescription medications.

Compromise Agreement

Section 101 of the Compromise Agreement follows the House language.

PROVISION OF HEALTH CARE TO VETERANS WHO PARTICIPATED IN CERTAIN DEPARTMENT OF DEFENSE CHEMICAL AND BIOLOGICAL WARFARE TESTING

Current Law

There is no comparable provision in current law.

Senate Bill

The Senate bill contains no comparable provision.

House Bill

Section 2 of H.R. 2433, as amended, would authorize the Department of Veterans Affairs (hereinafter ''VA'' or ''Department'') to provide higher priority health care to veterans who participated in Project Shipboard Hazard and Defense (SHAD), Project 112 or related land-based tests conducted by the Department of Defense Desert Test Center, from 1962 through 1973, without those veterans needing an adjudicated service-connected disability to establish their priority for care.

Compromise Agreement

Section 102 of the Compromise Agreement follows the House language.

ELIGIBILITY FOR DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FOR CERTAIN FILIPINO WORLD WAR II VETERANS RESIDING IN THE UNITED STATES

Current Law

Section 1734 of title 38, United States Code, establishes that veterans of the Commonwealth Army and New Philippine Scouts residing legally in the United States are eligible for VA health care services for the treatment of service-connected disabilities and, in the case of Commonwealth Army veterans, for non service-connected conditions if they are in receipt of disability compensation.

Senate Bill

Section 421 of the Senate bill contains a similar provision.

House Bill

Section 3 of H.R. 2357, as amended, would authorize VA health care for additional World War II Filipino veterans who reside legally in the United States. These veterans of the Commonwealth Army and New Philippine Scouts, would be subject to the same eligibility and means test requirements as U.S. veterans. The House bill would require the Secretary of Veterans Affairs (hereinafter, ''Secretary'') to certify each fiscal year that sufficient resources are available at the VA health care facilities where the majority of these veterans would seek care.

Compromise Agreement

Section 103 of the Compromise Agreement follows the House language, except the Compromise Agreement does not include the resource availability certification requirement.

ENHANCEMENT OF REHABILITATIVE SERVICES

Current Law

Chapter 31 of title 38 authorizes VA to provide vocational rehabilitation services. VA is authorized under chapter 17 of title 38 to offer medical care and compensated work therapy to certain veterans.

Senate Bill

The Senate bill contains no comparable provisions.

House Bill

Section 3 of H.R. 3387 would authorize the Secretary to provide therapeutic employment support services (i.e., skills training and development services, employment support services, and job development and placement services) to patients in need of rehabilitation for mental health disorders, including serious mental illness and substance use disorders.

Section 3 of H.R. 3387 would also authorize VA to use funds in the Special Therapeutic and Rehabilitation Activities Fund (STRAF) authorized under section 1718(c) of title 38, United States Code, to furnish such therapeutic employment support services.

Compromise Agreement

Section 104 of the Compromise Agreement follows the House language.

ENHANCED AGREEMENT AUTHORITY FOR PROVISION OF NURSING HOME CARE AND ADULT DAY HEALTH CARE IN CONTRACT FACILITIES

Current Law

Section 1720 of title 38, United States Code, authorizes VA to contract for the provision of nursing home care and adult day health care for certain veterans and members of the Armed Forces.

Senate Bill

Section 102 of the Senate bill would expand VA's authority to enter into relationships based upon ''provider agreements'' with Centers for Medicare and Medicaid Services (CMS)-certified, small, community-based nursing homes and non-institutional extended care providers, by permitting VA to use provider agreements similar to those used by CMS.

House Bill

The House bills contain no comparable provision.

Compromise Agreement

Section 105 of the Compromise Agreement generally follows the Senate language.

FIVE-YEAR EXTENSION OF PERIOD FOR PROVISION OF NONINSTITUTIONAL EXTENDED-CARE SERVICES AND REQUIRED NURSING HOME CARE

Current Law

Section 1701(10)(A) of title 38, United States Code, requires VA to provide noninstitutional extended care services to enrolled veterans. In addition, section 1710A(c) of title 38, United States Code, requires VA to provide nursing home care to high-priority veterans in need of care.

Senate Bill

Section 101 of the Senate bill would extend the authorities for noninstitutional extended care and required nursing home care through December 31, 2008.

House Bill

Section 2 of H.R. 3260 would extend the authorities for the noninstitutional extended care services and required nursing home care to December 31, 2008. The report required under section 101 of Public Law 106–117 would be extended until January 1, 2008.

Compromise Agreement

Section 106 of the Compromise Agreement follows the House language from subsection 2(a) and (b) of H.R. 3260.

EXPANSION OF DEPARTMENT OF VETERANS AFFAIRS PILOT PROGRAM ON ASSISTED LIVING FOR VETERANS

Current Law

Section 103(b) of Public Law 106–117 authorizes the establishment of a pilot program in one VA geographic health care region to provide assisted living services to veterans.

Senate Bill

Section 103 of the Senate bill would authorize the establishment of one additional

assisted living pilot program for three years from the commencement of the provision of assisted living services under the program.

House Bill

The House bills contain no comparable provision.

Compromise Agreement

Section 107 of the Compromise Agreement follows the Senate language.

IMPROVEMENT OF PROGRAM FOR PROVISION OF SPECIALIZED MENTAL HEALTH SERVICES TO VETERANS

Current Law

Section 116(c) of Public Law 106–117 provides funding in the amount of $15,000,000 for specialized mental health services in fiscal years 2004, 2005 and 2006.

Senate Bill

Section 104 of the Senate bill would increase the funding authorization for these specialized mental health services from $15,000,000 to $25,000,000, and would specify allocation of these funds outside the Veterans Equitable Resource Allocation system.

House Bill

The House bills contain no comparable provisions.

Compromise Agreement

Section 108 of the Compromise Agreement follows the Senate language.

TITLE II—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Program Authorities

INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS

Current Law

Section 8104(a)(3) of title 38, United States Code, defines a major medical facility project as a project for construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $4,000,000.

Senate Bill

Section 201 of the Senate bill would raise the threshold for major medical facility projects from $4,000,000 to $9,000,000.

House Bill

Section 7 of H.R. 1720, as amended, would raise the threshold for major medical facility projects from $4,000,000 to $6,000,000.

Compromise Agreement

Section 201 of the Compromise Agreement would raise the threshold for major medical facility projects from $4,000,000 to $7,000,000.

ENHANCEMENTS TO ENHANCED-USE LEASE AUTHORITY

Current Law

Section 8162 of title 38, United States Code, authorizes the Secretary to enter into enhanced-use leases of Veterans Health Administration (VHA) real property under the jurisdiction of the Secretary.

Senate Bill

The Senate bill contains no comparable provision.

House Bill

Section 4 of H.R. 3260 would extend the jurisdiction of this authority to the Veterans Benefits Administration (VBA) and National Cemetery Administration (NCA), for properties of these Administrations under the control of the Secretary. Further, the bill would streamline the process and notification requirements and allow proceeds from an enhanced-use lease to be credited to accounts for use by VHA, VBA or NCA as appropriate. The bill would allow individual VA facilities to be reimbursed for the expenses incurred by the development and execution of enhanced-use leases.

Compromise Agreement

Section 202 of the Compromise Agreement adopts the provisions of the House bill which streamline the approval process for enhanced use leases in VHA. The provisions concerning the expansion of this authority to properties of NCA and VBA have been omitted due to mandatory spending concerns.

SIMPLIFICATION OF ANNUAL REPORT ON LONG-RANGE HEALTH PLANNING

Current Law

Section 8107 of title 38, United States Code, requires VA to submit annually a report regarding the long-range health planning of the Department. Included in that report is a five-year strategic plan for the provision of health care services to veterans, a plan for the coordination of care among the geographic health care regions of the Department, a profile of each such region, any planned changes to the mission of any medical facility of the Department, and a listing of the 20 VA major medical facility projects with the highest priority.

Senate Bill

The Senate bill contains no comparable provision.

House Bill

Section 7(d) of H.R. 3260 would change the report date on the Annual Report on Long-Range Health Planning to June 1 of each year.

Compromise Agreement

Section 203 of the Compromise Agreement rescinds section 8107(b)(3) and (4) of title 38, United States Code, to simplify the required report by removing the detailed prescription of its content.

Subtitle B—Project Authorizations

AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS

Current Law

Section 8104(2) of title 38, United States Code, requires Congressional authorization of any VA major medical facility construction project.

Senate Bill

Section 211 of the Senate bill, as reported, would authorize the following major construction projects:

Location	Purpose	Cost
Lebanon, PA	New Long-Term Care Facility	$14,500,000
Beckley, WV	New Long-Term Care Facility	20,000,000

House Bill

Section 3 of H.R. 1720, as amended, would authorize the following major construction projects:

Location	Purpose	Cost
Chicago, IL	New Inpatient Bed Tower	$98,500,000
San Diego, CA	Seismic Corrections, Building 1.	48,600,000
West Haven, CT	Renovate Inpatient Wards & Consolidate Medical Research Facilities.	50,000,000
Columbus, OH	New Medical Facility	90,000,000
Pensacola, FL	New VA-Navy Joint Venture Outpatient Clinic.	45,000,000

Compromise Agreement

Section 211 of the Compromise Agreement authorizes the major construction projects for Lebanon, Pennsylvania; Beckley, West Virginia; Chicago, Illinois; San Diego, California; West Haven, Connecticut; and Pensacola, Florida.

AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES

Current Law

Section 8104 of title 38, United States Code, requires Congressional authorization of any VA medical facility lease with an annual lease payment of more than $600,000.

Senate Bill

Section 212 of the Senate bill, as reported, would authorize the following leases:

Location	Purpose	Cost
Denver, CO	Relocate Health Administration Center.	$4,080,000
Pensacola, FL	Relocate Outpatient Clinic	3,800,000
Boston, MA	Extend Outpatient Clinic	2,879,000
Charlotte, NC	Relocate Outpatient Clinic	2,626,000

House Bill

Section 3 of H.R. 1720, as amended, would authorize the following leases:

Location	Purpose	Cost
Charlotte, NC	Outpatient Clinic	$3,000,000
Clark County, NV	Multi-specialty Outpatient Clinic.	6,500,000
Aurora, CO	Regional Federal Medical Center.	30,000,000

Compromise Agreement

Section 212 of the Compromise Agreement authorizes the leases for Charlotte, North Carolina, and Boston, Massachusetts.

The Compromise Agreement contains the provision of Section 211 of H.R. 1720, as amended, to authorize a major construction project for Pensacola, Florida. It was determined that no lease authority for the Pensacola site was necessary. Further, the Compromise Agreement would not authorize a lease supporting relocation and expansion of the Health Administration Center (HAC) in Denver, Colorado. The Committees believe the Department has not justified the continuing expansion of activities at the HAC. The Committees are concerned that this administrative function, originally authorized to process reimbursement claims for the Civilian Health and Medical Program for the VA (CHAMPVA), has inflated its activities well beyond its original responsibilities. The Committees urge VA to reconsider whether the long-term obligation of leased space and the significant growth of staff at the HAC, as opposed to other methods of accomplishing these various tasks, are warranted.

The Compromise Agreement generally follows the Senate language on the Regional Federal Medical Center lease at the former Fitzsimons Army Medical Center in Aurora, Colorado, pending a decision by the Secretaries of Veterans Affairs and Defense on the nature of any joint venture undertaking at the site. However, advance planning is authorized for this project under section 213 of the Compromise Agreement.

ADVANCE PLANNING AUTHORIZATIONS

Current Law

Section 8104(2) of title 38, United States Code, requires Congressional authorization of all VA major medical facility construction project.

Senate Bill

The Senate bill contains no similar provisions.

House Bill

Section 3 of H.R. 1720, as amended, would authorize major construction projects in Columbus, Ohio; Denver (Aurora), Colorado; and the lease of a Multi-specialty Outpatient Clinic in Clark County (Las Vegas), Nevada.

Compromise Agreement

Section 213 of the Compromise Agreement authorizes advance planning funds for fiscal year 2004 for purposes of developing new medical facilities at the following locations:

Location	Purpose	Cost
Columbus, OH	Advance Planning	$9,000,000
Las Vegas, NV	Advance Planning	25,000,000
Pittsburgh, PA	Advance Planning	9,000,000
Denver (Aurora), CO	Advance Planning	26,000,000
East Central Florida	Advance Planning	17,500,000

The Committees concluded these projects, while warranted, require further development. The Committees believe these projects should be considered high priorities from VA's ongoing review of future health care infrastructure needs, the Capital Asset Realignment for Enhanced Services (CARES) initiative.

Given VA's documented plan to pursue significant capital investments and improvements in health care infrastructure and the Committees' understanding that the Appropriations Committees of the House and Senate are hesitant to provide funds for new VA medical facility construction prior to the completion of the CARES process, the Compromise agreement authorizes $86,500,000 to allow for planning of projects at these sites.

AUTHORIZATION OF APPROPRIATIONS

Current Law

Section 8104(2) of title 38, United States Code, requires Congressional authorization of appropriations for VA major medical facility projects.

Senate Bill

Section 213 of the Senate bill would authorize $34,500,000 for fiscal year 2004 for projects authorized and $4,984,000 for the leases authorized by this bill.

House Bill

Section 3 of H.R. 1720, as amended, would authorize $332,100,000 to be appropriated in fiscal year 2004 for the projects authorized by this bill.

Compromise Agreement

Section 214 of the Compromise Agreement authorizes $276,600,000 for fiscal year 2004 for the major construction projects authorized in section 211 of the Compromise Agreement. In addition, section 214 of the Compromise Agreement authorizes the appropriation of $86,500,000 for advanced planning projects identified in section 213 of the Compromise Agreement.

Subtitle C—Capital Asset Realignment for Enhanced Services Initiative

AUTHORIZATION OF MAJOR CONSTRUCTION PROJECTS IN CONNECTION WITH CAPITAL ASSET REALIGNMENT INITIATIVE

Current Law

Section 8104(2) of title 38, United States Code, requires Congressional authorization of all VA major medical facility projects.

Senate Bill

Section 402 of the Senate bill would authorize the Secretary to carry out major construction projects outlined in the final report on the CARES initiative. This authority would be subject to a 60–day advance notification to Congress. The Secretary would be required to submit a list containing each major project in order of priority, based on the criteria specified in the bill. The bill also would add a provision authorizing multi-year contract authority for major construction projects.

House Bill

The House bills contain no comparable provisions.

Compromise Agreement

Section 221 of the Compromise Agreement follows the Senate language with modifications. The Compromise Agreement would require a 45–day advance notification to Congress prior to carrying out major medical facility construction projects selected by the Secretary. The Secretary would be required to submit a one-time report to Congress by February 1, 2004, that lists each proposed major construction project in order of priority. The Compromise Agreement establishes these priorities as follows: (a) to replace or enhance a facility necessitated by the loss, closure or other divestment of a VA medical facility currently in operation; (b) to remedy life-safety deficiencies, including seismic, egress, and fire deficiencies; (c) to provide health care services to an underserved population; (d) to renovate or modernize facilities, including providing barrier free design, improving building systems and utilities, or enhancing clinical support services; (e) to further an enhanced-use lease or sharing agreement; and (f) to give the Secretary discretion to select other projects of importance in providing care to veterans.

The authority to enter into any major medical facility construction contracts for projects selected under the authority of section 221 of the Compromise Agreement would expire on September 30, 2006.

ADVANCE NOTIFICATION OF CAPITAL ASSET REALIGNMENT ACTIONS

Current Law

There is no comparable provision in current law.

Senate Bill

Section 401 of the Senate bill would require the Secretary to provide Congress a 60–day advance notification of any actions proposed by the Department under the CARES initiative.

House Bill

The House bills contain no comparable provisions.

Compromise Agreement

Section 222 of the Compromise Agreement follows the Senate language with modifications. VA would be required to notify Congress in writing of actions under the CARES initiative that would result in medical facility closures, significant staff realignments or medical facility consolidations. The Compromise Agreement would prohibit such actions for 60 days (or 30 days of continuous session of Congress) after such notifications are made.

SENSE OF CONGRESS AND REPORT ON ACCESS TO HEALTH CARE FOR VETERANS IN RURAL AREAS.

Current Law

There is no comparable provision in current law.

Compromise Agreement

Section 223 of the Compromise Agreement would express the sense of Congress recognizing the difficulties in access to VA health care faced by veterans residing in rural areas and require VA to report to the Committees on Veterans' Affairs with a plan of action to improve access to health care for veterans residing in rural areas. A report of VA's plan to improve access to health care for these veterans would be due not later than 120 days after the date of enactment of this Act.

Subtitle D—Plans for New Facilities

PLANS FOR HOSPITAL CARE FACILITIES IN SPECIFIED AREAS

Current Law

There is no comparable provision in current law.

Senate Bill

The Senate bill contains no comparable provision.

House Bill

Section 6 of H.R. 1720, as amended, would require the Secretary to develop plans for meeting the future hospital care needs of veterans who reside in a number of counties of southern New Jersey and far southern counties of Texas, with a report to the Committees by January 31, 2004.

Compromise Agreement

Section 231 of the Compromise Agreement follows the House language and would add a requirement for plans for the Florida Panhandle and North Central Washington. The due date of the report required would be adjusted in section 231 of the Compromise Agreement to April 15, 2004.

STUDY AND REPORT ON FEASIBILITY OF COORDINATION OF VETERANS HEALTH CARE SERVICES IN SOUTH CAROLINA WITH NEW UNIVERSITY MEDICAL CENTER

Current Law

There is no comparable provision in current law.

Senate Bill

The Senate bill contains no comparable provision.

House Bill

Section 8 of H.R. 1720, as amended, would require the Secretary to conduct a feasibility study in coordination with the Medical University of South Carolina and in consultation with the Secretary of Defense, to consider establishing a joint health-care venture to deliver inpatient, outpatient and/or long-term care to veterans, military personnel, and other beneficiaries who reside in Charleston, South Carolina, with a report to the Committees by March 31, 2004.

Compromise Agreement

Section 232 of the Compromise Agreement follows the House language and adjusts the due date of the report to April 15, 2004.

Subtitle E—Designation of Facilities

DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, PRESCOTT, ARIZONA, AS THE BOB STUMP DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

The Senate bill contains no comparable provision.

House Bill

Section 8 of H.R. 3260 would name the VA Medical Center in Prescott, Arizona, the ''Bob Stump Department of Veterans Affairs Medical Center.''

Compromise Agreement

Section 241 of the Compromise Agreement follows the House language.

DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITY, CHICAGO, ILLINOIS, AS THE JESSE BROWN DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

Section 222 of the Senate bill contains a similar provision.

House Bill

Section 9 of H.R. 1720, as amended, would name the VA Chicago Health Care System, West Side Division, the ''Jesse Brown Department of Veterans Affairs Medical Center.''

Compromise Agreement

Section 242 of the Compromise Agreement contains this provision.

DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, HOUSTON, TEXAS, AS THE MICHAEL E. DEBAKEY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or

real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

Section 223 of the Senate bill would name the VA Medical Center located in Houston, Texas, the ''Michael E. DeBakey Department of Veterans Affairs Medical Center.''

House Bill

The House bills contain no comparable provision.

Compromise Agreement

Section 243 of the Compromise Agreement follows the Senate language.

DESIGNATION OF THE DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, SALT LAKE CITY, UTAH, AS THE GEORGE E. WAHLEN DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

S. 1815 would name the VA Medical Center located in Salt Lake City, Utah, the ''George E. Wahlen Department of Veterans Affairs Medical Center.''

House Bill

The House bills contain no comparable provision.

Compromise Agreement

Section 244 of the Compromise Agreement follows the Senate language.

DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, NEW LONDON, CONNECTICUT

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

The Senate bill contains no comparable provision.

House Bill

Section 10 of H.R. 1720, as amended, would name the outpatient clinic located in New London, Connecticut, the ''John J. McGuirk Department of Veterans Affairs Outpatient Clinic.''

Compromise Agreement

Section 245 of the Compromise Agreement follows the House language.

DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, HORSHAM, PENNSYLVANIA

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

Section 221 of the Senate bill, as reported, would name the VA Outpatient Clinic located in Horsham, Pennsylvania, the ''Victor J. Saracini Department of Veterans Affairs Outpatient Clinic.''

House Bill

The House bills contain no comparable provision.

Compromise Agreement

Section 246 of the Compromise Agreement follows the Senate language.

TITLE III—PERSONNEL MATTERS

MODIFICATION OF CERTAIN AUTHORITIES ON APPOINTMENT AND PROMOTION OF PERSONNEL IN THE VETERANS HEALTH ADMINISTRATION

Current Law

Section 7401 of title 38, United States Code, authorizes VA to appoint medical care personnel, under title 5, United States Code, or title 38, United States Code, depending on the duties of such personnel.

Senate Bill

Section 301 of the Senate bill would modify title 38 to authorize the appointment of psychologists, kinesiologists and social workers, under title 38 provisions as opposed to title 5 provisions.

House Bill

The House bills contain no comparable provisions.

Compromise Agreement

Section 301 of the Compromise Agreement follows the Senate language with modifications.

The Compromise agreement reflects two important policy goals. First, VA will be permitted to hire clinical staff in a timely fashion through use of the direct appointment authority provided in title 38, United States Code. Second, employee representatives will be afforded an opportunity to participate in a dialogue and process with VA management to determine the best system under which to promote the clinicians appointed under this section.

The Committees believe that VA management and the promotion policy for clinical staff can benefit from interactions with employee representatives. The Committees would allow the Secretary the discretion to develop a system for judging the merits of an individual's advancement in VA, provided that the Secretary reports to the Committees the actions taken under this authority.

APPOINTMENT OF CHIROPRACTORS IN THE VETERANS HEALTH ADMINISTRATION

Current Law

Public Law 107–135 requires VA to establish a Veterans Health Administration-wide program for chiropractic care.

Senate Bill

The Senate bill contains no comparable provision.

House Bill

Section 2 of H.R. 2357, as amended, would authorize VA appointment of chiropractors under title 38, United States Code. The House bill would establish the qualifications of appointees, the period of appointments and promotions, set grades and pay scales, provide temporary and part-time appointments, authorize residencies and internships, extend malpractice and negligence protection coverage, define chiropractors as scarce medical specialists for contracting purposes, authorize reimbursement of continuing professional education expenses, and exempt chiropractors from collective bargaining, consistent with the provisions in chapter 74 of title 38, the United States Code. The bill would provide for an effective date of 180 days from enactment.

Compromise Agreement

Section 302 of the Compromise Agreement follows the House language with modifications that would redefine ''medical care'' occupations as ''health care'' occupations and eliminate provisions that would provide for residencies and internships and reimbursement of continuing professional education expenses.

ADDITIONAL PAY FOR SATURDAY TOURS OF DUTY FOR ADDITIONAL HEALTH CARE WORKERS IN THE VETERANS HEALTH ADMINISTRATION

Current Law

Title 38, United States Code, specifies in sections 7453 and 7454 that nurses, physician assistants, and expanded-function dental auxiliaries are entitled to additional pay for working regular tours of duty of Saturdays. Under this authority, respiratory therapists, physical therapists, practical or vocational nurses, pharmacists and occupational therapists are also entitled to additional pay for Saturday tours, if the Secretary determines it is necessary in order to hire and retain these health care professionals.

Senate Bill

The Senate bill contains no comparable provision.

House Bill

Section 4 of H.R. 2433, as amended, would amend section 7454 (b) of title 38, United States Code, to authorize premium pay for Saturday tours of duty for additional VHA health care workers.

Compromise Agreement

Section 303 of the Compromise Agreement follows the House language.

COVERAGE OF EMPLOYEES OF VETERANS' CANTEEN SERVICE UNDER ADDITIONAL EMPLOYMENT LAWS

Current Law

Section 7802 of title 38, United States Code, authorizes appointment of Veterans' Canteen Service (VCS) employees.

Senate Bill

Section 302 of the Senate bill contains a similar provision.

House Bill

Section 5 of H.R. 2433, as amended, would authorize hourly workers of VCS to be qualified for competitive title 5, United States Code, appointments in VA in recognition of time-in service obtained in the VCS.

Compromise Agreement

Section 304 of the Compromise Agreement contains this provision.

TITLE IV—OTHER MATTERS

OFFICE OF RESEARCH OVERSIGHT IN VETERANS HEALTH ADMINISTRATION

Current Law

There is no similar provision in current law.

Senate Bill

The Senate bill contains no comparable provision.

House Bill

Section 11 of H.R. 1720, as amended, would add a new section 7307 to title 38, United States Code, to establish an Office of Research Oversight within the Veterans Health Administration to monitor, review and investigate matters of medical research compliance and assurance in VA, including matters relating to the protection and safety of human subjects, research animals and VA employees participating in VA medical research programs. The bill would require an annual report to the Committees on Veterans' Affairs of the Senate and House of Representatives on the activities of the Office of Research Oversight during the preceding calendar year and require that the activities of the Office of Research Oversight be funded from amounts appropriated for VA medical care.

Further, under the bill, the General Accounting Office (GAO) would be required to submit a report to Congress not later than January 1, 2006, on the results of the establishment of the Office of Research Oversight

and any recommendations for other legislative and administrative actions. Finally, the Secretary would be required to submit a report to Congress setting forth the Department's implementation of the requirement to establish an Office of Research Oversight, and related provisions, not later than 180 days after the date of enactment.

Compromise Agreement

Section 401 of the Compromise Agreement follows the House language with modifications that would not include references to animal welfare, research animals and laboratory animals. Section 7307(c)(2)(A) of title 38, United States Code, referencing peer review responsibilities would also not be included in the Compromise Agreement, along with the required reports from GAO and the Secretary.

ENHANCEMENT OF AUTHORITIES RELATING TO NONPROFIT RESEARCH CORPORATIONS

Current Law

Sections 7361 through 7366 of title 38, United States Code, establish the authority for VA's Nonprofit Research Corporations. Section 7368 of title 38, United States Code, provides that no such corporations may be established after December 31, 2003.

Senate Bill

The Senate bill contains no comparable provisions.

House Bill

Section 6 of H.R. 3260 would cover employees of Nonprofit Research Corporations under the Federal Tort Claims Act and would extend the authority to create new Nonprofit Research Corporations through December 31, 2008.

Compromise Agreement

Section 402 of the Compromise Agreement follows the House language.

DEPARTMENT OF DEFENSE PARTICIPATION IN REVOLVING SUPPLY FUND PURCHASES

Current Law

Section 8121 of title 38, United States Code, establishes authority for VA to use a revolving supply fund to operate and maintain its supply system.

Senate Bill

The Senate bill contains no comparable provision.

House Bill

Section 5 of H.R. 3260 would extend authority to the Secretary of Defense to purchase medical equipment, services and supplies through VA's revolving supply fund beginning in fiscal year 2004. The Department of Defense (DoD) would be required to reimburse VA's revolving supply fund using DoD appropriations.

Compromise Agreement

Section 403 of the Compromise Agreement follows the House language.

FIVE-YEAR EXTENSION OF HOUSING ASSISTANCE FOR HOMELESS VETERANS

Current Law

Section 2041(c) of title 38, United States Code, authorizes the Secretary to enter into housing assistance agreements for homeless veterans until December 31, 2003.

Senate Bill

Section 411 of the Senate bill would extend the authority of the Secretary to enter into housing assistance agreements through December 31, 2006.

House Bill

Section 6 of H.R. 3387 would extend the authority of the Secretary to enter into housing assistance agreements until December 31, 2008.

Compromise Agreement

Section 404 of the Compromise Agreement follows the House language.

REPORT DATE CHANGES

Current Law

Title 38, United States Code, requires:

(a) in section 516(e)(1)(A), a quarterly report summarizing the employment discrimination complaints filed against senior managers; the report is due no later than 30 days after the end of each quarter;

(b) in section 2065(a), an annual report on assistance to homeless veterans; the report is due no later than April 15 each year;

(c) in section 7321(d)(2), an annual report of the Committee on Care of Severely Chronically Mentally Ill Veterans; the report is due no later than February 1 each year through 2004;

(d) in section 8107, an annual report on long-range health planning; due June 1 of each year;

(e) in section 8153(g), an annual report on sharing of health care resources; the report is due no later than 60 days after the end of each fiscal year; and

(f) in section 1712A note and enacted in section 110(e)(2) of Public Law 106–117, an annual report of the Special Committee on PTSD; the report is due February 1 of each of the three following years.

Senate Bill

The Senate bill contains no comparable provisions.

House Bill

Section 7 of H.R. 3260, subsection (a) would extend the Senior Managers Quarterly Report from 30 days to 45 days following each quarter; subsection (b) would change the report due date from April 15 to June 15 of each year for the annual report on Assistance to Homeless Veterans; subsection (c) would change the report due date from February 1 to June 1 of each year for the annual report of the Committee on Care of Severely Chronically Mentally Ill Veterans through 2004; subsection (d) would change the report date on the Annual Reports on Long-Range Health Planning to June 1 of each year; subsection (e) would change the report due dates on the Annual Report on Sharing of Health Care Resources to February 1 of each year; and subsection (f) would change the report due date on the Annual Report of the Special Committee on PTSD to May 1 of each year through 2004.

Section 7(a) of H.R. 3387 would extend the annual reporting requirement for the Committee on Care of Severely Chronically Mentally Ill Veterans in Section 7321(d)(2) to February 1, 2009. Section 7(b) of H.R. 3387 would extend the annual report of the Special Committee on PTSD to February 1, 2009.

Compromise Agreement

Section 405 of the Compromise Agreement follows the House language on the provisions in subsections (a), (b), and (e) of the House bill and would extend the reports in subsections (c) and (f) of the House bill through 2008. Section 405 of the Compromise Agreement would simplify the reporting requirements in subsection (d) of the House bill without altering the report due date.

LEGISLATIVE PROVISIONS NOT ADOPTED

DEMOLITION OF OBSOLETE, DILAPATED, AND HAZARDOUS STRUCTURES ON DEPARTMENT OF VETERANS AFFAIRS PROPERTY

Current Law

There is no similar provision in current law.

Senate Bill

Section 202 of the Senate bill would add section 8171 to title 38, United States Code, to authorize the demolition of obsolete, dilapidated, and hazardous structures; would establish a specific fund in the Treasury designated as the Department of Veterans Affairs Facilities Demolition Fund; and would authorize an appropriation of $25,000,000 for fiscal year 2004 for this Demolition Fund.

House Bill

The House bills contain no comparable provision.

Compromise Agreement

The Compromise Agreement does not contain this provision.

SUPPLEMENTARY MATTERS

SAN JUAN, PUERTO RICO VA MEDICAL CENTER

In 1999, Congress provided $50,000,000 to the VA Medical Center in San Juan, Puerto Rico, to assist that facility in correcting numerous structural safety issues. Since then, VA has spent $4,000,000 of those funds on the design and planning of a bed tower that will alleviate the strain on the older bed tower currently in use. The remaining $46,000,000 will be used for the tower's construction, with a projected Spring 2004 groundbreaking. The Committees understand that the Secretary has pledged at least an additional $25,000,000 to enhance this project and minimize any reduction of total beds at this facility. Even with the completion of this construction, the Committees are advised that additional seismic and utility upgrades are needed at the San Juan VA. The Committees encourage the Secretary to honor this pledge and continue the practice of providing high quality services to the veterans of Puerto Rico.

Mr. GRAHAM of Florida. Madam President, I rise today to urge swift passage of S. 1156, which is essentially a conference report on various veterans' health care measures. This bill will dramatically assist the Department of Veterans Affairs in providing quality health care to our Nation's veterans. I would like to highlight some of the key provisions.

The compromise agreement would authorize $17.5 million in advanced planning funds for a new medical facility in East-Central Florida. While this is only an authorization, I note that the VA–HUD appropriations bill will likely contain an unspecified pot of construction funding—up to $600 million total. These funds will likely be used for East-Central Florida and other worthy projects stemming from VA's realignment effort.

Veterans living in East-Central Florida are in dire need of a full-fledged VA hospital. One VA report found that since 1996, ''the Central Florida market sustained the greatest workload expansion of the entire VA system—105 percent.'' Other VA studies have deemed the region as ''the logical choice for infrastructure investment for all major Inpatient and Outpatient categories.'' The decision about where to place a new VA hospital in this region falls to VA, but I encourage Secretary Principi to carefully study all the options to ensure that the most appropriate location is chosen.

The demand for care in East-Central Florida heretofore has also been validated by the Capital Asset Realignment for Enhanced Services (CARES) process. CARES is a multi-stage analysis that VA has undertaken of its assets and infrastructure nationwide, for the purposes of making according adjustments to meet the projected health

care needs of veterans over the next 20 years. The process has reached its final stages, with the release of a Draft National Plan currently under review by a commission.

The CARES initiative will have profound ramifications for hospitals all across the country. As such, the compromise agreement includes a provision that I fought for, granting Congress a 60-day notice and wait period before commencing any closures or consolidations that result from CARES recommendations. It is imperative that Congress have a role in this process, as the delivery of health care to our nation's veterans will be greatly affected by its outcome. This became particularly apparent when the Draft National Plan was unveiled, revealing the targeting for closure of up to 6,000 beds nationwide—including some 1,500 long-term care and 800 psychiatry beds. As long-term care and mental health were not factored into the original CARES model, many questions were raised about the validity of the process.

The Veterans Health Care, Capital Asset, and Business Improvement Act of 2003 would also authorize the construction of a comprehensive outpatient medical care facility at the Pensacola Naval Air Station, in Pensacola, FL. The clinic, as envisioned, would be a joint venture between VA and the Department of the Navy. This area of my home state is greatly underserved in terms of medical facilities for servicemembers and veterans, and I am pleased to be a part of bringing vital health care services to the region.

Because of the need for quality, accessible hospital services for veterans in the Pensacola area and surrounding counties, this bill would require VA to develop a plan to meet their inpatient needs. While there is no doubt that the VA–Navy clinic would provide vital outpatient services, inpatient care will still be lacking. This provision seeks to address that facet of the health care continuum for veterans in the Panhandle.

Another important provision of the compromise agreement would expand VA's assisted living pilot program to one additional site. The assisted living pilot program is designed to help the large numbers of men and women in the VA system over the age of 65, who either need long-term care now or potentially will need it in the future. The pilot program was first established through The Veterans Millennium Health Care and Benefits Act, which gave VA clear authority to furnish an assisted living service, including to the spouses of veterans.

The CARES Draft National Plan also puts emphasis on assisted living programs. No fewer than 19 sites are proposed to be converted into assisted living facilities. The assisted living pilot program seeks to help VA address inequities in availability of noninstitutional services by developing models for proliferating the program nationwide. I am hopeful that Network 8 will apply to be the next pilot program. There is a great need for long-term care services in my home state of Florida.

I am proud to have worked on this valuable piece of legislation for our Nation's veterans, and I urge my colleagues to support it.

Mr. INOUYE. Madam President, I commend Senator ARLEN SPECTER and the Committee on Veterans Affairs for their efforts in support of S. 1156, the Veterans Health Care Authorities Extension and Improvement Act of 2003, which would improve the provision of long-term health care for veterans by the Department of Veterans Affairs.

I would like to take this opportunity to comment on the section of S. 1156 that authorizes the VA to provide Filipino veterans residing in the United States the same medical benefits that are currently provided to veterans of the Armed Forces of the United States. Approximately 9,500 Filipino veterans residing in the United States would be eligible for these benefits.

Many of you are aware of my continued support and advocacy on behalf of the Filipino World War II veterans, and the importance of addressing their plight. As an American, I believe the treatment of Filipino World War II veterans is bleak and shameful. Throughout the years, I have sponsored several measures to rectify the wrongs committed against these World War II veterans, and I am grateful to the committee for the assistance and consideration given to my past initiatives. While some strides have been made, I believe more needs to be done to assist these veterans who are in their twilight years. Of the 120,000 who originally served in the Commonwealth Army during World War II, approximately 59,899 Filipino veterans currently reside in the United States and the Philippines. According to the Department of Veterans Affairs, the Filipino veteran population is expected to decrease to approximately 20,000, or roughly one-third of the current population, by 2010.

I support the provision in S. 1156 that authorizes the VA to provide Filipino veterans residing in the United States the same medical benefits that are currently provided to veterans of the Armed Forces of the United States. However, I remain concerned that these benefits are restricted to only those veterans residing in the United States. In my view, a distinction should not be made between veterans residing in the United States and those residing in the Philippines.

As a result of a citizenship statute enacted by the Congress in 1990, some Filipino veterans who were able to travel came to the United States to become United States citizens. At the same time, many other Filipino World War II veterans were unable to travel to the United States and take advantage of the naturalization benefit because of their advanced age. The law was subsequently amended in the Fiscal Year 1993 Departments of State, Justice, Commerce and the Judiciary Appropriations Act, Public Law 102–395, to allow the naturalization process for these veterans to occur in the Philippines. Since then, a distinction has been made, and benefits have been provided to only those Filipino veterans residing in the United States.

I believe it is unfair to make this distinction. The Commonwealth Army of the Philippines was called to serve with the United States Armed Forces in the Far East during World War II under President Roosevelt's July 26, 1941, military order. Together, these gallant men and women stood in harm's way with our American soldiers to fight our common enemies during World War II. Because all Filipino veterans stood in equal jeopardy during World War II, I do not believe we should draw a distinction based on their current residency in the U.S. or in the Philippines. All of them were at equal risk, and so all should receive equal benefits.

Accordingly, I introduced S. 68, the Filipino Veterans' Benefits Improvements Act of 2003, which provides health and disability compensation benefits that are similar to the provision included in S. 1156, but without limitations based on the residency of the veterans. I strongly urge Chairman SPECTER and members of the Committee to give consideration to S. 68, and to work with me in the coming year to provide health benefits to veterans residing in the Philippines.

Heroes should never be forgotten or ignored, so let us not turn our backs on those who sacrificed so much. Many of the Filipinos who fought so hard for our nation have been honored with American citizenship. Let us now work to repay all of these brave men and women for their sacrifices by providing them the veterans' benefits they deserve.

Mr. THOMAS. Madam President, I ask unanimous consent that the substitute amendment which is at the desk be agreed to, the committee substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed, the amendment to the title as reported be amended with the amendment at the desk, the title amendment, as amended, be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2203) in the nature of a substitute was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The committee amendment in the nature of a substitute, as amended, was agreed to.

The amendment (No. 2204) was agreed to, as follows:

AMENDMENT NO. 2204

Amend the title to read as follows: ''A bill to amend title 38, United States Code, to improve and enhance provision of health care

for veterans, to authorize major construction projects and other facilities matters for the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes.''.

The bill (S. 1156), as amended, was read the third time and passed.

The title amendment, as amended, was agreed to

IMPROVING BENEFITS UNDER LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS

Mr. THOMAS. Madam President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 2297 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2297) to amend title 38, United States Code, to improve benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SPECTER. Madam President, I have sought recognition today to explain briefly the provisions of H.R. 2297, the proposed Veterans Benefits Act of 2003, that the Ranking Member of the Committee on Veterans Affairs, Senator GRAHAM of Florida, and I propose be approved, as amended, by the Senate. H.R. 2297, as so amended and as presented to the Senate today, incorporates agreements reached between the Senate Committee of Veterans Affairs, which I am privileged to chair, and our counterpart Committee in the House of Representatives, on legislation relating to the provision of nonhealthcare-related benefits by the Department of Veterans Affairs.

H.R. 2297, as amended, contains provisions derived from S. 1132, the proposed Veterans Benefits Enhancements Act of 2003, as approved by the Senate on October 31, 2003, and S. 1156, as reported by the Committee on Veterans' Affairs on November 10, 2003. It also contains provisions derived from H.R. 2297, as approved by the House on October 8, 2003; H.R. 1257, as approved by the House on May 22, 2003; and H.R. 1460, as amended from the bill approved by the House on June 24, 2003. Inasmuch as S. 1132, as approved by the Senate earlier this year, had itself incorporated provisions derived from 11 Senate bills—meaning that H.R. 2297 contains provisions derived from 15 separate bills—it is apparent that this bill represents the work and ideas of many sponsors with many differing interests. I thank the Ranking Member, Senator GRAHAM of Florida, and the Chairman and Ranking Member of the House Committee on Veterans Affairs, Representative CHRIS SMITH of New Jersey and Representative LANE EVANS of Illinois, for the spirit of cooperation and bipartisanship that they showed in addressing the sometimes-competing interests in play as 15 pieces of legislation were knitted into a single, coherent whole.

Since this is a lengthy bill—over 50 pages—I will not endeavor in this statement to explain in detail each and every provision. Rather, I will discuss the highlights briefly in this statement, and refer my colleagues to a Joint Explanatory Statement. I ask unanimous consent to print in the RECORD a detailed explanation of the bill as amended.

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

EXPLANATORY STATEMENT ON SENATE AMENDMENT TO HOUSE BILL, H.R. 2297, AS AMENDED

H.R. 2297, as amended, the Veterans Benefits Act of 2003, reflects a Compromise Agreement reached by the House and Senate Committees on Veterans' Affairs (''the Committees'') on the following bills considered in the House and Senate during the 108th Congress: H.R. 1257; H.R. 1460, as amended; H.R. 2297, as amended (''House Bill''); and S. 1132, as amended (''Senate Bill''). H.R. 1257 passed the House on May 22, 2003; H.R. 1460, as amended, passed the House on June 24, 2003; H.R. 2297, as amended, passed the House on October 8, 2003; S. 1132, as amended, passed the Senate on October 31, 2003.

The House and Senate Committees on Veterans' Affairs have prepared the following explanation of H.R. 2297, as amended (''Compromise Agreement''). Differences between the provisions contained in the Compromise Agreement and the related provisions of H.R. 1257, H.R. 1460, as amended, H.R. 2297, as amended, and S. 1132, as amended, are noted in this document, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

TITLE I: SURVIVOR BENEFITS

RETENTION OF CERTAIN VETERANS SURVIVOR BENEFITS FOR SURVIVING SPOUSES REMARRYING AFTER AGE 57

Current Law

Section 103(d) of title 38, United States Code, prohibits a surviving spouse who has remarried from receiving dependency and indemnity compensation (''DIC'') and related housing and education benefits during the course of the remarriage. This benefit may be reinstated in the event the subsequent marriage is terminated. Public Law 107–330 extended to surviving spouses who remarry after age 55 continuing eligibility under the Civilian Health and Medical Program of the Department of Veterans Affairs (''CHAMPVA'').

House Bill

Section 6 of H.R. 2297, as amended, would allow a surviving spouse who remarries after attaining age 55 to retain the DIC benefit. Spouses who remarry at age 55 or older prior to enactment of the bill would have one year from the date of enactment to apply for reinstatement of DIC benefits. The amount of DIC would be paid with no reduction of certain other Federal benefits to which the surviving spouse might be entitled.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise Agreement

Section 101 of the Compromise Agreement would provide that a surviving spouse upon remarriage after attaining age 57 would retain DIC, home loan, and educational benefits eligibility. Surviving spouses who remarried after attaining age 57 prior to enactment of the Compromise Agreement would have one year to apply for reinstatement of these benefits.

BENEFITS FOR CHILDREN WITH SPINA BIFIDA OF VETERANS OF CERTAIN SERVICE IN KOREA

Current Law

Chapter 18 of title 38, United States Code, authorizes the Department of Veterans Affairs (''VA'') to provide benefits and services to those children born with spina bifida whose natural parent (before the child was conceived) served in the Republic of Vietnam between January 9, 1962 and May 7, 1975. Benefits and services are authorized due to the association between exposure to dioxin and the incidence of spina bifida in the children of those exposed. Children born with spina bifida whose parent was exposed to dioxin and other herbicides during military service in locations other than the Republic of Vietnam do not qualify for VA benefits and services.

House Bill

Section 12 of H.R. 2297, as amended, would permit children born with spina bifida whose parent (before the child was conceived) served in an area of Korea near the demilitarized zone (''DMZ'') between October 1, 1967 and May 7, 1975, to qualify for benefits in the same manner as children whose parent served in the Republic of Vietnam.

Senate Bill

Section 101 of S. 1132, as amended, would permit children with spina bifida whose parent (before the child was conceived) served in or near the DMZ in Korea during the period beginning on January 1, 1967, and ending on December 31, 1969, to qualify for benefits in the same manner as children whose parent served in the Republic of Vietnam. The Senate Bill would require the Secretary of Veterans Affairs to make determinations of exposure to herbicides in Korea in consultation with the Secretary of Defense.

Compromise Agreement

Section 102 of the Compromise Agreement would generally follow the Senate language. However, under the Compromise Agreement, the time period for qualifying service in or near the DMZ is changed to service which occurred during the period beginning on September 1, 1967, and ending on August 31, 1971. The Committees note that although use of herbicides in Vietnam ceased in 1971, Vietnam-era veterans who served until May 7, 1975, are presumed to have been exposed to residuals. Similarly, even though herbicide use in or near the Korean DMZ ended in 1969, the Committees believe it is appropriate to extend the qualifying service period beyond 1969 to account for residual exposure.

The Committees also note that the Secretary of Defense has identified the following units as those assigned or rotated to areas near the DMZ where herbicides were used between 1968 and 1969: combat brigades of the 2nd Infantry Division (1–38 Infantry, 2–38 Infantry, 1–23 Infantry, 2–23 Infantry, 3–23 Infantry, 3–32 Infantry, 1–9 Infantry, 2–9 Infantry, 1–72 Armor, and 2–72 Armor); Division Reaction Force (4–7th Cavalry, Counter Agent Company); 3rd Brigade of the 7th Infantry Division (1–17th Infantry, 2–17 Infantry, 1–73 Armor and 2–10th Cavalry); and Field Artillery, Signal and Engineer support personnel.

ALTERNATE BENEFICIARIES FOR NATIONAL SERVICE LIFE INSURANCE AND UNITED STATES GOVERNMENT LIFE INSURANCE

Current Law

Section 1917 of title 38, United States Code, gives veterans insured under the VA's National Service Life Insurance (''NSLI'') program the right to designate the beneficiary or beneficiaries of insurance policies maturing on or after August 1, 1946. It also specifies the modes of payment to beneficiaries when an insured dies, and sets forth the procedure to be followed when a beneficiary has not been designated or dies before the insured.

Section 1949 of title 38, United States Code, gives veterans insured under the United States Government Life Insurance (''USGLI'') program the right to change beneficiaries, and sections 1950 through 1952 of title 38 set out the modes of payment to designated beneficiaries and sets forth the procedure to be followed when a beneficiary either has not been designated or dies before the insured. For the NSLI and USGLI programs, the law does not specify the course of action VA is to take when no beneficiary can be found.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 102 of S. 1132, as amended, would authorize the payment of NSLI and USGLI to alternate beneficiaries, in order of precedence and as designated by the insured veteran, if no claim is made by the primary beneficiary within two years of the insured veteran's death. If four years have elapsed since the death of the insured and no claim has been filed by a person designated by the insured as a beneficiary, section 102 would authorize VA to make payment to a person VA determines to be equitably entitled to such payment.

Compromise Agreement

Section 103 of the Compromise Agreement follows the Senate language.

PAYMENT OF BENEFITS ACCRUED AND UNPAID AT TIME OF DEATH

Current Law

Section 5121 of title 38, United States Code, restricts specified classes of survivors to receiving no more than two years of accrued benefits if a veteran dies while a claim for VA periodic monetary benefits (other than insurance and servicemen's indemnity) is being adjudicated. Public Law 104–275 extended the retroactive payment from one year to two years.

House Bill

Section 6 of H.R. 1460, as amended, would repeal the two-year limitation on accrued benefits so that a veteran's survivor may receive the full amount of award for accrued benefits.

Senate Bill

Section 105 of S. 1132, as amended, contains an identical provision.

Compromise Agreement

Section 104 of the Compromise Agreement contains this provision.

TITLE II: BENEFITS FOR FORMER PRISONERS OF WAR AND FOR FILIPINO VETERANS

Subtitle A—Former Prisoners of War

PRESUMPTIONS OF SERVICE-CONNECTION RELATING TO DISEASES AND DISABILITIES OF FORMER PRISONERS OF WAR

Current Law

Section 1112(b) of title 38, United States Code, specifies a list of 15 disabilities that VA presumes are related to military service for former prisoners of war (''POWs'') who were held captive for not less than 30 days. If a former POW was interned for less than 30 days, he or she must establish that the disability was incurred or aggravated during military service in order for service connection to be granted.

The list in section 1112(b) of title 38, United States Code, does not include cirrhosis of the liver; however, on July 18, 2003, VA published a regulation adding cirrhosis of the liver to the list of conditions presumptively service-connected for former POWs. (68 Fed. Reg. 42,602).

House Bill

Section 11 of H.R. 2297, as amended, would eliminate the 30–day requirement for psychosis, any anxiety states, dysthymic disorders, organic residuals of frostbite and post-traumatic arthritis. Section 11 would also codify cirrhosis of the liver as a disability which is presumptively service-connected for a former POW who was interned for at least 30 days.

Senate Bill

Section 302 of S. 1132, as amended, contains an identical provision.

Compromise Agreement

Section 201 of the Compromise Agreement contains this provision.

Subtitle B—Filipino Veterans

RATE OF PAYMENT OF BENEFITS FOR CERTAIN FILIPINO VETERANS AND THEIR SURVIVORS RESIDING IN THE UNITED STATES

Current Law

Section 107(a) of title 38, United States Code, generally provides that service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, including organized guerilla units (''Commonwealth Army veterans''), may in some circumstances be a basis for entitlement to disability compensation, dependency and indemnity compensation, monetary burial benefits, and certain other benefits under title 38, United States Code, and that payment of such benefits will be at the rate of $0.50 for each dollar authorized. Section 107(b) of title 38, United States Code, generally provides that service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 (i.e., service in the ''new Philippine Scouts''), may be a basis for entitlement to disability compensation, DIC, and certain other benefits under title 38, United States Code, but payment of such benefits will be at the rate of $0.50 for each dollar authorized.

House Bill

Section 16 of H.R. 2297, as amended, would provide the full amount of compensation and DIC to eligible members of the new Philippine Scouts, as well as the full amount of DIC paid by reason of service in the organized military forces of the Commonwealth of the Philippines, including organized guerilla units, if the individual to whom the benefit is payable resides in the United States and is either a citizen of the U.S. or an alien lawfully admitted for permanent residence.

Senate Bill

Section 321 of S. 1132, as amended, contains an identical provision.

Compromise Agreement

Section 211 of the Compromise Agreement contains this provision.

BURIAL BENEFITS FOR NEW PHILIPPINE SCOUTS RESIDING IN THE UNITED STATES

Current Law

Section 107 of title 38, United States Code, provides that persons who served in the organized military forces of the Government of the Commonwealth of the Philippines, including organized guerilla units (''Commonwealth Army veterans''), who lawfully reside in the United States are eligible for burial in a VA national cemetery and VA monetary burial benefits at the full-dollar rate if, at the time of death, they are receiving VA disability compensation or would have been receiving VA pension but for their lack of qualifying service.

House Bill

Section 17 of H.R. 2297, as amended, would extend eligibility for burial in a national cemetery to new Philippine Scouts, as well as eligibility for VA burial benefits, to those who lawfully reside in the United States.

Senate Bill

Section 322 of S. 1132, as amended, contains an identical provision.

Compromise Agreement

Section 212 of the Compromise Agreement contains this provision.

EXTENSION OF AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE REPUBLIC OF THE PHILIPPINES

Current Law

Section 315(b) of title 38, United States Code, authorizes the Secretary of Veterans Affairs to operate a regional office in the Republic of the Philippines until December 31, 2003. Congress last extended this authority in Public Law 106–117.

House Bill

Section 18 of H.R. 2297, as amended, would extend the Secretary's authority to operate a regional office in the Republic of the Philippines through December 31, 2009.

Senate Bill

Section 323 of S. 1132, as amended, would extend the Secretary's authority to operate a regional office in the Republic of the Philippines through December 31, 2008.

Compromise Agreement

Section 213 of the Compromise Agreement follows the House language.

TITLE III—EDUCATION BENEFITS, EMPLOYMENT PROVISIONS, AND RELATED MATTERS

EXPANSION OF MONTGOMERY GI BILL EDUCATION BENEFITS FOR CERTAIN SELF-EMPLOYMENT TRAINING

Current Law

Section 3452(e) of title 38, United States Code, furnishes various legal definitions used in the administration of VA's educational assistance programs. Self-employment training is not included among the current definitions.

House Bill

Section 2 of H.R. 2297, as amended, would expand the Montgomery GI Bill program by authorizing educational assistance benefits for on-job training of less than six months in certain self-employment training programs, to include: (1) an establishment providing apprentice or other on-job training, including programs under the supervision of a college or university or any State department of education; (2) an establishment providing self-employment training consisting of full-time training for less than six months that is needed for obtaining licensure to engage in a self-employment occupation or required for ownership and operation of a franchise; (3) a State board of vocational education; (4) a Federal or State apprenticeship registration agency; (5) a joint apprenticeship committee established pursuant to the National Apprenticeship Act, title 29, United States Code; or (6) an agency of the Federal Government authorized to supervise such training.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise Agreement

Section 301 of the Compromise Agreement follows the House language.

INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Current Law

Chapter 35 of title 38, United States Code, specifies the eligibility criteria, programs of education and training, and payment amounts applicable under VA's Survivors' and Dependents' Educational Assistance (''DEA'') benefits program. Generally, those eligible for DEA benefits are the spouses and dependents of: veterans with total and permanent service-connected ratings; veterans who died as a result of service-related injuries; or servicemembers who died while on active duty. Currently, monthly benefit rates for eligible DEA beneficiaries are $695 for full-time study, $522 for three-quarter-time study, and $347 for half-time study. Monthly DEA benefits are also available for beneficiaries pursuing programs of education on a less-than-half-time basis, through farm cooperative programs, correspondence courses, special restorative training programs, or programs of apprenticeship or other approved on-job training programs.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 104 of S. 1132, as amended, would raise monthly DEA benefits by 13.4 percent over current levels. The new rates would be set at $788 for full-time study, $592 for three-quarter time study, and $394 for half-time study. A 13.4 percent increase would also be made to benefits paid to eligible persons pursuing a program of education on a less than half-time basis, through institutional courses, farm cooperative programs, correspondence courses, special restorative training programs, or programs of apprenticeship or other approved on-job training programs. The increases would take effect on July 1, 2004.

Compromise Agreement

Section 302 of the Compromise Agreement follows the Senate language.

RESTORATION OF SURVIVORS' AND DEPENDENTS' EDUCATION BENEFITS OF INDIVIDUALS BEING ORDERED TO FULL-TIME NATIONAL GUARD DUTY

Current Law

Section 3512(h) of title 38, United States Code, provides for an extension of Survivors' and Dependents' Educational Assistance only to reservists called to active duty after September 11, 2001, for an amount of time equal to that period of full-time duty, plus 4 months.

House Bill

Section 3 of H.R. 2297, as amended, would provide that National Guard members who qualify for survivors' and dependents' education benefits under chapter 35 of title 38, United States Code, and are involuntarily ordered to full-time duty under title 32, United States Code, after September 11, 2001, would have their eligibility extended by an amount of time equal to that period of full-time duty, plus 4 months.

Senate Bill

Section 103 of S. 1132, as amended, contains an identical provision.

Compromise Agreement

Section 303 of the Compromise Agreement contains this provision.

ROUNDING DOWN OF CERTAIN COST-OF-LIVING ADJUSTMENTS ON EDUCATIONAL ASSISTANCE

Current Law

Sections 3015(h) and 3564 of title 38, United States Code, provide for annual cost-of-living adjustments to both the Montgomery GI Bill and Survivors' and Dependents' Educational Assistance programs. Each section specifies that percentage increases be ''rounded to the nearest dollar.''

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 304 of S. 1132, as amended, would require annual percentage adjustments under sections 3015(h) and 3564 to be rounded down to the nearest dollar. This section would first apply to adjustments made at the start of fiscal year 2005.

Compromise Agreement

Section 304 of the Compromise Agreement follows the Senate language. However, the Compromise Agreement specifies that the changes made by the Senate language shall be effective only through September 30, 2013.

AUTHORIZATION FOR STATE APPROVING AGENCIES TO APPROVE CERTAIN ENTREPRENEURSHIP COURSES

Current Law

Section 3675 of title 38, United States Code, establishes requirements for approval of accredited courses offered by educational institutions. Section 3452 of title 38, United States Code, furnishes various legal definitions used in the administration of VA educational assistance programs. Section 3471 of title 38, United States Code, establishes general requirements which must be met by educational institutions before VA may approve applications for educational assistance from veterans or eligible persons. There is no provision in current law authorizing the approval of entrepreneurship courses.

House Bill

Section 2 of H.R 1460, as amended, would allow State approving agencies to approve non-degree, non-credit entrepreneurship courses offered by a Small Business Development Center (''SBDC'') or the National Veterans Business Development Corporation for the training of veterans, disabled veterans, dependent spouses and children of certain disabled or deceased veterans, and members of the National Guard and Selected Reserve. VA would also be prohibited from considering a beneficiary as already qualified for the objective of a program of education offered by a qualified provider of an entrepreneurship course solely because he or she is the owner or operator of a small business.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise Agreement

Section 305 of the Compromise Agreement follows the House language.

REPEAL OF PROVISIONS RELATING TO OBSOLETE EDUCATION LOAN PROGRAM

Current Law

Subchapter III of chapter 36 of title 38, United States Code, establishes VA's education loan program, states policy regarding eligibility, amount, condition, and interest rates of loans, and establishes a revolving fund and insurance against defaults as part of its administration. This program has been in effect since January 1, 1975.

House Bill

Section 5 of H.R. 2297, as amended, would, effective on the date of enactment, repeal the VA education loan program and waive any existing repayment obligations of a veteran, including overpayments due to default on these loans.

Senate Bill

Section 305 of S. 1132, as amended, contains a comparable provision, but terminates the program 90 days after date of enactment.

Compromise Agreement

Section 306 of the Compromise Agreement follows the Senate language.

SIX-YEAR EXTENSION OF VETERANS' ADVISORY COMMITTEE ON EDUCATION

Current Law

Section 3692 of title 38, United States Code, requires the Secretary of Veterans Affairs to administer a Veterans' Advisory Committee on Education. It requires the Secretary to consult with and seek the advice of the Advisory Committee from time to time with respect to the administration of chapters 30, 32, and 35 of title 38, United States Code, and chapter 1606 of title 10, United States Code. The Advisory Committee's authorization expires on December 31, 2003.

House Bill

Section 4 of H.R. 2297, as amended, would extend, through December 31, 2009, the Veterans' Advisory Committee on Education, as well as amend the language to eliminate the requirement that veterans from certain periods—World War II, Korean conflict era, or post-Korean conflict era—be required to participate as members of the Advisory Committee.

Senate Bill

Section 342 of S. 1132, as amended, would extend the Veterans' Advisory Committee on Education through December 31, 2013, and maintain the existing membership requirements, as practicable.

Compromise Agreement

Section 307 of the Compromise Agreement follows the Senate language with regard to membership, and the House language with regard to extending the Advisory Committee's authorization date through December 31, 2009.

PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS

Current Law

Sections 631 through 657 of title 15, United States Code, establish policies with respect to aid to small businesses. Section 637 specifies Small Business Administration (''SBA'') authorities regarding procurement matters. Section 637(a) specifies SBA authorities with respect to procurement contracts and subcontracts to disadvantaged small business concerns. Section 637(d) establishes policies regarding performance of contracts by small business concerns (''SBC''), as described in title 15, United States Code. Section 637(h) establishes policies regarding award of contracts, procedures other than competitive ones, and exceptions.

House Bill

Section 3 of H.R. 1460, as amended, would provide Federal agencies discretionary authority to create ''sole-source'' contracts for service-disabled veteran-owned and controlled small businesses, up to $5 million for manufacturing contract awards and up to $3 million for non-manufacturing contract awards.

This section would provide Federal agencies discretionary authority to restrict certain contracts to service-disabled veteran-owned and controlled small businesses if at least two such concerns are qualified to bid on the contract.

Section 3 would establish a contracting priority that places restricted and ''sole

source'' contracts for service-disabled veteran-owned and controlled small businesses immediately below the priority for socially and economically disadvantaged firms (known as ''8(a)'' program contracts) for all Federal departments and agencies except VA. Such priorities for service-disabled veteran-owned and controlled small businesses would rank above priorities for HUBZone and women-owned businesses. HUBZones are SBCs located in historically underutilized business zones. However, a contracting officer would procure from a source on the basis of a preference provided under any provision of this legislation unless the contracting officer had determined the procurement could be made by a contracting authority having a higher priority. Lastly, procurement could not be made from a source on the basis of preference provided under this legislation if the procurement could otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act.

Section 3 would establish a four-year pilot program in the Department of Veterans Affairs in which service-disabled veteran-owned and controlled small businesses would have the same contracting priority as the 8(a) program.

This section would define ''qualified service-disabled veteran'' as any veteran who (1) has one or more disabilities that are service-connected as defined in section 101(16) of title 38, United States Code, and are rated at 10 percent or more by the Secretary of Veterans Affairs, or (2) is entitled to benefits under section 1151 of title 38, United States Code.

Section 3 would define ''small business concerns owned and controlled by qualified service-disabled veterans'' as (1) one in which not less than 51 percent of which is owned by one or more qualified service-disabled veterans or, in the case of any publicly-owned businesses, not less than 51 percent of the stock of which is owned by one or more qualified service-disabled veterans, and (2) the management and daily business operations of which are controlled by one or more qualified service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent care giver of the veteran.

Section 3 would define the term ''certified small business concerns owned and controlled any qualified service-disabled veterans'' as any small business concern owned and controlled by qualified service-disabled veterans that is certified by the Administrator of the Small Business Administration as being such a concern.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise Agreement

Section 308 of the Compromise Agreement would provide Federal contracting officials the discretionary authority to award sole source contracts (limited to contracts of up to $5 million for manufacturing and $3 million for non-manufacturing) to SBCs owned and controlled by service-disabled veterans. This section would also provide Federal contracting officials, in certain circumstances, the discretionary authority to award contracts on a restricted competition basis to SBCs owned and controlled by service-disabled veterans. This provision would not supercede any existing procurement preference established under law. Specifically, it would not accord service-disabled veteran small business owners priority over procurement preferences under the Federal Prison Industries, Javits-Wagner-O'Day, SBA 8(a), Women's, or HubZone programs. Rather, the Committees intend the provision to provide Federal contracting officials a means to improve their results with respect to contracting with service-disabled veterans. The Committees note that in 1999, Public Law 106–50 established a 3 percent government-wide goal for procurement from service-disabled veteran-owned small businesses. To date, all Federal agencies fall far short of reaching this procurement goal. The Committees intend that a determination of service-connection by the Secretary of Veterans Affairs would be binding on the SBA for purposes of participation in this program. The Committees also urge the SBA and the Office of Federal Procurement Policy to expeditiously and transparently implement this program, perform outreach, and provide the necessary resources to improve results with respect to SBCs owned and operated by service-disabled veterans.

OUTSTATIONING OF TRANSITION ASSISTANCE PROGRAM PERSONNEL

Current Law

Section 1144 of title 10, United States Code, authorizes the Secretary of Labor to place staff in veterans' assistance offices on military installations, both foreign and domestic, to help transitioning servicemembers obtain civilian jobs.

House Bill

Section 19 of H.R. 2297, as amended, would require the Department of Labor to place staff in veterans' assistance offices where VA staff are located at overseas military installations 90 days after enactment. It would also authorize the Department of Labor to exceed the number of VA locations and place staff in additional locations abroad.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise Agreement

Section 309 of the Compromise Agreement follows the House language with a technical modification.

TITLE IV: HOUSING BENEFITS AND RELATED MATTERS

AUTHORIZATION TO PROVIDE ADAPTED HOUSING ASSISTANCE TO CERTAIN DISABLED MEMBERS OF THE ARMED FORCES WHO REMAIN ON ACTIVE DUTY

Current Law

Section 2101 of title 38, United States Code, provides for grants to adapt or acquire suitable housing for certain severely disabled veterans, including veterans who are unable to ambulate without assistance. Severely disabled servicemembers who have not yet been processed for discharge from military service, but who will qualify for the benefit upon discharge due to the severity of their disabilities, are not allowed to apply for or receive the grant until they are actually discharged from military service.

House Bill

Section 4 of H.R. 1460, as amended, would permit a member of the Armed Forces to apply for and receive a grant prior to actually being discharged from military service.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise Agreement

Section 401 of the Compromise Agreement follows the House language.

INCREASE IN AMOUNTS FOR CERTAIN ADAPTIVE BENEFITS FOR DISABLED VETERANS

Current Law

The Secretary of Veterans Affairs is authorized in chapter 21 of title 38, United States Code, to assist eligible veterans in acquiring suitable housing and adaptations with special fixtures made necessary by the nature of the veteran's service-connected disability, and with the necessary land. The maximum amount authorized for a severely disabled veteran is $48,000. The maximum amount authorized for less severely disabled veterans is $9,250.

Section 3902(a) of title 38, United States Code, authorizes the Secretary to pay up to $9,000 to an eligible disabled servicemember or veteran to purchase an automobile (including all state, local, and other taxes).

House Bill

Section 10(a) of H.R. 2297, as amended, would increase the specially adapted housing grants for the most severely disabled veterans from $48,000 to $50,000, and from $9,250 to $10,000 for less severely disabled veterans.

Section 10(b) would increase the specially adapted automobile grant from $9,000 to $11,000.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise Agreement

Section 402 of the Compromise Agreement follows the House language.

PERMANENT AUTHORITY FOR HOUSING LOANS FOR MEMBERS OF THE SELECTED RESERVE

Current Law

Under section 3702(a)(2)(E) of title 38, United States Code, members of the Selected Reserve qualify for a VA home loan if the reservist has served for a minimum of six years. Eligibility for reservists under this program is scheduled to expire on September 30, 2009.

House Bill

Section 13 of H.R. 2297, as amended, would make the Selected Reserve home loan program permanent.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise Agreement

Section 403 of the Compromise Agreement follows the House language.

REINSTATEMENT OF MINIMUM REQUIREMENTS FOR SALE OF VENDEE LOANS

Current Law

Section 3733 of title 38, United States Code, generally establishes property management policies for real property acquired by the Department of Veterans Affairs as a result of a default on a loan that VA has guaranteed.

House Bill

Section 15 of H.R. 2297, as amended, would reinstate the vendee loan program which VA administratively terminated on January 31, 2003. It would increase from 65 percent to 85 percent the maximum number of purchases of real property the Secretary may finance in a fiscal year. It would change the vendee loan program from a discretionary to a mandatory one.

Senate Bill

Section 308 of S. 1132, as amended, contains an identical provision.

Compromise Agreement

Section 404 of the Compromise Agreement contains this provision. However, the Compromise Agreement specifies that the changes made under this provision shall expire after September 30, 2013.

ADJUSTMENT TO HOME LOAN FEES AND UNIFORMITY OF FEES FOR QUALIFYING RESERVE MEMBERS WITH FEES FOR ACTIVE DUTY VETERANS

Current Law

Section 3729(a) of title 38, United States Code, requires that a fee shall be collected

from each person (1) obtaining a housing loan guaranteed, insured, or made under chapter 37; and (2) assuming a loan to which section 3714 (concerning loan assumptions) applies. The fee may be included in the loan.

Section 3729(b) of title 38, United States Code, determines the amount of the home loan fees expressed as a percentage of the total amount of the loan guaranteed, insured, or made, or, in the case of a loan assumption, the unpaid principal balance of the loan on the date of the transfer of the property.

Section 3729(b)(2) requires that veterans who served in the Selected Reserve pay 75 basis points more than veterans with active duty service.

House Bill

Section 14 of H.R. 2297, as amended, would make four revisions to the Loan Fee Table. First, it would provide uniformity in the funding fees for VA-guaranteed home loans charged to those who served in the Selected Reserve and veterans with active duty service. Second, beginning in fiscal year 2004, it would increase the fee charged for loans made with no down payment by 15 basis points. Third, it would increase the fee charged for repeated use of the home loan benefit, i.e., for a second or subsequent loan, by 30 basis points for the fiscal year 2004–2011 period and by 90 basis points in fiscal years 2012 and 2013. Fourth, it would replace the existing range of fees for hybrid adjustable rate mortgages under the current pilot program with a flat fee of 1.25 percent.

Senate Bill

Section 307 of S. 1132, as amended, would increase the funding fees for subsequent use of a guaranty by 50 basis points, but only between fiscal years 2005 and 2011.

Compromise Agreement

Section 405 of the Compromise Agreement would follow the House language, except that a funding fee for members of the Selected Reserve would, for initial use of a guaranty, be set 25 basis points higher than applicable funding fees set for veterans with active duty service. Further, for the period January 1, 2004 through September 30, 2004 only, in the case of active-duty veterans making initial loans with zero dollars down, the fee would be increased from 2.15 percent to 2.20 percent. In addition, the Compromise Agreement would not effect a 1.25 percent flat fee for hybrid adjustable rate mortgage loans.

ONE-YEAR EXTENSION OF PROCEDURES ON LIQUIDATION SALES OF DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS

Current Law

Section 3732 of title 38, United States Code, defines the procedures for a liquidation sale of a property acquired by VA in the event of a default on a VA-guaranteed home loan. The procedures direct VA to follow a formula, defined in statute, which mandates VA consider losses it might incur when selling properties acquired through foreclosure. Ultimately, after considering the loss VA can make a determination whether to, in fact, acquire the property or simply pay the guaranty on the loan used to purchase the property. The authority for these procedures is currently set to expire on October 1, 2011.

House Bill

The House Bill contains no comparable provision.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise Agreement

Section 406 of the Compromise Agreement would extend the application of the liquidation sale procedures through October 1, 2012.

TITLE V: BURIAL BENEFITS

BURIAL PLOT ALLOWANCE

Current Law

Veterans who are discharged from active duty service as a result of a service-connected disability, veterans who are entitled to disability compensation or VA pension, and veterans who die in a VA facility are eligible for a $300 VA ''plot allowance'' if they are not buried in a national cemetery. Section 2303(b)(1) of title 38, United States Code, allows state cemeteries to receive the $300 plot allowance payment for the interment of such veterans, and the interment of veterans of any war, if the cemeteries are used solely for the burial of veterans. However, states may not receive a plot allowance for burial of veterans who die as a result of a service-connected disability and whose survivors seek reimbursement of funeral expenses under section 2307 of title 38, United States Code (which currently authorizes a $2,000 funeral expense benefit).

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 201 of S. 1132, as amended, would expand existing law to allow states to receive the $300 plot allowance for the interment of veterans who did not serve during a wartime period and for the interment of veterans who died as a result of service-connected disabilities and whose survivors sought reimbursement of funeral expenses under section 2307 of title 38, United States Code.

Compromise Agreement

Section 501 of the Compromise Agreement follows the Senate language.

ELIGIBILITY OF SURVIVING SPOUSES WHO REMARRY FOR BURIAL IN NATIONAL CEMETERIES

Current Law

Section 2402(5) of title 38, United States Code, prohibits a surviving spouse of a veteran who has remarried from being buried with the veteran spouse in a national cemetery if the remarriage is in effect when the veteran's surviving spouse dies. Public Law 103–466 revised eligibility criteria for burial in a national cemetery to reinstate burial eligibility for a surviving spouse of an eligible veteran whose subsequent remarriage was terminated by death or divorce.

House Bill

Section 7 of H.R. 2297, as amended, would allow the surviving spouse of a veteran to be eligible for burial in a VA national cemetery based on his or her marriage to the veteran, regardless of the status of the subsequent marriage. This eligibility revision would be effective January 1, 2000.

Senate Bill

Section 202 of S. 1132, as amended, contains a similar provision, with the eligibility revision being effective on date of enactment.

Compromise Agreement

Section 502 of the Compromise Agreement follows the House language. Despite the inclusion of an additional group of persons (i.e., remarried spouses) eligible for national cemetery burial under the Compromise Agreement, the Secretary retains the authority under section 2402(6) of title 38, United States Code, to grant or deny national cemetery burial for other persons, or classes of persons, not explicitly granted eligibility in statute. It has come to the Committees' attention that VA's record-keeping system concerning which persons are granted or denied waivers for burial in national cemeteries is, at best, incomplete. Adequate records on burial waivers are necessary to ensure that the Secretary's judgment on waiver cases is being applied uniformly to all applicants. The Committees direct VA to rectify gaps in its waiver-accounting system so that basic information, such as which persons are denied burial waivers and the reasons for the denial, will be available.

PERMANENT AUTHORITY FOR STATE CEMETERY GRANTS PROGRAM

Current Law

Section 2408(a)(2) of title 38, United States Code, authorizes appropriations, through fiscal year 2004, for VA to make grants to States to assist them in establishing, expanding, or improving state veterans' cemeteries.

House Bill

Section 8 of H.R. 2297, as amended, would make the State Cemetery Grants Program permanent.

Senate Bill

Section 203 of S. 1132, as amended, contains a similar provision with an additional technical change.

Compromise Agreement

Section 503 of the Compromise Agreement follows the Senate language.

TITLE VI: EXPOSURE TO HAZARDOUS SUBSTANCES

RADIATION DOSE RECONSTRUCTION PROGRAM OF DEPARTMENT OF DEFENSE

Current Law

Section 3.311 of title 38, Code of Federal Regulations, sets out procedures for the adjudication of claims by VA for benefits premised on a veteran's exposure to ionizing radiation in service. For veterans who claim radiation exposure due to participation in nuclear atmospheric testing from 1945 through 1962, or due to occupation duty in Hiroshima and Nagasaki prior to July 1, 1946, dose data are requested from the Department of Defense (''DOD''). DOD's Defense Threat Reduction Agency (''DTRA'') pays a private contractor to estimate radiation exposure through a process called radiation dose reconstruction.

There is no entity under existing law which provides independent oversight of DTRA's radiation dose reconstruction process.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 331 of S. 1132, as amended, would require VA and DOD to review, and report on the mission, procedures, and administration of the radiation dose reconstruction program. It would also require VA and DOD to establish an advisory board to oversee the program.

Compromise Agreement

Section 601 of the Compromise Agreement follows the Senate language.

STUDY ON DISPOSITION OF AIR FORCE HEALTH STUDY

Current Law

The Air Force Health Study (''AFHS'') was initiated by DOD in 1982 to examine the effects of herbicide exposure and health, mortality, and reproductive outcomes in veterans of Operation Ranch Hand, the activity responsible for aerial spraying of herbicides during the Vietnam Conflict. The study will conclude in 2006.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 332 of S. 1132, as amended, would direct VA to enter into an agreement with

the National Academy of Sciences (''NAS'') under which NAS would report on the following: (1) the scientific merit of retaining AFHS data after the Ranch Hand study is terminated; (2) obstacles to retaining the AFHS data which may exist; (3) the advisability of providing independent oversight of the data; (4) the advisability and prospective costs of extending the study and the identity of an entity which would be suited to continue the study; and (5) the advisability of making laboratory specimens from the study available for independent research.

Compromise Agreement

Section 602 of the Compromise Agreement follows the Senate language, but the reporting deadline is extended to 120 days.

FUNDING OF MEDICAL FOLLOW-UP AGENCY OF INSTITUTE OF MEDICINE OF NATIONAL ACADEMY OF SCIENCES FOR EPIDEMIOLOGICAL RESEARCH ON MEMBERS OF THE ARMED FORCES AND VETERANS

Current Law

Public Law 102–585 requires that VA and DOD each contribute $250,000 in annual core funding to the Medical Follow-Up Agency (''MFUA'') for a period of 10 years. MFUA is a panel of the Institute of Medicine which researches military health issues.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 333 of S. 1132, as amended, would mandate VA and DOD funding for MFUA, at current levels, from fiscal year 2004 through 2013.

Compromise Agreement

Section 603 of the Compromise Agreement follows the Senate language.

TITLE VII: OTHER MATTERS

TIME LIMITATIONS ON RECEIPT OF CLAIM INFORMATION PURSUANT TO REQUESTS OF DEPARTMENT OF VETERANS AFFAIRS

Current Law

Section 5102(b) of title 38, United States Code, requires that VA, in cases where it receives an application for benefits that is not complete, notify the applicant of the information that is necessary to complete the application for benefits. Similarly, section 5103(a) of title 38, United States Code, requires that VA, when it receives a complete or a substantially complete application for benefits, notify the applicant of any information or evidence necessary to substantiate the claim. Section 5103(b) of title 38, United States Code, states that if information or evidence requested under section 5103(a) is not received within one year of the date of such notification, no benefit may be paid by reason of that application for benefits.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 310 of S. 1132, as amended, would require that claimants who have submitted an incomplete application under section 5102(b) of title 38, United States Code, and who have been notified that information is required to complete the application, submit the information within one year of the date of notification or else no benefit would be paid by reason of the application. It would also clarify section 5103(b) by stating that that subsection would not be construed to prohibit VA from making a decision on a claim before the expiration of the one-year period. Section 310 would be effective as if enacted on November 9, 2000, immediately after the enactment of the Veterans Claims Assistance Act of 2000.

Compromise Agreement

Section 701 of the Compromise Agreement would follow the Senate language, but would make a further amendment to section 5103(b) of title 38, United States Code, to remove the statutory bar to payment of benefits when information or evidence, requested of the claimant by VA, is not submitted within one year of the notification requesting such information or evidence. If a matter is on appeal and evidence is received beyond the one-year period relating to the original claim, it should be considered.

Section 701(d)(1) of the Compromise Agreement would require VA to readjudicate the original claim when a claimant adequately asserts he or she was misled upon receiving notification from VA of the information or evidence needed to substantiate the claim. However, section 701(d)(4) specifies that the Secretary is not required to identify or readjudicate any claim based upon the authority given to the Secretary under this section when information or evidence was submitted during the one-year period following the notification or when the claim has been the subject of a timely appeal to the Board of Veterans' Appeals or the United States Court of Appeals for Veterans Claims.

CLARIFICATION OF APPLICABILITY OF PROHIBITION ON ASSIGNMENT OF VETERANS BENEFITS TO AGREEMENTS ON FUTURE RECEIPT OF CERTAIN BENEFITS

Current Law

Section 5301 of title 38, United States Code, prohibits the assignment of VA benefits and exempts such benefits from taxation and from the claims of creditors.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 311 of S. 1132, as amended, would clarify current statutory language prohibiting the assignment of benefits and specify that any agreement under which a VA beneficiary might purport to transfer to another person or entity the right to receive direct or indirect payments of compensation, pension, or DIC benefits shall be deemed to be a prohibited assignment. Section 311 would also make it clear that such prohibitory language would not bar loans to VA beneficiaries which might be repaid with funds derived from VA, so long as each periodic payment made under the loan is separately and voluntarily executed by the beneficiary at the time the payment is made.

Compromise Agreement

Section 702 of the Compromise Agreement would follow the Senate language but would modify it to state that payments on loans are explicitly allowed when made by preauthorized electronic funds transfers pursuant to the Electronic Funds Transfers Act (''EFTA''). The EFTA defines a characteristic of these transfers as allowing the beneficiary to direct his or her financial institution to cease payments upon the beneficiary's notice. It is the Committees' intent to ensure that methods of loan repayment would not be limited for disabled veterans. The Compromise Agreement would also eliminate the section that specifies the effective date of the provision. It is the Committees' intent that prohibition against assignment shall be enforced through coordination with appropriate authorities.

SIX-YEAR EXTENSION OF ADVISORY COMMITTEE ON MINORITY VETERANS

Current Law

Section 544 of title 38, United States Code, mandates that VA establish an Advisory Committee on Minority Veterans. The Secretary of Veterans Affairs must, on a regular basis, consult with and seek the advice of the Advisory Committee with respect to issues relating to the administration of benefits for minority group veterans. The Secretary must also consult with and seek the advice of the Committee with respect to reports and studies pertaining to such veterans, and the needs of such veterans for compensation, health care, rehabilitation, outreach, and other benefits and programs administered by VA. The Advisory Committee is required to submit an annual report providing its assessment of the needs of minority veterans, VA programs designed to meet those needs, and any recommendations the Advisory Committee considers appropriate. The authorization for the Advisory Committee expires on December 31, 2003.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 341 of S. 1132, as amended, would extend the authorization of the Advisory Committee on Minority Veterans until December 31, 2007.

Compromise Agreement

Section 703 of the Compromise Agreement would extend the authorization of the Advisory Committee until December 31, 2009.

TEMPORARY AUTHORITY FOR PERFORMANCE OF MEDICAL DISABILITIES EXAMINATIONS BY CONTRACT PHYSICIANS

Current Law

Section 504 of Public Law 104–275 authorized VA to carry out a contract disability examination pilot program at 10 VA regional offices. The law specifies that VA draw funds for the program from amounts available to the Secretary of Veterans Affairs for compensation and pensions.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 343 of S. 1132, as amended, would authorize VA, using funds subject to appropriation, to contract for disability examinations from non-VA providers at all VA regional offices. Such examinations would be conducted pursuant to contracts entered into and administered by the Under Secretary for Benefits. The Secretary's authority under this section would expire on December 31, 2009. No later than four years after the section's enactment, the Secretary would be required to submit a report assessing the cost, timeliness, and thoroughness of disability examinations performed under this section.

Compromise Agreement

Section 704 of the Compromise Agreement follows the Senate language, but adds a technical modification that would clarify that the authority granted the Secretary under section 704 of the Compromise Agreement is in addition to the authority already granted the Secretary under Section 504 of Public Law 104–275. Thus, it is the Committees' intent that VA's existing contract for disability examinations under the authority of Public Law 104–275 remain in force. It is also the Committees' intent that the Secretary's ability to enter into contracts in the future under the strictures of Section 504 of Public Law 104–275 remain in force as well.

FORFEITURE OF BENEFITS FOR SUBVERSIVE ACTIVITIES

Current Law

Section 6105 of title 38, United States Code, provides that an individual convicted after September 1, 1959, of any of several specified

offenses involving subversive activities shall have no right to gratuitous benefits (including the right to burial in a national cemetery) under laws administered by the Secretary of Veterans Affairs. No other person shall be entitled to such benefits on account of such individual.

House Bill

Section 20 of H.R. 2297, as amended, would amend current law to supplement the list of serious Federal criminal offenses for which a veteran's conviction results in a bar to VA benefits, including burial in a national cemetery. The following criminal offenses from title 18, United States Code, would be added: section 175, prohibited activities with respect to biological weapons; section 229, prohibited activities with respect to chemical weapons; section 831, prohibited transactions involving nuclear materials; section 1091, genocide; section 2332a, use of certain weapons of mass destruction; and section 2332b, acts of terrorism transcending national boundaries. All of these offenses, which involve serious threats to national security, were added to title 18, United States Code, after the enactment of the provisions in section 6105 of title 38, United States Code.

Senate Bill

Section 313 of S. 1132, as amended, contains an identical provision.

Compromise Agreement

Section 705 of the Compromise Agreement contains this provision.

TWO-YEAR EXTENSION OF ROUND-DOWN REQUIREMENT FOR COMPENSATION COST-OF-LIVING ADJUSTMENTS

Current Law

Sections 1104(a) and 1303(a) of title 38, United States Code, mandate that yearly cost-of-living adjustments made to rates of compensation and dependency and indemnity compensation be rounded down to the nearest whole dollar amount. This authority expires on September 30, 2011.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 301 of S. 1132, as amended, would extend the round-down authority under sections 1104(a) and 1303(a) through fiscal year 2013.

Compromise Agreement

Section 706 of the Compromise Agreement follows the Senate language.

CODIFICATION OF REQUIREMENT FOR EXPEDITIOUS TREATMENT OF CASES ON REMAND

Current Law

Section 302 of Public Law 103–446 requires the Secretary of Veterans Affairs to provide for the expeditious treatment by the Board of Veterans' Appeals and by regional offices of the Veterans Benefits Administration of claims remanded by the Board of Veterans' Appeals or the United States Court of Appeals for Veterans Claims.

House Bill

The House Bill contains no comparable provision.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise Agreement

Section 707 of the Compromise Agreement would codify the provisions of section 302 of Public Law 103–446. Expedited treatment of decisions of the Board of Veterans' Appeals would be codified in chapter 51 of title 38, United States Code. Expedited treatment of decisions of the United States Court of Appeals for Veterans Claims would be codified in chapter 71 of title 38, United States Code.

LEGISLATIVE PROVISIONS NOT ADOPTED

CLARIFICATION OF NOTICE OF DISAGREEMENT FOR APPELLATE REVIEW OF DEPARTMENT OF VETERANS AFFAIRS ACTIVITIES

Current Law

Claimants for VA benefits who disagree with an initial decision rendered by VA may initiate an appeals process by submitting a written notice of disagreement (''NOD'') within one year after the claimant was notified of the initial decision. Section 7105(b) of title 38, United States Code, states that an NOD ''must be in writing and filed with the activity which entered the determination with which disagreement is expressed.'' Upon the timely filing of an NOD, VA is required to provide appellate review of its initial benefits rating decision.

VA has promulgated regulations to implement section 7105 of title 38, United States Code, which state that ''while special wording is not required, the Notice of Disagreement must be in terms which can be reasonably construed as disagreement with the determination and [expressing a] desire for appellate review.'' 38 CFR §20.201 (2002).

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 314 of S. 1132, as amended, would clarify section 7105(b) of title 38, United States Code, by requiring that VA deem any written document which expresses disagreement with a VA decision to be an NOD unless VA finds that the claimant has disavowed a desire for appellate review. This section would be effective with respect to documents filed on or after the date of enactment, and with respect to documents filed before the date of enactment and not treated by VA as an NOD pursuant to part 20.201 of title 38, Code of Federal Regulations. Furthermore, a document filed as an NOD after March 15, 2002, and rejected by the Secretary as insufficient would, at VA motion or at the request of a claimant within one year of enactment, be deemed to be an NOD if the document expresses disagreement with a decision and VA finds that the claimant has not disavowed a desire for appellate review.

PROVISION OF MARKERS FOR PRIVATELY MARKED GRAVES

Current Law

Section 502 of Public Law 107–103, the Veterans Education and Benefits Expansion Act of 2001, authorizes VA to furnish a government headstone or marker for the grave of an eligible veteran buried in a non-veterans' cemetery irrespective of whether the grave was already marked with a private marker. The law applies to veterans whose deaths occurred on or after December 27, 2001. Public Law 107–330 extended this authority to include deaths occurring on or after September 11, 2001.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 204 of S. 1132, as amended, would amend the Veterans Education and Benefits Expansion Act of 2001 to authorize VA to furnish a government headstone or marker for the grave of an eligible veteran buried in a private cemetery, irrespective of whether the grave was already marked with a private marker, for deaths occurring on or after November 1, 1990.

TERMINATION OF AUTHORITY TO GUARANTEE LOANS TO PURCHASE MANUFACTURED HOMES AND LOTS

Current Law

Section 3712 of title 38, United States Code, authorizes VA to guarantee loans for the purchase of a manufactured home and a lot on which it is sited.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 306 of S. 1132, as amended, would eliminate VA's authority to guarantee loans to purchase a manufactured home and the lot on which it is sited.

REINSTATEMENT OF VETERANS VOCATIONAL TRAINING PROGRAM FOR CERTAIN PENSION RECIPIENTS

Current Law

Section 1524 of title 38, United States Code, authorized a pilot program of vocational training to certain nonservice-connected pension recipients. The initial pilot program was in place from February 1, 1985, through January 31, 1992. Public Law 102–562 extended the program through December 31, 1995.

House Bill

Section 9 of H.R. 2297, as amended, would reinstate the VA pilot program for five years beginning on the date of enactment to provide vocational training to newly eligible VA nonservice-connected pension recipients. The program would be open to those veterans age 45 years or younger. The Department of Veterans Affairs would be required to ensure that the availability of vocational training is made known through various outreach methods. Not later than two years after the date of enactment, and each year thereafter, the Secretary would be required to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the operation of the pilot program. The report would include an evaluation of the vocational training provided, an analysis of the cost-effectiveness of the training provided, and data on the entered-employment rate of veterans participating in the program.

Senate Bill

The Senate Bill contains no comparable provision.

THREE-YEAR EXTENSION OF INCOME VERIFICATION AUTHORITY

Current Law

Section 5317 of title 38, United States Code, directs VA to notify applicants for needs-based VA benefits that information collected from the applicants may be compared with income-related information obtained by VA from the Internal Revenue Service and the Department of Health and Human Services. The authority of the Secretary of Veterans Affairs to obtain such information expires on September 30, 2008.

Section 6103(l)(7)(D)(viii) of the Internal Revenue Code authorizes the release of income information by the Internal Revenue Service to VA. This authority expires on September 30, 2008.

House Bill

The House Bill contains no comparable provision.

Senate Bill

Section 312 of S. 1132, as amended, would extend until September 30, 2011, the authority of the Secretary to obtain income information under section 5317 of title 38, United States Code, and the authority of the Internal Revenue Service to share income information under section 6103(l)(7)(D)(viii) of the Internal Revenue Code.

Mr. GRAHAM of Florida. Madam President, as Ranking Member of the Committee on Veterans' Affairs, I urge the Senate to pass H.R. 2297, the proposed Veterans Benefits Act of 2003.

The pending measure, which I will refer to as the ''Compromise Agreement,'' is the final version of an omnibus bill. This Compromise Agreement would improve a variety of veterans' benefits, most significantly for the survivors of those who lose their lives on active duty, or who die of their service-connected conditions. It is entirely appropriate that, at a time when we have called our servicemembers into harm's way, we should extend not only our sympathies but critical assistance to the families left behind by those who have made the ultimate sacrifice.

I will briefly highlight some of the most important provisions, and refer my colleagues seeking more detail to the Joint Explanatory Statement accompanying the bill. I thank Chairman ARLEN SPECTER and his staff for their efforts on behalf of our nation's veterans, and my colleagues in the House for working with our committee staffs to craft this agreement.

While this Compromise Agreement enhances many veterans' benefits, it focuses particularly on meeting the needs of survivors. I am gratified that Congress plans to increase the rate of educational benefits for survivors and dependents of veterans. This bill would raise education benefits by 13.4 percent over current levels—to $788 per month from $695 for full-time study—creating parity with the benefits that the Nation provides to active-duty servicemembers. Family members who have already faced the loss of a father, mother, husband, or wife in service, or who have helped a servicemember endure total disability, should not have to face limited educational opportunities and fragile futures due to resulting financial hardships.

I am very pleased that we have continued to build upon legislation of the past two years to assist the surviving spouses of servicemembers. In 2001, Congress passed legislation to allow survivors of severely disabled veterans to continue receiving VA healthcare coverage through the program called CHAMPVA after age 65. Congress extended this coverage last year, allowing eligible surviving spouses of veterans who died from service-connected disabilities or in the line of duty to retain their eligibility for CHAMPVA benefits even if they remarried after age 55. This year, the committees have agreed to allow the surviving spouses to retain survivors' benefits—Dependency and Indemnity Compensation, education allowance and home loan—if they remarry after the age of 57, placing these spouses on the same footing as those in other Federal survivorship programs.

The committees were also mindful of those who must live with the possible health consequences of a parent's service. Recent scientific evidence has suggested an association between exposure to dioxin, a toxic chemical found in the herbicide Agent Orange, and an increased risk of the birth defect spina bifida in children born to those exposed. In 1996, Congress authorized VA to provide benefits to children with spina bifida whose fathers or mothers served in the Republic of Vietnam and might have been exposed to Agent Orange. The Compromise Agreement would extend theses same benefits to affected children whose parents served in or near the Korean Demilitarized Zone during the Vietnam era, where Agent Orange was also used a defoliant.

I am pleased that the Compromise Agreement also addresses the enduring, and sometimes invisible, scars of war. Recognizing the long-term effects of prolonged malnutrition and confinement, current law specifies a list of 15 disabilities that VA presumes are related to military service of former prisoners of war who were held captive 30 days or more. This legislation would eliminate the 30-day requirement for certain physical and mental disorders that could result from as little as a day of captivity. It would also add cirrhosis of the liver to the list of presumptively service-connected disabilities for those former POWs who were held captive for at least 30 days, as peer-reviewed studies have shown that former POWs have a higher incidence of this debilitating disease.

Another group of veterans who struggle with potential long-term health consequences are those who were exposed to significant doses of ionizing radiation, particularly in post-war Japan and during subsequent nuclear testing. Nearly 20 years ago, Congress mandated that veterans who suffered from illnesses they believed were caused by such radiation could request that VA ''reconstruct'' the actual dose of radiation that they received during service. A panel of experts convened by the National Academy of Sciences reported that the contractor-operated program established by the VA to produce this data for veterans suffered from a shockingly cavalier approach to quality assurance, resulting in data that failed to meet the standards assumed by both VA and veterans. The Compromise Agreement would require VA and DOD to establish an advisory board to oversee this dose reconstruction program's mission, procedures, and administration to ensure that it collects and interprets data adequately and fairly.

Congress required the Air Force to conduct a long-term epidemiological study of the veterans of Operation Ranch Hand, the unit responsible for aerial spraying of herbicides during the Vietnam War. This study is about to conclude, and experts agree that both samples and data could still provide key data for many unanswered questions. The Compromise Agreement would direct VA to enter into an agreement with the National Academy of Sciences to advise whether the study should be continued, describe the steps that would be involved in doing so, and evaluate the advisability of making laboratory specimens from the study available for independent research.

Finally, the Compromise Agreement would ensure that the core funding for the Medical Follow-Up Agency (MFUA) would be extended for 10 more years. MFUA uses this funding to update, maintain, and improve long-term epidemiological studies of military and veterans' populations. Congress, VA, military, and independent scientists have relied on MFUA data since World War II to evaluate whether specific exposures might have long-term health effects that suggest a need for benefits, new treatments, or further research.

Together, all of these provisions demonstrate that our nation will continue its commitment to those veterans who carry the burdens of the battlefield—whether obvious or invisible—long after the end of the fight.

In conclusion, I want to thank Senator SPECTER and his benefits staff for their work on this comprehensive bill, specifically Bill Tuerk, Jon Towers and Chris McNamee, as well as my benefits staff—Mary Schoelen, Tandy Barrett, Ted Pusey, Amanda Krohn, and Faiz Shakir, along with Julie Fischer, who recently left the committee, and Patrick Stone, who has recently joined it. I urge my colleagues to support this important piece of legislation for our Nation's veterans and their families.

Mr. THOMAS. Madam President, I ask unanimous consent that the substitute amendment which is at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2205) in the nature of a substitute was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (H.R. 2297), as amended, was read the third time and passed.

Mr. THOMAS. I yield the floor.

ENERGY POLICY ACT OF 2003—CONFERENCE REPORT—Continued

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Illinois.

Mr. DURBIN. Mr. President, what is the order of the business before the Senate?

The PRESIDING OFFICER. The Senator is recognized for 30 minutes on the conference report.

Mr. DURBIN. Mr. President, I ask unanimous consent that period of time be extended to 45 minutes, if there is no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DURBIN. Thank you, Mr. President.

This is a bill that has been before Congress for quite some time. It is a bill that relates to America's energy needs. It certainly is one that is timely. Our energy supplies and use of energy are critical to the state of our economy and its growth.

This bill was first proposed by the Bush administration under the leadership of Vice President CHENEY. Most people followed it in the news because Vice President CHENEY called together a task force to write the administration's energy policy. When he was asked to identify who was in the room, the people who were involved in the task force, he refused. Despite the pleas of Members of Congress and requests for that information about the origin and creation of this energy policy, the Vice President basically said he was not going to disclose the identity of those who were part of the energy task force.

The General Accounting Office took the Vice President to court and the Vice President prevailed. He was allowed to conceal the names and identities of those who were on the energy task force. So this idea of an energy policy was conceived in secret.

Then there were lengthy debates on the floor of the Senate and House about Energy bills, both during the period when the Democrats were in control of the Senate and the period with Republicans in control. We spent many, many days going through Energy bill options and amendments, voting on them, and moving forward. The net result of it was we produced a Senate Energy bill which was sent to conference.

Conference committees, as defined under our Constitution, and by the practice and precedent of the Senate, usually involve both political parties sitting down, and the House and Senate conferees trying to work out some agreement or some compromise.

As has been the case more recently than not, this conference committee did not follow that standard. The conference committee met primarily with Republican Members only, and primarily in secret.

So ultimately the work product of this energy conversation or energy analysis that we have before us today was not only conceived in secrecy, it was produced in secrecy.

So today we have a great epiphany, a great opening, a great revelation. The bill is finally before us, and we have a chance to look at this bill, which was brought together with special interest groups and the Vice President at the outset, and which was hammered out in a conference committee with those same special interest groups.

Having considered the origin of this bill, and its maturation process, it is no surprise that this bill is heavily larded with giveaways to the energy industry. In fact, if you go through this bill you will find two things that stand out. The first relates to a question which we have to face as a nation: Is it possible for us to have a sound energy policy which allows for economic growth and sustains our standard of living without endangering our environment?

I think the answer to that is yes, and I think we have proven that it can happen. We have seen an expansion of the American economy over the past several decades while we have reduced pollution in our air and water. That is a positive. It shows we are thinking ahead, that we are not trying to enjoy the benefit of the moment with energy as an expense which our children will pay for.

But, sadly, this bill, by its contents, comes to an opposite conclusion. Because this bill finds, first and foremost, that in order to pursue the administration's energy policy, and the energy policy of a Republican majority in Congress, we have to basically sacrifice our environment. I think that is a horrible conclusion. I find it totally unacceptable, and it is the reason I stand today in opposition to this bill.

Secondly, aside from the question of whether we can have a sound energy policy and a safe environment, we are challenged with this question: Can you promote in America the energy we need for this generation and future generations without providing generous, lavish subsidies to private corporations?

Now, this morning, one of my colleagues from Oregon, on the Republican side, came to the floor and was critical of Governor Dean of Vermont for saying yesterday that we had to consider reregulation in America. This Senate critic said that is exactly what we do not need. We do not need Government regulation in America.

His argument was—and the traditional Republican argument is—let the free market work its will. Well, that, in the abstract, sounds like good medicine, but in reality it is far from the truth.

The market worked its will with Enron. The market has worked its will with the scandals involving mutual funds. The market is working its will every day when it comes to the cost of health insurance to businesses and families across America.

As we look at how the market has worked its will, it is clear the results are unacceptable. So the question before us in the Energy bill is, Can we rely on a free market, then, to develop sources of energy in America?

The answer from this bill is no. The answer from this bill is that the Government must inject itself into the energy sector of our economy and make substantial subsidies to certain elements in the economy in order for America to meet its energy needs. I will outline some of those subsidies in a moment.

So the two conclusions from this Energy bill are that America's energy supply and its growth are inconsistent with a safe environment; and, secondly, that giving the free market its rein, it will not produce the energy that we need in the future. Instead, we have to generously subsidize energy markets.

Now, that is a lot different than what you have heard from the administration. They have talked about balance and they have talked about a forward-looking energy policy. But I will tell you, when you look at the specifics in this bill, it is clear that it is not balanced.

It is sad to report that this bill, as it is written, has turned out to be a piece of legislation which I believe this Congress should reject. This energy policy that is being promoted in this bill is a gush of giveaways to corporate special interests that is masquerading as an energy policy.

There is a way out of this embarrassment for the Senate. There is a way to come up with an energy policy that works. That way, of course, is to stop this bill and to ask our friends on the important committees dealing with energy to go back to work, go back to work to deliver a bill which, frankly, will be bipartisan, a bill which will be balanced, a bill that will not sacrifice the environment for energy, and a bill which would not be the gush of giveaways this bill has turned out to be.

Let me tell you some of the specifics included in this Energy bill when it comes to the environment, specifics that tell the story about how what was conceived as an Energy bill turned out to be the worst piece of environmental legislation that I have seen in the Senate.

Among the provisions in this bill are the following: It allows more smog pollution for longer than the current Clean Air Act authorizes. Under the existing act, areas that have unhealthy air are required to reduce ozone-forming smog pollution by a strict statutory deadline. If these areas fail to meet the deadline, they are given more time to clean up, but must adopt more rigorous air pollution control measures. The bill attempts to allow more polluted areas more time to clean up without having to implement stronger air pollution controls, placing a significant burden on States and communities downwind from the urban areas.

This bill exempts all oil and gas construction activities including roads, drill pads, pipeline corridors, refineries, and compressor stations from having to obtain a permit controlling polluted storm water runoff as currently required under the Clean Water Act. So in these first two provisions, this bill violates the Clean Air Act and the Clean Water Act. It delays pollution cleanup in southwestern Michigan for 2 years while the EPA conducts a study, dramatically increases air pollution and global warming with huge new incentives, claims to promote clean coal, which I support, but inhibits its development by disqualifying federally funded clean coal projects as best available control technologies; threatens drinking water sources by exempting from the Safe Drinking Water Act regulation the underground injection of chemicals during oil and gas development.

Do you remember the squabble we had here in the Senate about arsenic in drinking water and whether or not it

was safe, and how the Bush administration finally backed off of weakening regulations that would protect us from arsenic in drinking water? This so-called Energy bill is going to increase the danger in our drinking water by exempting from coverage by that act the underground injection of chemicals during oil and gas development. There is a whole section on MTBE, which I will speak to specifically. It encourages the mixture of hazardous waste in cement and concrete products as an alternative to safe disposal in permitted hazardous waste landfills. The list goes on and on and on.

When it comes to our public lands, this bill allows the Interior Secretary, by Secretarial order, to designate utility and pipeline corridors across public lands owned by Americans without any seeking public input through a land use planning process. It authorizes the leasing of the national petroleum reserve in Alaska for oil and gas production without protection for wildlife. It allows the Secretary to waive royalties, which means payments to taxpayers for those who are drilling for oil and gas on the lands that we own as Americans. It allows the Secretary to waive royalties so these companies can drill on our public lands for free.

The list continues. The list is overwhelming. In each and every page—and there are five of them—you will find 10 or 20 examples of environmental degradation, abandonment of environmental standards, endangerment of the air that we breathe and the water we drink. For what? So that someone can make a dollar. That is what it is all about. It is about profit taking at the expense of public health. That is what this Energy bill does.

Did anyone ever announce at the outset that was our goal? Did anyone ever conceive during the debate that what we were trying to do was to provide some more energy at the expense of the environment and at the expense of public health? That is exactly what this bill does.

Before I get into the MTBE issue, which I think is possibly one of the worst I have seen in the time I have served in Congress, let me tell you what this bill fails to do. What is the No. 1 use of oil that we import into the United States today? We use it to fuel our cars and trucks, of course. Of course, a lot of us own quite a few of them. And we know as well that if these cars and trucks are not fuel efficient, they will burn more gas and require us to import more oil. So if you want to have an honest discussion about energy security in America, would you not be pursuing goals which would reduce our dependence on foreign oil? Would you not want to find ways that America can ween itself away from its dependence on Saudi Arabia and its oil sources? Shouldn't that be front and center the main topic in our energy policy? Well, everybody I have spoken to in my State agrees, of course, that is where you should start the energy discussion.

You can search this bill, 1,400 pages or more, and not find a word that gives you comfort that we as a nation will even seriously consider improving the fuel efficiency of the cars and trucks we drive. Why? Because the big three in Detroit—General Motors, Ford, and Chrysler—have said they are not capable of producing more fuel-efficient cars to compete with those that are being imported from Japan. They have convinced the majority in the Senate—I know because I offered an amendment to improve fuel efficiency—that America is technically incapable of competing when it comes to fuel-efficient cars. That is such a sad commentary. It is one which I reject.

Let me tell you what fuel efficiency means for us. First, a little history: The year was 1975. Gas lines were long. People were concerned about the availability of energy in America. An argument was made that we had to do something about the efficiency of the cars and trucks we drive. Of course, there are two ways to achieve it: One is to raise the price of gasoline. If the price of gasoline at the pump doubled tomorrow, every American family would start asking how many miles a gallon do I get from this hog? Well, I don't want to see that happen, nor do most Americans. That imposes new financial burdens on families and small businesses and, frankly, is inflationary.

But there is another one. In 1975 Congress said: We are going to mandate doubling the fuel efficiency of cars and trucks. It is going to be a Federal mandate. It has to happen.

The automobile manufacturers in Detroit said: It can't be done. It is technically not feasible for us to double over 10 years the fuel efficiency of our cars. Secondly, those cars are going to be so small, they are going to be unsafe. Third, you are just playing into the hands of foreign automobile producers who will beat us to the punch.

Thankfully, Congress ignored them and passed a law. In a matter of 10 years, fuel efficiency went from about 14 miles a gallon fleet average to 27.5 miles a gallon. In a 10-year period of time, we virtually doubled the fuel efficiency of our cars, reducing our dependence on foreign oil.

What have we done since 1985, since we reached 27.5 miles a gallon? Nothing, except drive larger, less fuel-efficient vehicles, import more oil from overseas, and pollute our air even more in America.

What has Congress done? Absolutely nothing. This bill is silent on the issue of fuel efficiency. The Energy bill for America's energy policy is silent when it comes to fuel efficiency.

Let me correct myself. It isn't silent. It creates a new loophole that will be added to the process which will make it even more difficult in the future for us to even consider increasing fuel efficiency.

I offered an amendment which said, what if we went to 40 miles a gallon from 27.5 miles a gallon by 2015. Let's have 12 years. Look at the dramatic savings we would have in the barrels of oil that are consumed.

This is what drilling in the Arctic National Wildlife Refuge is worth, this tiny little line down here. But just by increasing the fuel efficiency of our cars and trucks, we could answer a major part of the challenge of America's energy future. This bill sadly does nothing.

In addition, this bill excludes a renewable portfolio standard. It does not in any way encourage new ways to use energy from renewable fuels in a way that could make a sizable difference. I think we ought to be embarrassed by this. What an embarrassment it was to read in the Washington Post yesterday that China, a developing nation, now has higher fuel efficiency standards and fuel economy standards than the United States. Can you believe it? Can you believe that this growing economy, just developing, has decided they see the future, and the future is in more fuel-efficient cars and less dependence on foreign oil; and the United States, this great economic engine that we run, doesn't see the same? As a consequence, we find ourselves in a position where this bill is silent when it comes to fuel efficiency.

I think that is a terrible deficiency in this legislation. I cannot imagine it can be taken seriously in a conversation about America's energy policy. We know full well that we use a lot of oil. According to this chart, the global consumption of oil per capita in 1999, in gallons per day, the United States is 3; other industrialized countries, 1½; and the rest of the world less than ½. The U.S. continues to consume more oil than other countries.

The gasoline savings we realized going from 14 miles a gallon in 1970 to 28 miles a gallon in 1999 reduced, by 3.7 billion gallons, the gasoline we consumed in a given year. Less gasoline, less polluted oil, less pollution. This bill is silent on that issue, and that is unfortunate.

Let me speak for a minute to what I consider the single most outrageous part of this legislation.

Mr. President, I have been in Congress a few years. I have noticed that at the end of a session strange things happen. Some of these strange things involve massive giveaways to individual companies or interest groups. Over the years I have paraded out my personal award for this activity. I call it the moonlight mackerel award. It is given to that effort or amendment or bill in the closing days of the session which is the most outrageous. It goes back to a quote where someone said that a certain thing would shine and stink like a mackerel in the moonlight.

The one I am about to describe, I believe, may retire the trophy, the moonlight mackerel trophy, which has been

coveted by special interest groups forever. Frankly, it is now being challenged by what may be the worst provision in this Energy bill. It is a provision that led me to oppose the bill. Even though I have had people from Illinois call me who support this bill and genuinely want to see it pass, I have told them that as long as this provision is in the bill, there is no way I will support it. I think it is that bad and that embarrassing.

The provision is on methyl tertiary-butyl ether, or MTBE. MTBE was an additive to gasoline so that engines ran a little smoother, called an oxygenate. Oil companies started adding that to our fuel and selling it across America. There are alternatives. They could have used ethanol, for example; but they said, no, we will use MTBE. So they used this MTBE additive, this compound, in gasoline and then discovered something. They discovered it a long time ago. This MTBE compound is dangerous. MTBE, when it leeched out of underground storage tanks, could get into the groundwater and into the public water supply.

If you took out a boat on a lake with MTBE mixed with gasoline and it discharged into the lake, it could contaminate the lake.

The contamination went beyond the foul-smelling additive itself to raise serious public health questions. According to the GAO, it has been detected in groundwater and drinking water all across the U.S. It is classified as a potential human carcinogen, a cause of cancer. At a level of 2 parts per billion, MTBE produces a harsh chemical odor that renders tap water undrinkable. Removing MTBE is difficult and costly. Water utilities must either blend contaminated water with clean sources to dilute the MTBE to acceptable levels, install systems to remove chemicals, or abandon certain water sources altogether.

The most effective argument of those who have been harmed and seek a day in court is a defective product argument. The fact is that the oil industry knew MTBE was, in fact, dangerous and they continued to use it and sell it, despite the danger it posed to public health. That was the basis for a lawsuit filed in California near Lake Tahoe, where the oil companies eventually paid $60 million, conceding their guilt.

The producers of MTBE knew the problems they had. I believe the producers of the MTBE should be held responsible. In fact, in one powerpoint presentation, the producers cynically dubbed MTBE as ''most things biodegrade easier.'' They were making a joke of the fact that MTBE would stand for those initials, realizing that it did not biodegrade easily. It was a persistent, troublesome, and dangerous element, which stayed for a long time.

Who should pay for the cleanup for MTBE? According to this bill, not the polluters, not the producers, but the taxpayers of America. That is the conclusion in this bill. This bill provides the single most expensive immunity to litigation of any bill that I have ever seen before Congress. It says the producers of MTBE cannot be held accountable in product liability legislation for what they knew to be a dangerous product, and it doesn't stop there. It is retroactive, saying that lawsuits already being prosecuted in States across America cannot be pursued to verdict or settlement.

Think about that for a minute. This is the single biggest giveaway to a special interest group that I have ever seen in the time I have served in Congress. This jury in Tahoe, considering the contamination near the Lake Tahoe area, found that gasoline with MTBE is a defective product because of the risk of this additive, and because the oil companies failed to warn consumers of the risk to the environment and drinking water. The jury found ''clear and convincing evidence'' that the producer of MTBE acted with malice, and they are going to have a field day and a holiday with this Energy bill. They were found to have acted with malice in selling this product that endangered the lives of the people in the community.

MTBE producers know they are vulnerable to these lawsuits. If you are vulnerable for wrongdoing, if you created a product that endangers thousands of Americans, where should you turn? Come to Congress. Come to Capitol Hill. Come to mama.

That is what happened with this conference committee. They came to this conference committee and the conference committee delivered. This conference committee let the MTBE producers and oil companies off the hook. About three-fourths of the producers are located in Texas and Louisiana, and it has been the Congressmen from these States who have pushed this provision.

Let me tell you what it means to Illinois. We are hit, but not as hard as some. Only 26 to 29 communities in my State of Illinois have drinking water currently contaminated with MTBE, affecting over 200,000 people where I live.

Currently, there are four lawsuits in Illinois that this waiver in this bill would eliminate—in the communities of Crystal Lake, Island Lake, Village of Alton, and Woodstock. The lawsuits currently underway will be eliminated by the language in this bill. So where does that leave the community with the contaminated water supply? Where does it leave the families who cannot live in their homes because of this MTBE contamination? It leaves them, frankly, at the mercy of those who would turn and give them money. Should you not hold the polluters accountable? Not according to this bill. This lets the polluters off the hook.

The community of East Alton, with a population of 6,500 people, was faced with a MTBE plume that threatened its drinking water supply. A million dollars was spent to clean it up, and the community went to court to recover the cost of that million-dollar expenditure.

In the town of Island Lake, individual wells were affected.

In Kankakee County, Oakdale Acres subdivision and two other small subdivisions were forced to shut down their groundwater systems and connect to a nearby community's public water supply, after a pipeline rupture contaminated the subdivision's aquifer.

Roanoke, with a 2,000 population—like you might find in Nebraska, New Hampshire, and all across America—has had to use one of their wells as a hydraulic containment area with treatment and discharge to surface water in order to protect their well field from an MTBE plume with a concentration exceeding 1,000 parts per billion.

These communities and others deserve a fair and reasonable hearing. They deserve a judge and jury. They deserve their day in court. This Energy bill locks the courthouse door and says to these communities that they will not have their day in court.

With the defective product liability waiver which reaches back to September 5, 2003, this conference report meddles with the courts at the request of the oil companies. At least 35 States have problems such as I have just described in Illinois.

By 1986, the oil industry was adding 54,000 barrels of MTBE to gasoline every single day. By 1991, the number was up to 100,000 barrels of MTBE per day. Yet oil company studies conducted as early as 1980 showed that the oil industry knew that MTBE contaminated ground water virtually everywhere it was used. There was a $60 million settlement in Lake Tahoe.

Some have analyzed this and said the reason this provision is in here is if the oil companies were going to accept the expansion of ethanol, they had to be given something.

I have been a strong supporter of ethanol for over 20 years, and I will continue to be, but if that is what it is all about, if the only way to increase ethanol is to provide this kind of immunity from liability for the producers of MTBE, it is too high a price to pay, as far as this Senator is concerned.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16½ minutes.

Mr. DURBIN. I thank the Chair.

Let me say another word about this MTBE. In these lawsuits that have been filed, it has been shown that these oil companies knew what they were getting into. You would think at some point in time they would have at the Federal level banned MTBE perhaps long ago. It took State leadership for this to happen. In California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, South Dakota, and the State of Washington, they took the initiative, when the Federal Government

didn't move quickly, to ban MTBE. They know what it is all about, and they understand the damage that has been done to their communities.

In the State of New York, in Liberty, after fighting for 11 years because they found MTBE in their local well water, they finally got the State to move forward to establish new standards for public water supplies after a lot of families there had serious health problems. That is just a story that is going to be repeated all over, not just in New York.

In New Hampshire last spring, they filed a string of lawsuits against 22 oil companies. If these lawsuits are being brought on product liability theories—the ones that are the most successful—they will be thrown out by this legislation. These lawsuits will be eliminated. The businesses, the families, the individuals who have been damaged by this deadly additive are going to lose their day in court because we are going to mandate it in this legislation.

How does this enhance the energy security of America? It certainly adds to the bottom line of profitability of the oil companies which would be held responsible for their misconduct, I will agree with that. But is it just? Is it fair? Is it something we should be doing, giving blanket immunity to companies that, by their wrongdoing, endanger the health of families and individuals across America?

In the State of New Hampshire, the State sued 22 major oil companies on October 6 because of MTBE. According to Governor Craig Benson, they claim the oil companies have added increasing amounts of MTBE to the gasoline, even though they knew years ago it would contaminate water supplies.

The General Accounting Office told Congress what this was all about. In the year 2002, John Stevenson, Director of GAO's Natural Resources and Environmental Division, testified before a House subcommittee and said that MTBE created health risks which he described as follows:

> Such health risks can range from nausea to kidney or liver damage or even cancer.

He pointed out that a school in Roselawn, IN, discovered students had been drinking water with nearly 10 times the Federal recommended level of MTBE. Officials are trying to determine if the additive came from a nearby tank and whether it is causing the students to have an inordinate number of nosebleeds. These are real health issues, real health problems.

Mr. President, ''60 Minutes'' on January 16, 2000, brought the MTBE issue to the attention of America. They noted at the time there was contamination in some 49 States—as I said earlier, about 35 that we can directly link MTBE to contamination of water supplies. They estimate that MTBE is a contaminate in 35 percent of the Nation's urban wells. A single cupful of MTBE in a 5 million gallon reservoir is sufficient to render the water in that reservoir undrinkable.

In 1995, an Italian study on the effects of MTBE showed high doses of this chemical caused three types of cancer: lymphoma, leukemia, and testicular cancer. We are saying to those hapless innocent victims of MTBE contamination of their water supply that we are closing the courthouse door for their recovery in product liability suits. How in the world can we do this in good conscience? How can we turn our back on these innocent victims across America, these communities forced to pay millions of dollars for the wrongdoing of oil companies, and give them this sort of special giveaway and special break?

I, frankly, don't understand how we can. I don't understand how what started out to be an Energy bill has become something much different. I don't know how a bill which was supposed to give us energy security could be so damaging to our environment in so many specific ways. I don't know how a bill that was supposed to be giving Americans peace of mind about their energy future instead in community after community and in State after State is going to close the courthouse doors to holding oil companies accountable for their misconduct.

This is the worst. This retires the trophy in the Moonlight Mackerel Award. I cannot recall a time when we have gone this far, and that is saying something. There is a way out of our embarrassment, and it is a way I would encourage colleagues on both sides of the aisle to take very seriously. We will have an opportunity on a cloture motion soon to decide whether this bill goes forward. If we can gather 41 Senators to oppose it from going forward, then the bill will stop and be returned to conference or perhaps back to committee for further consideration.

I think that is the way it should be, and the sooner we do that the better. If enough of my Republican colleagues will step forward with Democratic colleagues, we can make that difference.

In case you think this is a partisan issue, the Wall Street Journal, which is not known to be friendly to many Democrats, including this one, went after this bill and criticized it on Tuesday, November 18, calling this Energy bill one of the great logrolling exercises in recent congressional history. In the words of the Wall Street Journal:

> The Republican leadership has greased more wheels than a NASCAR pit crew.

They go on to say:

> The bill's total price tag of new outlays is a tidy $72 billion according to Taxpayers for Common Sense. That's not counting $23 billion in tax giveaways to nuclear, oil, gas, and coal concerns all over the country, 3 times more than the President said he would accept.

The Washington Post, November 18:

> . . . producers of MTBE, another gasoline additive that is believed to pollute drinking water, have not only been exempted from product liability, they also have been retroactively exempted, a change that cancels out lawsuits . . .

Across America.

They go on to say:

> This bill does not, for example, provide a clear direction for the development of the electricity grid . . . it does not encourage the U.S. car industry to manufacture vehicles that consume less fuel . . . and it does not significantly encourage energy conservation.

The New York Times says this bill is:

> . . . hardly surprising in a bill that had its genesis partly in Vice President Dick Cheney's secret task force.

It creates:

> . . . exemptions for the Clean Water Act, protection against lawsuits for fouling underground water and an accelerated process for leasing and drilling in sensitive areas at the expense of environmental reviews and public participation.

The list goes on. The Anchorage Alaska newspaper calls the Energy bill a setback.

The Atlanta Journal Constitution, quoting Keith Ashdown of Taxpayers for Common Sense, says:

> [T]he legislation is ''a smorgasbord of subsidies to big companies masquerading as energy policy.''

The Atlanta Journal Constitution concludes in its editorial:

> This bill is about as bad as it gets. When it comes up for a vote, members of Congress who remain committed to more rational energy policy for America and still believe in the dignity of the legislative body in which they serve shouldn't hesitate to reject it.

The Chicago Tribune, from my home State, said the Democrats were virtually locked out of the final negotiations and we were given some 48 hours to digest and evaluate this lengthy bill.

The Patriot News in Harrisburg, PA, says:

> The energy issue is an upside-down world for sure when they look at this bill.

They say there is no more blatant example than the 100-percent tax credit available to business owners who purchase gas guzzling Hummers and more than 30 other models of large SUVs. The tax credit was enacted as part of the President's economic stimulus package and was intended to help farmers and other small business, but the tax break is so attractive it has caused a run on vehicles that average 9 to 15 miles per gallon.

We are going to have energy security and energy independence with a tax policy that encourages the purchase of these gas guzzlers?

They go on to say that hybrid cars which offer 50 to 60 miles a gallon are subject to a $2,000 tax deduction, and that is in the process of being phased out. The list goes on and on of editorial comments across America.

I hope we can return to this bill and do it in a sensible fashion. I hope we can put conservation and energy efficiency at the forefront as we discuss energy security. Though there are many good things in this bill, the good things are outweighed by the negatives.

This exemption from MTBE liability is the absolute worst. To say to these

families, these individuals, and these communities that we are going to lock the courthouse door to them no matter what damage they have sustained is a new low.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am very glad I was present today to hear the speech of the distinguished Senator from Illinois so that immediately after it I might speak a few words.

First, for everybody in this Chamber who wants ethanol—now, I am making the point very clear that I am not talking about whether ethanol is the greatest, whether ethanol is the least, or whether ethanol is the best thing in the world. I am just addressing the millions of people in this country, most of them farmers, many thousands in the State of the occupant of the chair, who would like to see ethanol, since it would do great things for them and at the same time diminish our demands on gasoline from crude oil. Now I am speaking to them.

Whatever has been said by the good Senator from Illinois, all the farmers in his State who produce corn and the other products should know there is no way to get an ethanol bill of any consequence without addressing the issue of MTBE. The way the issue has been addressed by the Senator from Illinois on MTBE is wrong, but nonetheless let us just talk about the reality of it. Do my colleagues want a major ethanol program for America? The answer is overwhelmingly yes. Then go to conference with the House like we did and say to them: We want an ethanol bill like the one that passed the Senate.

They will say: Not on your life, unless you decide to treat those who produce MTBE, a forerunner to ethanol, fairly.

We said: What does that mean?

They said: For those who have used MTBE properly, they shall not be liable for any damages that result from MTBE.

I am reminded in my home State, there was a product liability case against a company that delivers more coffee and hamburgers than any other company in the world, McDonald's. The suit was against McDonald's for delivering coffee to the front window of a car and then spilling the coffee on the lap of the purchaser. The purchaser sued McDonald's because the coffee was too hot.

They did not sue Folgers Coffee for making the coffee. They sued McDonald's for delivering the coffee that was too hot. I think that most people would say that is about right. If the coffee was too hot, then let a jury decide whether they ought to be delivering coffee that is so hot. But what if they would have gone off and sued Folgers Coffee because they made the coffee that somebody used wrongly, to wit, made it too hot and burned the legs of a purchaser of hot coffee? That is exactly what is going on with MTBE.

I am not a proponent of it. I did not know anything about it until I got intimately involved in this legislation and then I found that MTBE is a product that has been authorized and prescribed by the Federal Government. It is something that is supposed to be used because the Government says you can use it and it is all right.

In response to the U.S. House insistence, all we have done is say if someone uses MTBE, as prescribed by the Federal Government, they are not liable in damages. We are very narrow. As a matter of fact, we have unquestionably said if one uses it wrong, if they negligently use it, if they spill it, if they throw it around, if they do not handle it properly and damages result, they can be sued.

I do not think that is exactly what my friend from Illinois said, but I believe that is what this legislation says. I believe that is what we did, and I believe there is no other way to do it.

Then we said in the meantime, it is going to be phased out. That is in the legislation, too, that in a certain number of years it cannot be used anymore. Even if it is used right, it is not going to be used anymore. There is something that takes its place.

Across this land, people file lawsuits in product liability cases and otherwise about many things, and we all know about it. Sometimes we look at a lawsuit and we are abhorred to think they could take such a case to court. Sometimes we think, right on, somebody really messed up and they ought to pay for it. But when the House said to us, if you want an ethanol bill, you have to look at litigation that is ensuing out there in America where MTBE producers are getting sued for a valid, appropriate product, okayed by the Federal Government, used properly, and they are getting sued for damages.

They said: We want to limit that. If it is used improperly and causes damages, the suits can go on. Then we argued and said let's get rid of it in due course, and we have language that says what date it will expire in terms of being a product that can be used.

I want to say again, so that everybody understands, the last speaker has suggested that this bill should be killed by cloture, and that is the right of the Senate on any bill. But I suggest to them if they kill this bill by cloture, which I urge that they not do, they have killed ethanol, and I do not know when it ever comes back.

As a matter of fact, if they think it is coming back without some restraint on MTBE legislation that is going rampant in this country, of the type I have described, suing Folgers Coffee because somebody spilled hot coffee on them, that kind of analogy, for those who think that is going to continue on, then they have given up and abandoned forever ethanol. If that is what they would like, then follow the directions and the wishes of the Senator from Illinois who has plenty of farmers who are waiting and wondering what is going to happen to this bill because of what they think is going to be fair treatment, creating a new market over the next decade and the next decade after that for a product that has been on a roller coaster for farmers who have been on a roller coaster.

Having said that, I want to talk to another group of people. Throughout the deliberation on this bill, I have not heard more from any group of Americans and any group of Senators than the group concerned about the issues of wind energy, solar energy, biomass, and related energies. Everybody came to us, day by day, as we put this bill together and said: Senator, you know wind energy is working. You are not going to kill it in this bill, are you? Senator, bioenergy is right on the edge, ready to go. All these different energies are ready to go. In the case of wind energy, it is not only ready to go, it is going. It is beginning to show up because it is working so well.

Let me say to my friend, it is gone; wind energy is finished when you kill this bill. It is gone.

You might say: How can that be? It is moving along right now. In fact, over in Massachusetts they wanted to build some out there and some people didn't want them building them out there in the ocean. I don't know which people around but some. How come? It was being built.

Yes, but existing today is a great big credit, tax credit for solar and for wind. Guess what. It expires very shortly. It is gone, out the window. The people who are building wind in America are up here in the halls, knocking on our doors, and saying: Do you really want to kill wind energy in America?

The answer is: Oh, no, I just don't like the MTBE portion of this bill. But I don't want to kill wind. I want to carve it out and save it.

But you know what, people who want wind, you can't do it that way. Do you think we are going to start over next month writing another bill of this nature because this one was dead on a side issue of the type I have been describing, and we don't have any credit for wind, we don't have any credit for solar? Not on your life. In fact, I don't know when we would get around to it.

We can look back to the day after tomorrow or the day after that and say: There it went. There she blew, like they say out in the ocean. There she blew, right out the window with those who decided they wanted to talk this bill to death.

Then you look around and there are people saying, another group around here, a lot of eastern Senators walking up and saying: What is going to happen to coal? We have a lot of coal and nobody uses it. Can't you do something about that in the Energy bill?

We say we have. We have given as good a credit for research and production of clean coal technology in America as has ever existed. It is in this bill.

In fact, I had one Senator yesterday from the East, somebody trying to

make this an East versus West bill. I don't know how they did that, either. This Senator said: I was wondering what was in this bill for my State—being an Eastern State, a big coal State. He said: I found out that it has the finest set of credits for companies to try to use this great asset called coal that could ever be put in a bill. All of that within this total cost of $2.6 billion a year, on average, over 10 years.

That Senator said: I am voting for it. We have to give coal a shot in my State, said that Senator.

We can go on and on and talk about this. But it is much easier to pick a piece of the bill such as MTBE and state the facts wrong and tell everybody they should not vote for this because of MTBE. But I follow by saying the MTBE situation is not what has been said, and before you decide to kill the bill on MTBE, you ought to remember you don't kill this bill in pieces.

So everybody out there will know who has an interest: You don't kill this bill in pieces. You adopt it all or none.

For those who think MTBE is of that importance as I have explained it here today—and we will be glad to meet privately with any experts around who want to look at it—but if anybody thinks MTBE is of such a proportionate disadvantage to America that we ought to kill the future of windmills and solar energy and we ought to decide we are not going to do any of these other technologies that will develop America's energy base, they are all going out the window.

This Senator thinks in the end the Senators who are looking at the pluses and minuses of this bill may sit back in their chair and say, you know, I might have done it differently. No, Senator BINGAMAN said, maybe he could have done better if he had more time. Yes, maybe they should have given the Democrats more time in the committee. But that same Senator may say: Didn't we do that last year? Didn't we give them all the time in the world and what did they do? Nothing. So we produced something this year.

I will take full credit and full blame that I couldn't figure out how to do this with a regular, day-by-day markup of a bill of this magnitude with input from all sides, and I thought we should have input in a different way. We have established input from the minority party in a different way, there is no question. They got e-mails and portions of this bill as it was produced. They had meetings when they offered amendments. Some were adopted. The last 30 percent of the bill was delivered to them at the end, for them to look at, and they got the message for almost all the amendments were on those things that had to do with electricity and the like. They just didn't win any of them, which usually happens in a conference.

Conferences are usually dominated by the majority party. That is history. That is tradition or whatever you want to call it around here. Many of the early provisions of this bill are provisions that were adopted last year as part of the bill when Senator BINGAMAN was chairman. But we didn't get a bill.

I decided we were going to get a bill. We worked, and worked as hard as people can work, to put one together, and, frankly, you can go through it and find provisions taken all by themselves and say it doesn't have much to do with energy. But I tell you, you can't go through the whole bill and say it doesn't have a lot to do with America's energy future. In fact, I believe we will see the biggest change in agricultural America in modern history with this bill.

Some will say that is not what the bill is for. The bill is for that if, in fact, in doing that we are producing gasoline for automobiles. It is not bad to get the two for one.

Second, this bill is going to produce alternate activities to get natural gas in abundance, and it is also going to produce just about every stitch of natural gas we can produce as a nation without doing damage to our environment, and that will be used by America for American purposes.

I wish we could do more. I wish we could have done more with Alaskan resources. But you know what, everybody knows, you get one thing and you lose something. You move ahead on one and somebody thinks it is the wrong thing and you take two steps backwards.

To get this bill, well over 1,200 pages, on all the subjects we have done, and get it together and get it here this far and get it through the House yesterday by a majority vote of more than 60, a 60-vote plurality or thereabouts, is pretty good.

I am very sorry it is hung up here in the Senate. I will repeat, I have heard quietly—not openly—that some say this is a bill that is for regions of the country. I can't find it. If they would stand up here and say this bill favors the East or the West and show me how, I would be more than glad to go out and look, listen, and try to explain why it isn't. If MTBE, as I have explained, is an East versus the West issue, then I would assume there is no litigation or potential litigation on product liability in nature from the West. I don't think that is the case. If it has to do with resources, we have tried to produce the basic resource that is good for America's future, wherever it lies—whether it is the coal of Pennsylvania or the coal of Wyoming. We have tried to build under it incentives that will make it used more rather than less. We have done that.

In the next few days, we will hear a lot more. Most of it will be about the issues of which I am speaking.

I want to repeat, for those who want ethanol and want it bad and have been waiting 6 or 7 years for it and want a real bill for it, we have exactly what is necessary. That took 4 weeks of debate and frustration galore, but we got what the Senate said we should get. Yes, you can throw it all away because we had to take MTBE, as I have explained, with it. Those lawyers who like MTBE like to tell it one way. I tell it my way because I think my way is right. The lawyers' way probably would be if you were using Folgers Coffee at MacDonald's and coffee was spilled on someone's lap, you ought to be able to sue Folgers Coffee. But if you put in legislation you can't sue Folgers, then I don't think they can come to the Senate floor and argue the way they are arguing about MTBE because Folgers didn't make it hot and spill it. Neither did MTBE get spilled around where it shouldn't be, or used unpropitiously or contrary to the Federal Government standards.

Everywhere you look, there is a smattering of Senators for whom I have great respect who would like to see a nuclear powerplant built one of these days. You can throw them away if you kill this bill. They won't be built. If you pass the bill, there will be a chance there will be one following every law and every rule in the books. We might get one or two. I think that is pretty good.

I am prepared, as are a number of Senators who worked with me, to return to answer as other Senators bring this issue up.

I thank the group that helped work on this bill. They were a mighty group of seven who worked as Senators on our side of the aisle. I thank each and every one of them. They had to learn an awful lot, make a whole bunch of hard votes, and make some very close decisions. Now we are here. I hope we go beyond it and get the bill passed.

I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Nevada.

Mr. REID. Mr. President, on the minority side, we have a number of Senators who are going to speak. I will ask unanimous consent that they speak. I have three who wish to speak now, and we have a time at which they want to speak. If there are Senators from the majority who want to come in between those, that would also be part of the order. I think that would be fair.

I ask unanimous consent that on our side Senator KENNEDY be recognized for ½ hour, Senator CANTWELL be recognized for ½ hour, and Senator DORGAN be recognized for 30 minutes. As I indicated, if there are Senators from the majority who wish to speak following Senator KENNEDY, Senator CANTWELL, and Senator DORGAN, that would be appropriate. If not, we have other Senators who have indicated a desire to speak. This is not in the order which they will appear.

So that everyone knows, there are a number of speakers who want to talk: Senators AKAKA, REED of Rhode Island, FEINSTEIN, STABENOW, FEINGOLD, LANDRIEU, SARBANES, and CLINTON.

I ask unanimous consent that Senator KENNEDY be recognized for ½ hour, Senator CANTWELL for ½ hour, and Senator DORGAN for 30 minutes. If there are Republicans who wish to

speak in between, those Senators will be part of the order.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object—I will not—I ask how you might work this in your schedule. We have been told for some time that Senator MCCAIN would like to speak.

Mr. REID. Senator MCCAIN can come at any time he wants, either after Senator KENNEDY or Senator CANTWELL or Senator DORGAN. Whenever the distinguished senior Senator from Arizona shows up, we always give him the floor anyway.

Mr. DOMENICI. He may be around at 2:30 or 2:45. That might work it out perfectly.

Mr. REID. That would be perfect.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, the other statement I made was just to inform both the minority and the majority that the Members who desire may speak sometime this evening without any specified time or in any necessary order.

The PRESIDING OFFICER. The Senator from Massachusetts.

PRESCRIPTION DRUG BENEFIT

Mr. KENNEDY. Mr. President, the Medicare system is the system which is relied on, trusted, and a beloved health care system which our seniors use just about every day. They know it is always there for many of them. It gives them an enormous sense of security as they are looking down the road towards the future. I was here in the Senate in 1965 when the Medicare bill was passed. It failed in 1964. It passed in 1965. It is generally recognized today across the country that even though the Medicare bill provided for hospitalization and physicians' fees, the one thing that it did not provide for was the prescription drugs.

In 1965, only 3 percent of all of the private health care bills provided for prescription drugs. But now it would be inconceivable that this institution would pass a health care program for our seniors and give our seniors who have paid into the Medicare system the assurance that their health care needs would be attended to because we know that prescription drugs is of such extraordinary importance to all of them.

It will become increasingly clear. We are in the period of the life sciences century. We are seeing these extraordinary breakthroughs in DNA and genes. The Congress has doubled the NIH budget, and the prospects for breakthroughs are just enormous. If we were to see a breakthrough, for example, in Alzheimer's, we would empty three-quarters of the nursing home beds in my State of Massachusetts. The prospects in terms of what these prescription drugs can do and what they are doing today is enormous. Therefore, we have a very important responsibility to get a prescription drug program.

I believe the bill which passed the Senate was a good bill. Seventy-six Members supported it. It was a prescription drug bill.

But the proposal that is coming out of the conference committee failed to meet the basic and fundamental test; that is, to do no harm because the particular proposal that is being recommended by the conferees will do harm to the Medicare system. The House of Representatives adopted important changes in the Medicare system under the guise of a prescription drug program, and they have been accepted in that conference committee. Now, for the first time since 1965, the Medicare system itself is threatened. Many of us are going to do everything we can to make sure that is not the case.

An editorial in the Des Moines Register today gets it exactly right. It says:

> Once upon a time, lawmakers wanted to add a prescription-drug benefit to Medicare. In year one, they failed. In year two, they failed. Now, in year three, the quest for a drug benefit has ballooned into a plan to change the entire health-care program for 40 million seniors.
>
> As a few details about the 1,100-page bill crafted in conference committee trickle out, it's clear another failure this year would be best for Americans.

The editorial concludes:

> Lawmakers need, once again, to go back to the drawing board.

Effectively, what they are saying is that no bill is better than a bad bill. This is Des Moines Register. They get it right.

The editorial continues:

> This time they should try a new approach: Focus on holding drug prices down, keep 40 million seniors in one buying group to leverage lower prices, open up the global market on drugs to Americans, and remind themselves their job is to serve the interests of the people, not industry lobbyists.

There it is, Mr. President, the Des Moines Register gets it. This proposal will do virtually nothing for keeping prices down.

Access to prescription drugs and costs to senior citizens are the two elements with which our seniors are concerned. This bill does virtually nothing regarding costs. It is flawed in its effort to provide prescription drugs by undermining Medicare.

This conference report represents a right-wing agenda to privatize Medicare and force senior citizens into HMOs and private insurance plans. I guess seniors should not get to choose their doctor and hospital, they just do not know enough. That choice should be made for them by the insurance company bureaucrats. The conference report includes no serious program to reduce the double-digit drug price increase. The attitude of the special interests who hijacked this process is clear: Control senior citizens, not drug costs.

The day this program is implemented, it will make millions of seniors worse off than they are today. It is an attempt to use the elderly and disabled's need for affordable prescription drugs as a Trojan horse to destroy the program they have relied on now for 40 years. It is an enormous giveaway to the insurance industry and an enormous take-away from the senior citizens.

The new study that has just been released today indicates, when this program goes into effect, the HMOs and private insurance industry will increase by more than $100 billion if this bill passes. That is more for the private insurance companies and for the HMOs. No wonder our Republican friends and the insurance companies are for this bill. No wonder senior citizens are against it.

The more senior citizens learn of these problems, the more they oppose the legislation. In a poll released this morning, only one in five older voters, 18 percent, say this bill should be allowed to pass in its current form. In fact, 59 percent of the AARP members agree with Democrats that this bill does more harm than good.

Regarding the drug plan itself, even before getting to the problems of privatization and the subsidies for HMOs that are in this bill, older voters oppose the drug plan by 65 to 26 percent. In fact, only 27 percent of all seniors say they would bother to enroll in this plan at all.

Seniors are deeply concerned about the way Republicans have hijacked the drug plan to undermine Medicare. They oppose the subsidies for private plans, 65 to 23 percent. In fact, among the AARP members, opposition to the subsidies is even stronger—68 percent to 19 percent. Older voters oppose the cost caps on Medicare services, 60 percent to 26 percent. And they are deeply concerned, 64 to 26 percent, about the failure of this bill to control drug costs to allow drugs to be reimported from Canada.

As elected representatives of the people, we pass this bill at our peril. In fact, by a margin of 3 to 1, older voters are saying they are less likely to support politicians who support this bill.

It is important to understand how we got to this point. We started in the Senate with a bipartisan bill to expand the prescription drug coverage. A bill passed with 76 votes. The Senate solidly rejected the President's plan to privatize Medicare by telling senior citizens they could only get the prescription drugs they needed by joining HMO and other private insurance plans. That was the position of the President in the spring of this year: You are only going to get prescription drugs if you join an HMO or private insurance plan. You will not be able to under the Medicare system. Then the administration shifted.

But the House took a different course. They realized the President's plan would not be accepted by the American people, so they passed a more subtle proposal, one that tries to privatize Medicare by stealth. Their

only problem was it was not stealthy enough. That is why it passed by a slim partisan majority of one vote in the House of Representatives—one Republican vote.

Now the conference has been hijacked by those who want to radically alter Medicare and to privatize it, to voucherize it, to force seniors into HMOs and private insurance plans. The bill the Senate will consider shortly is not a bill to provide a prescription drug benefit. It is a bill to carry out the right-wing agenda. It allows the elderly to swallow unprecedented and destructive changes to the Medicare Program in return for a limited, inadequate, small prescription drug benefit. This conference report is so ill conceived that not only does it put the whole Medicare Program at risk, it makes 9 million seniors, almost a quarter of the Medicare population, worse off than they are today. I will illustrate that in one moment.

On issue after issue, this report abandons the bipartisan Senate bill and capitulates to the partisan House bill. On some issues it is even to the right of what the House passed. One of the most important of these destructive changes is a concept called premium support. It should really be called ''insurance company profit support'' or ''senior citizen coercion support.'' It replaces the stable, reliable premium senior citizens pay for Medicare today with an unaffordable premium for the future. Here is how it works.

Today, the Medicare premiums are set at 75 percent of the cost of Part B of the Medicare Program, the part that pays for doctors' care. Beneficiaries pay the remaining 25 percent. The premium is the same no matter where you live. It is universal whether you live in Key West or Portland, ME, whether you live in Takoma, WA, or whether you live in San Diego. You pay the same premium. You pay into the system and you pay the same premium. It increases from year to year at the same rate as the Medicare increases. It is stable. It is reliable. It is now $58.70 a month Part B premium and $704 for the year.

Premium support would change all that. The senior citizens can choose, if they want to, get their Medicare benefits through HMOs and other private insurance plans. The Government pays these plans approximately the same amount it costs Medicare to provide the services. The senior citizens pay at least the same Part B premium to enroll in the plans they pay for the regular Medicare, but the plans can charge more if they offer additional services or lower copayments. If the plans can provide services more cheaply than Medicare, they give the difference back to the beneficiaries in the form of better services or lower copay without additional charge.

Senior citizens who choose the private plans may get some additional benefits, but the senior citizens who prefer to keep the freedom to choose their own doctor are not penalized. And 9 out of 10 seniors have chosen Medicare over Medicare HMOs.

What happens, as everyone knows, is the insurance companies cherry-pick and get the healthier and younger seniors. Therefore, it costs them less, although they get the payment that would otherwise be going into Medicare. So we have the healthier ones leave and the sicker ones remain in the Medicare system. That is what has happened today. There is no reason it will not happen in the future. As a result, we will get increases in the cost of premiums under the Medicare system.

This chart reflects what the Medicare actuaries—not what I estimate but what the Medicare actuaries—estimate would be the national average for seniors. It would be $1,205. And their estimate national average for premium support, the current estimate, would be $1,501. And 2 years ago they estimated the national average was $1,771.

The fact is, no one knows what the premiums will be. You are playing roulette with premium support. Here we have a swing of $300 in estimates, estimates made by the Medicare actuaries. It could be $1,205, but under this bill for those who fall into the trial category, they will be paying at least $1,500 or the $1,771.

Look at this chart. Let me give you a few examples of the disparity. Again, this is from the Medicare actuaries. If you live in Massachusetts, and in Barnstable—that is primarily Cape Code—the premium for Medicare will be $1,400. If you live in Hampden, it will be $900. That is a $500 difference.

Today, everyone pays in the same amount and they get the same premium on it. Under this legislation, everyone is going to be paying in, and if you live 100 miles apart, you are going to get a $500 disparity in the payments under the premium support system. This information is from the Medicare actuaries. This is the kind of roulette our seniors do not want.

Here is another example in Florida. In Dade County, the best estimate from the Medicare actuaries is you will pay $2,050; and in Osceola County, you will pay $1,000; you will be paying twice as much.

How do you explain that to the seniors? How do you explain that they pay in and their premiums are going to have this amount of swing to them? No one can accurately predict with any certainty, but we are buying this program? It is untested, untried. It is the greatest social experiment with whom? With our senior citizens. Why? Because there is going to be all kinds of money in there for those private insurance companies and those HMOs. That is what it is about—risking the Medicare system.

Here we have the example in Los Angeles, $1,700; in Yolo, CA, $775. And in New York City, $2,000 if you live in the Queens area; $975 in Erie. This is the Medicare actuaries' data, these premiums and estimates. And that is the element that is written in this bill.

Now you hear our colleagues who defend their proposal say: Well, Senator, this is really just a trial program. It is not going to be anything more than a trial program.

Well, they are going to have five what they call MSAs, metropolitan statistical areas. If you take five metropolitan statistical areas and then you take one small one—here they are—if you take the States of New York, New Jersey, and Pennsylvania, that is 2.6 million people who are affected. For California—Los Angeles, Long Beach, Santa Ana—that is 1.4 million. For Illinois, Indiana, Wisconsin, that is 1.1 million. For Florida it is 833,000; that is Miami, Fort Lauderdale. For Pennsylvania, Delaware, Maryland, New Jersey, that is 866,000. And then take a small one, Nevada—Reno and Sparks—47,000. So 6.8 million of the 40 million; you are almost up to a quarter who are going to be included in their program, who are going to be subject to these kinds of swings.

They call this a demonstration? This is a Mack truck. This is not just a small Volkswagen, it is a Mack truck, and they are calling it a Volkswagen. And seniors ought to understand it. So that is one threat.

Now, listen to the second threat. We say, well, what about the risk?

Mr. President, how much time have I used?

The PRESIDING OFFICER. The Senator has used 18 minutes.

Mr. KENNEDY. Fine. Let me know when I have 3 minutes left.

The PRESIDING OFFICER. I shall.

Mr. KENNEDY. Now, on the second situation, our Republican friends say: Well, we believe in competition. With competition we will get the best health care for the best price and the best cost. Oh, we say, well, how are you going to do that?

Let's see what is in the bill now that you say that is what you want to do. You think you have competition in this proposal? Let me show you and explain to you how this is a rigged proposal.

First of all, in this legislation they give to all of the HMOs and the PPOs a 9 percent increase in the cost of living over what they give in the Medicare—9 percent. Nine percent? Nine percent? Why are they doing that? Because: They think they ought to get it. They want competition.

The second point that is in this bill is that those who are in HMOs today and in the private insurance companies are 16 percent healthier than those in traditional Medicare. That is not my estimate, that is CMS's estimate, the agency which provide the reimbursement. That is their estimate.

You add these two together and you get a 25 percent subsidy for every private plan and every HMO. They call it competition. I thought competition was an even playing field. This is not an even playing field. And who is paying this additional 25 percent? Our seniors are. It is coming out of their payments. It is coming out of the Medicare

trust fund. It is cutting out the benefits they ought to have. That is ridiculous. That 25 percent should be reinvested in the drug program, not used as a subsidy for the private sector.

Now, we say: Well, you have that 25 percent on that. If you looked through, you would say: Well, that is a pretty big chunk of change for it. You think they would be happy with that, wouldn't you? No, no, no, no, Senator KENNEDY, we are not even happy enough with that. We are going to include, on top of the 25 percent subsidy, a $12 billion slush fund in this bill—$12 billion. So 25 percent is not enough. We will be able to provide hundreds of millions—hundreds of millions—billions of dollars to those HMOs, some of which made more than $1 billion last year. Some of those CEOs are getting paid more than $22 million a year. And we are going to take $12 billion more on top of the 25 percent and use that as a slush fund.

Talk about an even playing ground. What could that $12 billion provide for? These are the leading diseases about which our elderly are concerned: Arthritis, osteoporosis, diabetes, cholesterol, acid reflux, thyroid deficiency, and depression. That $12 billion could provide for 11 million of our senior citizens who suffer from arthritis a year, or 12 million who suffer from osteoporosis, or 11 million who suffer from depression, or it could be used for those who suffer from high cholesterol, right on down the line. That is what it could mean for our senor citizens. But, oh, no, this conference said no, we are going to take that and add that in. Not only are we going to threaten you with this premium support program, you will never really know what your premiums are, except that they are going up.

I want to take just a few more minutes about this proposition. I had mentioned earlier that the day this bill passes, you are going to have 9 million of our 40 million Americans who are going to be worse off and pay more. Do we understand that?

On top of what I have already explained—the completely unfair playing ground that is so tilted towards those who do not support Medicare—now we are saying to our elderly that between 2 million and 3 million—and closer to 3 million.

Low-income seniors pay more. Six million of them will be receiving Medicare but also receive Medicaid. The conference proposal denies States the ability to provide wraparound coverage to those low-income seniors. Instead, a uniform Federal co-payment is imposed, and it is indexed, so that it goes up every year. Their out-of-pocket payments for drugs will be raised, and they may not even have coverage for the drugs they need the most. If they need a drug that is not on the insurance company formulary, they will have to go through a burdensome appeals process. Most will simply go without.

Every one of these 6 million will be paying more. Maybe it is $2 a prescription, but if you have three prescriptions, that is $6. You may have to get a refill every other week, and it begins to go up, $24, $25. Nine million lose the day this passes. Let's keep our eye on these 6 million low-income seniors.

Prescription copays hurt the very poor. You will have almost double the amount of serious adverse events when seniors don't take those medicines. Emergency visits go up as well, double the amount. For those 6 million, these are the statistics from all the health care studies. Not only will they be paying more, but their health condition will be threatened. It makes absolutely no sense from a health policy point of view.

One of the most important aspects of the legislation passed in the Senate was to say we were going to make sure that the asset test, which has been around for many years, the asset test for the very poor would no longer be in effect. As a result, we took steps with regard to prescription drugs that we haven't even done with regard to Medicaid. The Senate bill really reached down for the poorest of the poor elderly.

We said: OK, maybe you can have the car, $4,200; you can have the personal savings, $2,300; you can have even a $1,500 insurance policy and a burial plot for $1,500, and we were not going to hold that against you. People who had worked all their lives perhaps had those.

What do our good Republican friends do? They reimpose the assets test and say, if you have that, you are not eligible. Three million of the poorest of the poor are dropped out of coverage under this proposal. That is enormously unworthy of the proposal.

I want to mention an aspect of this because I am running out of time. I have mentioned that we have the premium support which is going to threaten the Medicare system. We have the subsidy programs which are going to threaten the whole Medicare system by enticing, coercing, bribing seniors out of that, and then letting the Medicare system collapse right in front of them.

Then they have added another program which they call health savings accounts—what used to be called medical savings accounts—which provides billions of new tax breaks for the healthy and the wealthy. The money that should have been used in this bill to provide additional prescription drugs, they have taken billions out to provide for this new program. They encourage the healthy and the wealthy to take high-deductible policies, policies that require you to pay thousands of dollars before you get benefits. That is fine for people who can afford to put money into tax-free savings accounts but it is not good for ordinary working Americans.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. The Urban Institute and the American Academy of Actuaries have estimated that the healthiest people are pulled out of the risk pool for regular comprehensive policies by these accounts. Premiums skyrocket, if this policy becomes law. If you want to keep your insurance policies, you can see your premiums increase as much as 60 percent.

The Urban Institute estimates that premiums, and this will be for all those who are employees working in small companies all across the country, once this program gets started, could increase by over 60 percent and the American Academy of Actuaries have estimated that premiums would jump $1,600.

Why are we doing this? Why are we taking a chance with the Medicare system? The American people and our seniors have confidence in Medicare. Why not just do what we did in the Senate in a bipartisan way and have a good downpayment rather than threaten the Medicare system?

This was the wrong way to go. This bill does not deserve the support of the Senate. I hope it will be defeated.

The PRESIDING OFFICER. The assistant minority leader.

Mr. REID. Mr. President, the distinguished senior Senator from Arizona has called and wishes to speak following Senator CANTWELL. I ask unanimous consent that that be a part of the order, following her statement, the Senator from Arizona, Mr. MCCAIN, be recognized for whatever time he may consume.

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

The Senator from Washington.

Ms. CANTWELL. Mr. President, how much time do I have allocated to me?

The PRESIDING OFFICER. One hour.

Ms. CANTWELL. If the Chair will notify me after 40 minutes.

The PRESIDING OFFICER. Yes.

Ms. CANTWELL. We are now going to go back to the Energy bill. I know many of my colleagues have already been on the floor today discussing the conference report that is before us. While I think my colleagues have done a good job of outlining some of the most egregious parts of this legislation, because it certainly is shocking legislation, the point I would like to make in the next few minutes is about how we got to this process and how America is very disappointed in what we have come up with as far as a conference report.

It should be no surprise to people here when they find out that this bill has basically been drafted in secret without a bipartisan effort, without a lot of daylight shown on the details of the legislation until just this weekend. Now many people are curiously reading through various aspects of the legislation trying to understand all the giveaways, all the subsidies, and whether it could possibly mesh into any kind of comprehensive energy policy. I think the bill is a disaster as it relates to moving us off our foreign dependence and coming up with a concrete energy

policy. It should be no surprise, when this energy policy legislation started with a task force meeting with the Vice President in which no input was given, no open session as to what was being discussed.

That a bill is brought here to the House and Senate that ultimately included a conference report drafted in secret makes it very difficult for us to have good legislation. But don't take my word for that because I do want to discuss the policy ramifications. Let's talk about what America is saying.

In the last 24 hours, we have had a variety of people around the country, particularly in the press, look at this legislation and actually make editorial comment on it. When I woke up this morning and saw the stack of editorials that are before us on each Member's desk, I was shocked to read the detail and comments from newspapers all over the country. That is good news because it means America is watching this energy policy, that those of us in the Northwest who have suffered from Enron market manipulation are not the only ones watching, that those in New York who have suffered through blackouts are not the only ones watching, that people all across America are.

In fact, the question is, Are we better off having to pass this Energy bill or are we better off without it?

I will take from what the Great Falls Tribune said:

> Once again, let this energy bill die.

Why would somebody say that? Some of my colleagues are trying to say this Energy bill actually has a concrete policy. According to the Great Falls Tribune: We are as certain today as we have been for a of couple years that no Energy bill is a better option than the bills being hashed around in the marble halls of Washington, DC.

Other newspapers have said this bill should be a ''do not pass go.''

The Minneapolis Star Tribune, again an independent newspaper organization, that probably, if it took a close look at this bill, saw there were some projects that the State of Minnesota could benefit from. Yet they say the Energy bill is a fine target for filibuster. A newspaper organization in a State that actually has energy projects in this bill thinks we should filibuster this bill:

> The energy bill unveiled over the weekend is wrong headed policy prepared in a high handed way, fitted with perhaps enough gifts to selected opponents to buy its passage. It's an abusive approach to lawmaking, egregious enough to deserve—indeed, to invite—a filibuster.

That is from a State that has energy projects in it. So this is a national energy policy, which some, such as colleagues on the other side, like to talk about. According to the Houston Chronicle, in a State that would benefit in the millions of dollars from different subsidies and sweetheart deals in this legislation, they say:

> Fix the Flaws.
>
> A bill setting out a national energy policy should encourage conservation, investment and new technology; increase available energy; make the distribution system more reliable; and reduce pollution from burning fuel. The energy bill unshrouded Monday by congressional Republicans is, at best, half of a loaf that has been dropped repeatedly in the dirt.

Some people say this was a process, it went through committee hearings and through all sorts of hearings, and we had discussions on the floor. I remind my colleagues that we got to this point on July 31 of this year where we could not agree on an energy bill. I personally thought we should hold the bill up at that time and send it back and basically make the point that it wasn't going to be a successful product, hoping my colleagues would go back to the drawing board and get more bipartisan legislation.

What happened was, we got so desperate, we passed last year's Senate bill and many of us said: We know what will happen. They are going to take last year's Senate bill and dump it and overreach in the conference because it will be controlled by the Republicans, not in a bipartisan policymaking fashion, but they are going to overreach. A lot of people say this has been written by the energy lobbyists.

The Philadelphia Inquirer said:

> The Energy Bill: Lobbyists Gone Wild.

They say:

> After all, there's something for everyone here. Everyone, that is, with enough dough to finance a lobbyist's next pair of Gucci [shoes].

It is amazing that so many newspapers have so much on the ball and took time in their editorial pages in the last couple of days to shine the bright light on this policy that has been drafted in the dark and not in a bipartisan fashion.

The Chicago Tribune said:

> Energy Legislation on the Fly.
>
> If those problems don't sink the bill, the process by which the Republican majority cobbled it together certainly ought to. Democrats literally were locked out of the final negotiations, and now Congress—and the public—have about 48 hours to digest and evaluate the contents of this mammoth document. This is no way to craft sensible national energy policy.

That was the Chicago Tribune.

My colleague, Senator DURBIN from Illinois, has been out here talking about the MTBE provisions and how those who might be affected by that and the public might become deep pockets on what really is the responsibility of individual businesses. But I think he should be very proud that his hometown newspaper is trying to educate people all over Illinois who might think, gee, what is wrong with this bill? Probably ethanol provisions are in it, and it ought to be a good bill. They are actually doing the work to show that this is quite controversial.

Another newspaper, the Milwaukee Journal Sentinel, wrote something pretty humorous:

> Indigestion Before the Holidays.
>
> The Old Testament is only slightly longer and is a lot more readable. . . .

We should take our time with this bill.

The St. Paul Pioneer Press is obviously pointing to what Members would refer to as pork-lined elements:

> Energy Bill Lavishes Billions to Drill . . .

I don't think that is what we thought the future energy policy of America would be—lavishing billions to drill. We thought we were going to have an energy policy that was about innovation, technology, about moving forward on conservation, and about alternative fuels. Not that we didn't think we were going to continue to use some fossil fuels, but we didn't think we would lavish billions on them.

We also heard from USA Today. At a time when we have ballooning deficits, what is this bill doing to help us get on the right track? They said:

> Costly Local Giveaways Overload Energy Plan.
>
> The Nation can't afford an energy program that drives up the Federal deficit without addressing critical problems.

Part of this is not addressing critical problems. There are many aspects of this earlier legislation draft that I think could have gone a long way toward getting us on track with jobs, along with the Alaskan natural gas pipeline, that probably are not going to come about now, which could have gotten us further ahead on a hydrogen fuel economy and would have established U.S. leadership in that new technology. Yet that was left out of the bill.

The Wall Street Journal, which I think has followed the energy debate very closely, was shocked to find out in the last couple of days:

> The fact that it's being midwifed by Republicans, who claim to be free marketers, arguably makes it worse. By claiming credit for passing this ''comprehensive'' energy reform, Republicans are now taking political ownership of whatever blackouts and energy shortages ensue. Good luck.

Why is that? That is the Wall Street Journal, and it is basically putting these issues that have happened in America already—energy blackouts and shortages—on the other side of the aisle, on their lap, and saying this policy isn't going to work.

I have to say, as a former businessperson, we have had a lot of debate about standard market design and regional transmission organizations. I want to see free markets work. But free markets work when there is transparency and when there are rules in place. This legislation does very little to provide for transparency in the market. I think that, along with many of the other items of oversubsidization and special interest initiatives in this legislation, is what drew the Wall Street Journal to say it is not a good piece of legislation.

What else do people say?

The Concord Monitor basically said this is:

> Abuse of Power: The Federal Energy Bill is Ultimately Worse Than No Bill At All.

That is what America is starting to understand—that this policy is worse

than no bill at all. It is a disappointment that we are at this stage of the ball game, and I have to say as a member of the Energy Committee for the last almost 3 years, before joining the committee, I talked to colleagues and former members about joining that committee. People pointed out to me that it had been almost 10 years since the last time we had an energy bill pass out of that committee. Who knew whether we would have an energy policy in the future? I think it is safe to say, with this product in front of us, we bit off more than we could chew by cobbling together a bill that is not really centered around the future energy policy but is specific giveaways to individuals so that they will buy in on support of this legislation. But it is worse than I could have imagined, and certainly doing nothing is better than this legislation.

What about the blackouts? I know some of my colleagues would like to say this is legislation that is going to move us forward in this area. I can tell you what the Providence Journal said:

> Energy Gridlock.
>
> Unfortunately, Congress seems intent on passing a bill that does nothing to make our energy supply cleaner, safer, or more affordable, and certainly does nothing to prevent a major failure. We hope that it won't take another huge blackout for Congress to see the light.

That was written in the last week or so.

I have a lot to complain about here because my predecessor—we had a blackout in the Northwest prior to New York's, and my predecessor, former Senator Slade Gorton, actually proposed reliability standards and a process for moving forward so that the industry was accountable for energy supply and standards that would prevent us from having blackouts.

What happened? His legislation actually passed out of the Senate and got held hostage in the House because the industry wanted more deregulation before they were going to put reliability standards in place. How is that responsible?

Now we are moving forward on an energy bill that basically, at best, as it relates to FERC and its jurisdiction and responsibility, is confusing and muddling. We do nothing about the market manipulation issue of Enron in this legislation.

While I would like to believe the reliability standards will help in some ways, I don't know, given the overall aspects of the bill, that they are going to be as helpful as we need them to be. Why should we have to be told that you have to swallow the whole energy policy that is bad for America just to get reliability standards so people in New York or Ohio or Michigan can be sure their lights will turn on at night? That is a ridiculous policy. This body should have passed reliability standards as a stand-alone bill when Slade Gorton proposed it, and it should have passed it as soon as we came back after the August recess.

I am amazed again at how many newspapers across the country are writing about this bill. We talk about, obviously, some of the Clean Air Act and Clean Water Act issues, and I will get to those in a minute.

The Fresno Bee calls this legislation ''political wheezing.''

They say:

> The valley representatives in Congress have put a particular stake in this fight. The problems of air pollution, especially diesel particulate matter, are worse here than anywhere else, and we must do everything we can to address this.

What about the Ventura County Star newspaper talking about the obviously bad coastal oil and gas language? Every year on the west coast there is a battle that goes on. Basically, we have had for 20-some years now a moratorium on drilling off the coast of Washington, Oregon, and California. While that is an Executive order moratorium, we always have to worry that some interest or some group is going to try to lift that moratorium. It happens every year, and every year in an appropriations bill Congress continues to say: We want a moratorium on drilling off our coast of Washington, Oregon, and California.

Why do we have to drill there? We have marine sanctuaries. We have terrific problems with tanker traffic and a variety of other issues. We have had spills off the coast of Washington that have caused incredible damage. Why do we have to worry now about legislation that makes that issue more cloudy by saying you could give the Secretary the power to expedite and approve a process on this? What did the Ventura County Star say?

They said:

> Instead of trying to continually slip in language that harms the Nation's coast lines, puts thousands of communities at risk of an economic and environmental disaster, Congress should be focused on the public's welfare, the environment, and the rights of States to protect their residents.

This bill undermines those rights. It undermines States rights, it undermines the rights of individuals, and it will leave our shorelines less protected.

What did the Nashville Tennessean say? It said:

> An energy bill without savings has no steam. The President and his allies have built an energy policy on their convenience—

On their convenience.

> When they are willing to build on conservation, then they'll have an energy policy that will work for all Americans.

Makes sense, doesn't it? The bottom line is, this bill is what some people are saying. It is about Hooters and polluters. It is about special interests. It is not about a conservation policy that is good for America, and it does very little to get us off our dependence on foreign oil. America deserves better.

If our generation has been smart enough to put a man on the Moon, our generation can be smart enough to get off our dependence on foreign oil, but we in this body have to do our job. We have to draft an energy policy that has a vision, that has a focus, that has the right incentives and ask America to step up and help with this process.

I wish to continue with a few other charts. The Orlando Sentinel agrees with what I have just articulated and that is a concern about this Energy bill and where the focus is for tax breaks.

The Orlando Sentinel said:

> Start over: The energy bill before Congress is worse than what exists.

Why do they say that? They articulate:

> Two-thirds of the tax breaks will go to the oil and natural gas and coal industries, helping to perpetuate this country's dependence on fossil fuels.

A lot of people hear about these tax breaks and think we are talking about new technology, either smart metering, wind energy, or something—even clean coal. But the clean coal percentages of the dollars spent on tax incentives in this bill are very minor as well. So we are spending money on subsidies, but we are spending them in the wrong direction.

What does America say when you ask them about this? What do they say when you say: Gee, here's the choice. The question to them is, Do you support giving subsidies to oil and natural gas companies and giving tax incentives. Basically, when you read a description of this, the majority of voters in this country, 55 percent of them, think Congress would be better off if we didn't pass this legislation. A majority of Americans are already saying they are not interested in this legislation.

This bill is about as bad as it gets. Obviously, I am encouraging my colleagues to vote no. As the Atlanta Journal-Constitution said:

> Put backroom energy bill out of country's misery.

It goes on to urge, when Members of Congress have the chance, ''Members of Congress who remain committed to a more rational energy policy . . . shouldn't hesitate to reject it.

I have just read for my colleagues, not my thoughts, but the thoughts of newspapers around the country. Why did I do that? I am sure my colleagues can read. I know they have busy schedules today. I know they have these editorials on their desks. I spent time to do that because I want them to know that America is watching, and America expects us to stand up and do the right thing. This bill that we have had very little time to really understand, and basically on this side of the aisle have been shut out of the process as it relates to the conference report, are trying to respond in very short order to say that this bill is a mistake. I want my colleagues to know that the rest of America is watching.

Some of these issues my colleagues have gone over before, but I want to articulate a few of my objections to this legislation because I think it is important for America to understand the various aspects of this legislation.

First, there are a variety of environmental laws that are basically undermined by this legislation: the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, the Outer Continental Shelf public lands issues. I ask myself: Why is it that we have to undermine current environmental law to have a national energy policy? I have sat on the Energy Committee in various hearings about public lands, about energy companies, about getting more supply. I have not heard an industry show up and testify that they have to do something about the Clean Water Act, but this legislation does undermine the Clean Water Act. It exempts all construction activities at oil and gas drilling sites from the coverage of runoff requirements under the Clean Water Act.

Is that what America wants? Is America so desperate for new oil and gas drilling sites that they say the runoff at those sites are something from which those particular industries should get an exemption? Everybody else who is a developer in America has to deal with runoff. It is not an easy problem.

We set a priority. We said we wanted clean water in America and so we set standards. So why would we let new oil and gas construction out of that?

We, obviously, care about clean air. Why do we have to have an energy policy that basically changes clean air attainment levels that we have already set in policy just to get new energy construction? Is that what the Congress thinks the message ought to be? Obviously, this legislation is a rewrite of existing law and it postpones ozone attainment standards across the country. This is a matter that was never considered in the House and Senate bill and that has now been inserted into the conference report. That is what one gets out of a secret process. They get bad legislation as it relates to some of our strongest environmental laws.

Now, why does a national energy policy have to step on safe drinking water? Are we in such desperate straits to get energy supply that we are willing to say there can be an exemption from safe drinking water? The provisions in this act basically remove an oil and gas extraction technique from regulation of the Safe Drinking Water Act.

Hydraulic fractioning is a process by which water, sand, and toxic chemicals are injected into rock so the oil and natural gas that they contain can be extracted. So if we do that in some large body of water within my State of Washington, somehow that company that is involved in that technique does not have to meet the regulations under the Safe Drinking Water Act?

Somebody who is going to explore for that kind of oil and gas, is it so important for us to have that that somehow we are going to say they do not have to meet safe drinking water standards? I do not understand that.

I already articulated a little bit our concerns about public lands. Since when does an energy policy for America, that ought to be focused on a hydrogen fuel economy, about energy efficiency, about fuel efficiency, a whole variety of things, have to have an assault on public lands?

When drilling on those public lands, one has to pay a royalty. Oh, but under this bill now less is paid because we are forgiving some of those royalties. Why? Because we want to incentivize more oil and gas drilling on public land.

Why? If we look at the research that shows where the availability of oil and gas is, it basically shows on most public lands it is uneconomical; it is hard to reach. One cannot get that far on the access to public lands to make it even efficient. So why now further incentivize it by saying we are going to make them pay less in royalties?

The other thing is it creates this new entity—I do not know what one would want to call it. I do not know if it is the Cheney committee. I do not know what it is, but somewhere in the White House this legislation says now there will be an organization that plays a policy role on expediting oil and gas drilling and making sure that if it is about waiving access to public lands, this group will help get the job done. I do not understand why we have to go through that process of dealing with our public lands to make energy policy work in America.

I think there are many other things we should be doing. Let's talk about a few other things, because I know that I have colleagues who want to chime in on this, but I have to mention a few other things that I was shocked to find in this legislation.

As a Member who spent many hours on the electricity title, I do not understand why this bill has to have an exemption for Texas. Why does the State of Texas get out of compliance with the electricity title as it relates to electricity market rules, market transparency rules that are so important to making markets work, basically protecting the consumer? Texas gets protected from the cost shifting that happens in transmission construction, but the rest of us in the country do not get to be protected.

Now, I wanted to bring this issue up when we were debating this bill in July but we decided, because there was so much turmoil, to take this out and to basically go back to the Senate Democratic bill passed from the previous year just to try to get something going. As I said earlier, now we know what the end result was: A bill in secret in conference that has all sorts of things in it, including this exemption for Texas.

In the electricity title, after what we have seen in California with deregulation, as we have seen with various market manipulation activities, we want better rules. We want transparency. We want things to work and to have individual utilities held accountable, but we are going to exempt Texas. Some of the people have said, well, Texas is not tied to the rest of the country so for some reason Texas should be exempt from this.

Here is the facility right here. This facility does interstate and intrastate commerce and is connected, and if this electricity title is good enough for Washington, good enough for New York, and good enough for Ohio, it ought to be good enough for Texas, too. They should not have an exemption in this bill.

What about the sweetheart deals in this legislation? I could go on actually forever about the sweetheart deals in this legislation. My favorites are the $1.1 billion for a new nuclear facility in Idaho. Not that this Senator has an out and out opposition to nuclear facilities. We have some in Washington State. I spend a good deal of my time talking about Hanford cleanup and the billions of dollars taxpayers have spent on trying to clean up nuclear waste. But why are we going to spend $1.1 billion for a new nuclear facility in Idaho to see if nuclear power can produce hydrogen? There are thousands of ways to produce hydrogen. You do not have to have a new nuclear facility to do it.

My other favorite little part of the sweetheart deal is basically a process in the bill in which DOE can help pay for and finance the transmission hookups that might end up being used for a coal company in Texas.

My colleagues might say, well, geez, if someone has new power and they want to put it on the transmission grid in my State they get in line. If they have capacity and they want to be added to the grid, they come to the Bonneville Power Administration and work with them about how they are going to add capacity to the grid, but they do not have DOE coming in and basically saying they will help them get connected and get capacity to the grid.

That is just part of the aspects of this legislation, the many sweetheart deals. I am sure many of my colleagues are going to go through this and talk in more detail about some of this legislation, but this energy policy, more than anything else, is a missed opportunity. Instead of incentivizing the right programs, we are spending $23.5 billion in tax incentives where only a small percentage of them go to the renewables, conservation, and energy efficiency that America thought it was investing in when it heard about this energy policy.

The whole provision that we talked about dealing with hydrogen fuel, which was an investment in goals and basically a process for us to get to a hydrogen economy, have been thrown out of the legislation. The only thing that remains is sort of a small incentive for that.

What about creating the clean energy economy of the future in which we thought we could estimate a creation of 750,000 jobs in America over the next 10 years by focusing on these energy efficiencies? Well, if they are spending

$23.5 billion and only have 32 percent going to that, those 750,000 jobs are never going to be created in America.

I know my colleague from New York wants to speak, and I know I have other colleagues who want to speak, so I will try to wrap up, but I feel disappointed for the policy opportunity that is being missed. America wants to know what this legislation is about. They want to know where we are going with energy policy. This policy could be far more reaching in response, not just to the crises that we have had in Washington, California, and Oregon, and not just to the policies of blackouts or the fact that these institutions, the House and the Senate, have not passed a reliability standard that would give people in New York and other places in the country the kind of security they need. We are missing a big opportunity to be leaders in energy policy in the world. You might hear some people say we are going to get this national grid. It is not about a national grid. I guarantee we are not going to build a national grid and ship power from Seattle to Miami Beach, and anybody who tells you that they are going to does not understand energy policy. A national grid is not about shipping power all the way across the country. We are entering an era of distributed power. That means you produce power closer to the source and to the individuals who want to have it.

What do you do now that you have hydrogen fuel cells? You have new forms of energy that can connect to the grid. What do you do to make that a reality? First of all, you obviously provide the right transparency and stabilization of the system and give oversight to an entity that hopefully does its job. Obviously FERC, in a lot of instances, has failed to do its job. But you create these decentralized energy plans in which individuals can connect their power source and their generation to the grid and have it delivered in that region. That is the most economical delivery of energy. That is the future.

This bill does not invest in that. It does not invest in net metering, which would basically have a framework for people to understand how to get their power source onto the grid. It doesn't invest in an interconnecting standard by which everybody could start understanding how they could connect to the grid. It doesn't even set standards for some of these new technologies that everybody wants to be part of developing. There should not only be a national standard for the United States on how to build a hydrogen economy, it ought to be an international standard so the United States can be a leader in job creation in that new economy. But that is not in this bill.

As bad as this legislation is, and it is bad, my colleagues should make no mistake; this bill should not pass. But the tragedy is that America is not grabbing its future opportunity to both get off of its dependence on foreign oil and also to invest in an energy economy that will produce jobs and have America lead the way in new energy technology. Let's not embarrass America by passing this bad legislation that undermines environmental laws, that puts the tax incentives in the wrong way, runs the deficit up without giving us a return on jobs, that basically does little to address the market manipulation and blackout situations that happened in the past and, as I am sure my colleague from New York will talk about, really sticks some Americans with the deep pocket expenses of cleaning up waste.

Let's not pass this legislation. Let's listen to America. Let's listen to what those newspapers are saying because they are the first shot at this legislation and they understand. Let's go back to work, even if it means next year. Let's go back to work and let's put an Energy bill together that America can be proud of. Let's make it a goal of our generation that we are going to get off our foreign dependence, but we are going to do it the right way—the Members of this body will work together to get that legislation done.

I yield the floor to my colleague.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New York.

Mr. SCHUMER. I only need 5 minutes of time, and I can yield back the rest of my time to my colleague from Washington to finish. I know she had an hour.

How much time remains?

The PRESIDING OFFICER. There remains 21 minutes.

Mr. SCHUMER. I ask unanimous consent I be given 5 minutes, and the remainder of that 21 minutes goes back to my colleague from Washington State.

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

Mr. SCHUMER. Mr. President, I thank my colleague from Washington for her stellar leadership on this issue. She has been just a beacon on this bill, on which it is appropriate to have a beacon. She is the beacon from Washington State, and I thank her for the good work she has done.

I thank my colleague from New Mexico. We are good friends. I regret I feel so strongly about this legislation in opposition to him. But I believe this is the worst legislation that I have seen in my over 20 years in the Congress. It is bad for what is in it, and it is bad for what is not in it. I will speak at much greater length on those issues when I have more time, but I would just like to mention a few things.

It is laden with special interest provisions. There is no question about it. So many people got little things for their States. Some of them are good, some of them are not good. When you add them up they are extremely expensive. It is hard to believe in an administration that is watching costs so much that a bill that was originally $8 billion should balloon to $23 billion. This includes $1 billion to build a nuclear reactor in Idaho. I understand we need projects in people's States to sort of grease the wheels of legislation, but at $1 billion a shot?

There is so much bad in this bill. To me, the two worst provisions are the MTBE and the ethanol provision: MTBE, taking people's livelihood they put into their home; their homes are ruined. Their only hope is for the oil companies, which knew how bad MTBEs were and didn't tell anybody, to help pay. We pulled the rug out from under tens of thousands of present homeowners, and millions of future homeowners who cannot even live in their homes anymore. They can't take a shower. They can't drink the water. And we are saying: Tough luck. We are giving the MTBE industry $2 billion to close. We don't give a small store owner any money when they close. In addition, we say you are absolved from your mistakes and the taxpayers, the homeowners, pick up the bill.

The ethanol provision, I have such disagreement with so many on my side of the aisle I am not going to get into it. Suffice it to say, if you want to subsidize corn, good. Don't make the drivers of New York State or Washington State or some of the other States on the coasts pay for it. I believe this can raise our gasoline prices 4 cents to 10 cents a gallon in my State, and in many others. That is not how we do things around here. It is not how we should do things around here.

How can we be asked to support a bill that does that?

But the worst thing about this bill is what my colleague from Washington mentioned, which is the missed opportunities. If there was ever a time, if there was ever a perfect storm to create a real energy policy in this country, one that we don't have, it is now. We have 9/11, and everyone realizes how we have to become independent of Middle Eastern oil. We had Enron, and everyone realizes the problems in trafficking in electricity and in the grid and that things have to be changed. We had the blackouts this summer, and everyone realizes the grid that we have can't be piecemeal anymore.

These are perfect opportunities to get our hands around the policy that will serve us well for the future. Nothing is in there. It is not simply that there are special interests and a policy, but there are special interest provisions and they take the place of any real energy policy. That is what so bothers me about this bill.

China is adopting more stringent CAFE standards than we are. Should that make us wonder what we are doing?

I read history. Great empires, great countries—and I love this country. It has been the most wonderful thing for my family that has ever happened—begin to lose it when they fail to come to grips with reality. We have a reality here. We have three realities. We are

just fiddling while Rome burns. We are dancing on our merry way and giving out a little bit of pork here and a little bit there and a little bit here and not dealing with the fundamental energy problems we face.

I will have more to say later. I thank the Chair. I thank my colleague from Washington for her courtesy. I yield the remainder back to her.

Ms. CANTWELL. Mr. President, does the Senator from Illinois wish to speak? I yield to the Senator from Illinois 5 minutes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from Washington.

Mr. DOMENICI. Mr. President, I have been waiting to speak. I didn't understand what happened.

Mr. DURBIN. I believe the Senator from Washington has time remaining and yielded 5 minutes to me.

Mr. DOMENICI. After that, are we finished?

Ms. CANTWELL. I will probably have about 10 minutes left and we will wrap up.

Mr. DURBIN. Mr. President, I thank the Senator from Washington for yielding.

Consider this: You buy a home in a neighborhood and you start hearing about people around your neighborhood who are getting sick. It turns out it is not just a common, ordinary sickness. It is serious; it is cancer. Then you are puzzled and start wondering: Is there something in the water. Isn't that the first thing you ask? Then you find out there is something in the water. It turns out it is something called MTBE. You never heard of it before. They explain to you, it is in the gasoline in your car. Incidentally, at that service station on the corner—the one where they dug up the tank—that tank was leaking. The leaking gasoline from that tank contained MTBE, and it got down so low that it got into the water supply of the village in which you live. The water you have been drinking and giving to your kids contains MTBE.

Studies have shown that MTBE can be cancer causing. Think about that. Totally innocent and unsuspecting, you have now learned that a public health hazard that threatens your family, the value of your home, and your community is linked to something you had never seen before and never heard about.

So what do you do? You are concerned about the health of your family. But you turn around and say: Whoever is responsible for that additive that threatens my family and my home and my community needs to be held accountable.

That is what America is all about. Nobody gets off the hook. So people go to court. They say to the oil company: Did you know that MTBE in your gasoline could threaten public health? Well, it turns out they did. They knew for a long time.

They also knew that if that MTBE got in the environment, that didn't disappear, it stuck around forever. A tiny amount of it could be dangerous to thousands, if not millions, of people. They knew it. They continued to make it. They continued to sell it. They knew all along that people would get sick and some would die as a result of that product.

Should they be held accountable or should they be let off the hook?

Turn to our Energy bill and look at section 1502 which answered that question for America. The makers of MTBE are given safe harbor. It sounds great, doesn't it. Here is what it means. You cannot sue to hold that oil company or maker of MTBE accountable for that deadly additive that is poisoning people and causing cancer if it is a product liability lawsuit—can't do it. But we have decided that in order to strike a political bargain here, we are going to let the oil companies off the hook.

What does the family do? What are they supposed to do about water they can't drink, where people are sick in their neighborhood and where houses are losing value in a community that is scared to death? We tell them to read the Energy bill we are producing here. That is the best we can do for you. We can't answer your problems. We can tell you that we passed a good bill and the oil companies love it.

The Senator from New Mexico came to the floor earlier and very candidly—I salute him for this—said you had better understand the deal. If you want to help ethanol, you had better let the MTBE polluters off the hook. Otherwise, there is no deal.

We have spent 20 years producing ethanol. My State produces more than any State in the Union. I have proudly stood behind this product because I believe it is good, it is healthy for the environment, and it reduces our dependence on foreign oil. But I have said to my friends back home who support ethanol and I will say it on the floor: If the bargain I have to strike for ethanol is to turn my back on families who are dying from disease because of MTBE, the deal is off. The deal is off. That is unjust. It is immoral. It is wrong. If that is what it takes to promote ethanol in America, I will not be part of it; absolutely not. Count me out.

That is a basic injustice, to say those oil companies would not be held accountable for their wrongdoing in order to promote the ethanol industry. It is a deal with the Devil. It is a Faustian bargain, and I don't want to be a part of it, and no Member of the Senate should either.

If this is as good as it gets on the floor of the Senate, shame on all of us. This bill should be stopped in its tracks. We ought to send the people back to the committee and say start over and get the work done. America's energy future depends on thoughtful, visionary policies. It doesn't include this kind of a deal with oil companies to let them off the hook.

How in the world can you turn your back on these families who, through no fault of their own, are facing these terrible health problems? These families can't go to court now to hold the oil companies that knew better accountable. That is what this bill does.

The Senator from New Mexico has been very candid. I admire his candor. But his candor tells the story. We can do a lot better.

I thank the Senator from Washington for her leadership on electricity and protecting our public lands, and other areas.

I yield the floor.

Ms. CANTWELL. Mr. President, I will not take all 10 minutes. I know we have other colleagues in the Chamber. I wish to make one final point.

I thank the Senator from Illinois for continuing his talk about this issue as it impacts his State and national policy which we are all trying to fight. But many of my colleagues know that on one provision in the Energy bill relating to Enron, we really tried to make a point. In fact, 57 Members of this body passed an amendment, albeit on the Agriculture appropriations bill because we couldn't get it on the Energy bill when we recessed in August, which basically said we think market manipulation has taken place and something needs to be done about it.

In fact, at that time I argued that in this legislation we ought to have a prohibition on the types of market manipulation that actually happened with Enron and include that in the Energy bill. My colleagues on the other side of the aisle drafted language that basically prohibited one of the Enron abuses but not all of the Enron abuses. But in a separate piece of legislation, we got 57 of my colleagues—a majority of Senators—to say, Let's say that market manipulation on contracts was wrong.

That language still exists in a conference committee on Agriculture appropriations. That language is sitting there hoping we will get it out of conference, even though the industry is lobbying against it. Yes, that is right. The remnants of Enron are lobbying against it.

What do we do? In this conference report, we basically change current Federal law and say those contracts shouldn't stand. We go one step further in the Federal Power Act and say manipulated contracts are not in the public's interest.

This legislation should be defeated alone on the fact that it continues the Enron price gouging. We as a body failed to stand up to that kind of activity. We can say all we want about the reforms we have with the SEC, all the reforms we had on auditing, but in our energy policy we have done nothing to be the policemen on the street. These energy companies, under this legislation, are still going to run free to continue to manipulate market. Not only that, we are putting in this bill that it is OK to do so.

I urge my colleagues: Please, in the next 24 hours review this legislation

carefully. It has so many issues that are the wrong direction for our country.

I urge my colleagues to stand up to the special interests that have promulgated this bill and say no to the conference report.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, Senator MCCAIN is on the list we made as the next speaker.

I ask if I could speak for about 2 minutes before Senator MCCAIN. He has indicated yes.

Mr. REID. No objection.

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

Mr. DOMENICI. Mr. President, fellow Senators, my good friend from the State of Washington went through a series of newspapers and read what newspapers had to say. I will not do that. But I suggest that she and other Senators, instead of reading what the newspapers have to say, read what their constituents have to say.

I want to cite some constituents of hers and of everyone else in the Senate and what they have had to say. The Solar Industry of America applauds this. They are the largest group of American businessmen involved in development of solar energy. They sent a letter in full support, along with the National Hydropower, American Coalition for Ethanol, Renewable Fuels, National Biodiesel Board, American Soybean Board, North American Electric Reliability Council. While we are on that one, let me suggest that the board that looked at the blackout we had in the Northeast and just issued a report. I will talk about it later.

Most interestingly, the biggest thing they found that caused that blackout was the violation of reliability standards. Those standards are in this legislation. That will not happen again. The study group says we have taken care of them in this legislation. Do not forget, if we do not pass this, they are out the window. Who knows when we will get back to them.

The National Rural Electric Coops of America, a letter of full support; the Large Public Power Council; the APPA, the American Public Power Association; Coalition for Renewable Fuel Standards—totally in support. I have a multi-industry letter in support of this bill from Interstate Natural Gas, National Association of Manufacturers, Ocean Industries, National Corn Growers, North American Manufacturers Association, Edison Electric Institute, and Domestic Petroleum Council.

Some day before the debate is over I will finish reading the names of groups supporting the bill. The point I make, it is one thing for the editors of our newspapers to write about a bill, it is another for the thousands and thousands of businessmen, large and small, who are going to benefit from this, to be writing what they think about the bill. Remember, most of the things they are talking about are not in the law now. Throw away this bill and we have thrown away the things they say are necessary for their continued operation in the United States.

The biggest and most important is the wind industry in America, large and small, that produces wind energy for the United States. It is a growing new industry. Listen clearly: It is growing because it has a subsidy. For those who do not like subsidies, we can cut it off and there will be no more wind energy produced for who knows how long, maybe 10 years. Maybe that is what some would like. Without this bill, the current production credit for wind energy is gone. This bill starts it and continues it. It will be gone. It will not be there.

We can talk a lot about special interests, about where the money is going, where the $2.6 billion a year is going over the next 10 years. We have an American energy use of $450 billion a year. We are trying to move it around the edges. It does not seem to this Senator to be an exorbitant amount of money or an exorbitant effort to produce a variety of energies, diversity of source, and diversity of base so we are not totally dependent again on a source such as natural gas, soon dependent on it from overseas.

Overall, there are problems with the bill, yes; problems we had to concede, yes. But overall, it is a bill that will work.

I will answer MTBE concerns at least once a day, but I don't think two or three times a day. I have done it once. I will ask other Senators who are familiar with the subject, including the Senator in the chair, to answer these concerns. Suffice it to say, some of the descriptions about MTBE in this bill are wrong.

I have given my best shot at it, but I will close with a very simple example. If you use Folgers Coffee and produce hot water that is too hot, you sell it and burn somebody with the coffee, I doubt very much if you will sue Folgers Coffee. That is the issue of MTBE. It is a legitimate, valid product, certified by the United States of America to be used. For those who use it right, we have said they will not be liable. For those who use it wrong, and there are many who have, they will remain liable. In 15 years there will no longer be any more of that.

I say to the corn growers, we have the same issue looming over us on alcohol and ethanol. We have said there, too, the product is not liable; using it improperly does create liability.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I think this legislation is very timely because if we pass it, Thanksgiving will come early for the Washington special interests. The American public will be presented with an enormous turkey stuffed with their tax dollars. Tell your constituents to save their holiday Turkey carcasses because this farsighted bill even provides subsidies for carcasses used as biomass to generate energy.

We cannot discuss the bill without looking at the fiscal condition of the United States of America today. According to recent reports, Government spending, thanks to the Congress, grew at 12 percent. We are looking at a half a trillion budget deficit next year. We have gone from a $5 trillion surplus over the last few years to a multitrillion-dollar deficit. So what do we do? We are passing a bill that will increase the deficit by at least somewhere around $24 billion.

By the way, I am really sorry we have not gotten the bill. I understand it is 1,200 to 1,600 pages long. Of course, we are considering it without even having a chance to observe it, but it is printed in the RECORD. I imagine the RECORD is pretty big.

Adding to this feast, this bill also contains the other white meat. Of course, I am referring to pork. I fear for the passage of a 1,200-page, pork-laden bill. The outbreak of Washington trichinosis will be so severe we will be forced to have a field office for the Centers for Disease Control right next to the Capitol. I am not saying this will not generate some energy, not at all. It will fill the coffers of oil and gas corporations, propel corporate interests, and boost the deficit into the stratosphere.

Indeed, I have stated on several occasions the name of this bill should be the ''Leave No Lobbyist Behind Act of 2003.'' Given the magnitude of the largess offered in this bill, I hardly know where to begin. I feel somewhat like a mosquito in a nudist colony. I hardly know where to begin.

At a time when it is crucial for our national security and economic welfare that we pursue a new course toward energy independence and global environmental protection, the provisions in this bill take exactly the wrong direction: increasing our dependence on conventional fuels; increasing environmental degradation; increasing our energy use; increasing our national debt; and diminishing protection for consumers and public health.

Let's start at the top of the corporate subsidy heap. We have the biggest increase in corn and cash this Congress has ever seen, doubling the national ethanol mandate. A doubling. Gasohol production is the worst subsidy-laden energy use ever perpetrated on the American public, and it starts with sweet corn. Ten percent of the corn grown in this country is used to produce ethanol. Corn producers, like producers of other major crops, receive farm income and price supports.

Let me remind my colleagues in the 107th Congress this body passed a farm bill which appropriated more than $26 billion in direct assistance to corn growers over 6 years. That is an average of $4.3 billion in direct subsidies

each year just to corn growers. But obviously, they have not gotten enough. But add it up, and we are over $3 per gallon of ethanol.

The cost to consumers does not stop with the production of energy. Environmental costs of subsidized corn results in higher prices for meat, milk, and eggs because about 70 percent of corn grain is fed to livestock. A GAO report concluded, ''ethanol tax incentives have not significantly enhanced United States energy security since it reduced United States gasoline consumption by less than 1 percent.'' So if we double it, maybe we will have less than 2 percent. It takes more energy to make ethanol from grain than the combustion ethanol produces. Seventy percent more energy is required to produce ethanol than the energy actually in ethanol. Every time you make 1 gallon of ethanol there is a net energy loss.

The National Academy of Sciences concluded in 2000 that ''the use of commonly available oxygenates in Reformulated Gasoline (RFG) has little impact on improving ozone air quality and has some disadvantages.'' They found that oxygenates can lead to higher nitrous oxide emissions, ''which are more important in determining—ozone levels in some areas.''

Reformulated gasoline, without oxygenates like ethanol, are widely available and are superior to gasohol. California has started a program called the ''Cleaner Burning Gasoline,'' which has better fuel economy and overall efficiency than gasohol.

I believe it was in recognition of this fact that the House and Senate both passed Energy bills that would remove the Clean Air Act requirement to include an oxygenate in reformulated gasoline. But, the overall economic and environmental benefits of no longer requiring an oxygenate is wiped out by the $2 billion ethanol mandate doubling ethanol production in this bill.

Another subsidy for ethanol producers is a partial exemption for the motor fuels excise tax, which is paid to the Highway Trust Fund. Presently, corn-to-gasohol producers take a $.052 per gallon exemption from the $.18 per gallon excise tax fuel producers are required to pay into the Highway Trust Fund.

According to a recent General Accounting Office study, between 1979–2000, this exemption has cost the Highway Trust Fund between $7.5 and $11.2 billion.

While a tax credit in this bill, called the Volumetric Ethanol Excise Tax Credit Act of 2003, attempts to change this trend, it merely provides the option for gasohol producers to pay the entire $.18 per gallon excise tax to the Highway Trust Fund, and claim a $.052 per gallon credit on their income tax. The credit would come from general treasury funds, and leave the Highway Trust Fund income in place, most blenders will continue to take the exemption, which is an immediate discount, rather than switching to the credit. This is a useless provision which won't actually bolster the Highway Trust Fund, or the U.S. Treasury. In fact, with doubled ethanol usage, the Federal government stands to lose even more in fuel tax revenue in the upcoming years.

The national ethanol consumption in 2002 was 2.1 billion gallons. Multiply that by 52 cents per gallon, and you see how much revenue the highway trust fund has lost in excise tax in this past year alone. About $1.1 billion. How much more, then, of taxpayer funds, will be given back to the ethanol producers, as ethanol production and consumption doubles? The Joint Committee on Taxation estimates that the ethanol mandate will cost $2 billion over the next 5 years.

For decades the largest ethanol producer has been Archer Daniels Midland, producer of more than one-third of all ethanol in 2002, and whose nearest competitor has the capacity to produce one-tenth of ADM's capacity.

The excise tax exemption from ethanol has been estimated to account for more than $10 billion in subsidies to ADM—one corporation with $10 billion in subsidies—from 1980 to the late 1990s. In fact, it has been estimated that every dollar in profits earned by Archer Daniels Midland costs the taxpayers $30.

Speaking of highly objectionable fuel additives, I must join my colleagues who have spoken against the MTBE liability waiver.

Mr. President, it is an outrage to see a product liability waiver for producers of MTBE retroactive to September 5, 2003. This nullifies the lawsuits against MTBE producers that were filed after September 5, such as the case last year in the Superior Court in California, where a jury found that MTBE was a defective product and resulted in a settlement in which MTBE producers agreed to pay more than $50 million to clean up MTBE-contaminated water supplies.

Who is going to pay to clean it up now? This provision to shield MTBE producers from product liability could, according to the U.S. Conference of Mayors, cost taxpayers—taxpayers, not industry—$29 billion to clean up contaminated ground and surface water.

In 1998, the U.S. Geological Survey conducted an MTBE survey of water wells in industrial areas, commercial areas, residential areas, and mixed urban areas nationwide, and also estimated that cleaning up the MTBE-contaminated sites in soil and water nationwide is approximately $29 billion.

Just when you believe this bill cannot get any worse, it does.

Mr. President, $800 million—I usually go through these bills, and we find pork in the hundreds of millions, sometimes billions. This exceeds all of my past experiences. Mr. President, $800 million for a loan guarantee to subsidize the creation of a brandnew polluting, coal gasification plant in an economically depressed area of Minnesota. This new company, Excelsior Energy, was formed by lobbyists and executives with ties to a company that filed for bankruptcy after amassing a $9.2 billion debt and being fined $25 million for market manipulation.

This brand new giveaway, which was in neither the House nor Senate-passed Energy bills, is estimated to cost between $2 billion to $3 billion. While this technology turns coal into a synthetic gas that can be combusted more efficiently, coal plants continue to be a leading source of global warming and should not be subsidized with scarce taxpayer dollars. Further, this $800 million loan guarantee does not require Excelsior Energy to meet any concrete job creation goals or standards. In a time of $400 billion annual budget deficits, why should U.S. taxpayers cover the cost of a new plant that will not even guarantee jobs? Minnesota already has a powerplant owned by Exel Energy. Now they need Excelsior Energy, a new plant burning more carbon?

Mr. President, $95 million for a subsidy for a process known as ''thermal depolymerization.'' This is a good one. Now you can get a tax credit if you compress Turkey carcasses into energy. ConAgra Foods and Changing World Technologies, the two companies that would benefit from this giveaway, have built the only commercial ''thermal technology'' plant, which is located in Carthage, MO. The plant would convert poultry waste products from ConAgra's Butterball Turkey plant into energy.

After including their cash cows and all the polluter pork they could find, energy conferees have now moved on to tax breaks for turkey. I encourage my colleagues to save their leftover turkey this year after Thanksgiving dinner. Instead of making sandwiches the next day, how about turning in your poultry for a tax credit?

An amendment was added Monday night—Monday night—to authorize the lignite coal-fired electrical generating plant, which would employ clean coal technology to provide energy for a rapidly growing region. This amendment was not included in either the House or Senate passed energy bills.

Another provision that we understand was inserted at the eleventh hour, and was never reviewed by either the House or the Senate, would suspend important environmental reviews to facilitate the construction of uranium processing facilities in New Mexico by the consortium, Louisiana Energy Services. A Time magazine article that appeared earlier this year raised serious questions about one of the consortium members, which it characterized as ''a European consortium linked to leaks of enrichment technology to, yes, Iran, Iraq, and North Korea—as well as to Pakistan.'' The article in Time magazine quotes a high-level U.S. nuclear security administrator as saying ''to have this company operating in the

U.S. after it was the source of sensitive technology reaching foreign powers does raise serious concerns.''

I want to add, I do not know if that is true or not. I do not know if the Time magazine story is true or not. We do not know because we never had any scrutiny of the amendment. But I think it is a serious issue. I do not know.

In addition to possible security concerns suggested by the time article, this extraordinary rider raises critical environmental concerns.

Even though I understand that both Tennessee and Louisiana have rejected this facility, the Energy bill rider shortcuts the NEPA process and meaningful judicial review of the Environmental Impact Statement, for the construction of this facility in New Mexico. To add insult to injury, the provision further requires the Government to acquire the waste and dispose of it for a price that is possibly significantly less than the cost.

I ask unanimous consent the Time magazine article be printed in the RECORD.

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

[From Time Magazine, Jan. 21, 2003]

NUKES: TO PYONGYANG FROM NASHVILLE?

BACKERS OF A PROPOSED URANIUM ENRICHMENT PLANT HAVE A BAD HISTORY WITH KEEPING SECRETS

(By Adam Zagorin)

Is President Bush's ''axis of evil'' campaign about to be undermined in his own backyard? A proposed uranium enrichment facility planned in Hartsville, Tenn. (pop. 2,395) raises just that question. One of the plant's principle backers is URENCO, a European consortium linked to leaks of enrichment technology to, yes, Iran, Iraq, and North Korea—as well as to Pakistan.

Sources tell TIME that senior Bush appointees, upset by the ongoing crisis with North Korea, have held detailed discussions in recent days on the need to stop leaks of nuclear technology to rogue states. ''To have this company operate in the U.S. after it was the source of sensitive technology reaching foreign powers does raise serious concerns,'' a high-level U.S. nuclear security administrator told TIME, the first public comment by a Federal official on the proposed plant's ownership. ''The national security community or the new Homeland Security Department will need to look at this.''

Concerns about URENCO first emerged more than 10 years ago when thousands of centrifuge parts, based on URENCO designs, were discovered by U.N. inspectors in Iraq after the Gulf War. A one-time URENCO scientist, known as the ''father'' of Pakistan's nuclear bomb, is said to have taken URENCO centrifuge blueprints and information on the company's suppliers to his homeland, later passing similar sensitive material to North Korea and Iran.

The company that wants to build the new Tennessee enrichment plant is called Louisiana Energy Services. A consortium of U.S. and foreign companies in which URENCO has a major financial role, LES insists that the link between URENCO and nuclear proliferation is ''long ago and far-fetched at this point.'' URENCO itself has denied authorizing leaks of technology to rogue states.

The only previous attempt by LES to build an enrichment plant involved a multi-year effort in the 1990's targeting a small town in Louisiana. Closed Congressional hearings on Iraqi attempts to acquire nuclear weapons were held not long before, and delved into URENCO's record. Subsequently, powerful Michigan Democrat JOHN DINGELL raised concerns that the LES plant in Louisiana might violate provisions governing the movement of classified technology from foreign countries under the Federal Atomic Energy Act. That issue was never resolved, but LES gave up attempts to build the Louisiana facility amid controversy over its impact on nearby African-American residents.

With its latest effort in Tennessee, LES seems especially anxious to avoid a reprise of those controversies. In an unusual move, LES has asked for a greenlight from the Nuclear Regulatory Commission without the usual public comment on various environmental, safety and security issues. But groups like the Sierra Club and the National Resources Defense Council contend that this will simply, ''reduce the . . . licensing procedure to a flimsy rubber stamp.'' LES plans to file its 3,000 page license application with the Federal government by January 30, to be followed by a review process that could take at least a year.

Also controversial are unanswered questions about the disposal of the Tennessee plant's radioactive waste. Officials in Tennessee have reached a tentative agreement with LES to cap the amount of waste and, last week, the company announced that the material would not stay in Tennessee permanently. But it offered no details as to where the waste might be transferred, a process that can be subject to complex federal licensing procedures.

So far few Tennessee politicians have taken a position on the new enrichment plant. That includes Sen. BILL FRIST, the new Senate Majority Leader, who has remained neutral on the proposed plant in his home state. But he plans to follow the debate ''very closely,'' says an aide.

Mr. MCCAIN. There are also four proposals known as green bonds that will cost taxpayers $227 million to finance approximately $2 billion in private bonds. One of my favorite green bond proposals is a $150 million riverfront area in Shreveport, LA. This riverwalk has about 50 stores, a movie theater, and a bowling alley. One of the new tenants in this Louisiana riverwalk is a Hooters restaurant. Yes, my friends, an Energy bill subsidizing Hooters and polluters, probably giving new meaning to the phrase ''budget busters.'' Although I am sure there is a great deal of energy expended at Hooters, I have never been present. Perhaps something has been missing in my life.

This bill was developed in a secret, exclusive, partisan process, but it is no secret anymore. In the last few days, editorials have appeared in papers throughout the country. Here are a few choice words from various papers.

One thing that is worthy of note, Mr. President, is that for the first time in my memory, the New York Times and the Wall Street Journal both editorialize strongly against this bill. It is on the rarest of occasions that the Wall Street Journal and the New York Times—the Wall Street Journal: ''The Grassley Rain Forest Act,'' which refers to: ''Special applause goes to Senator Chuck Grassley for grabbing millions to build an indoor rain forest and a million-gallon aquarium in lush, tropical Iowa. ''

Of course, the New York Times editorial, titled ''A Shortage of Energy,'' describes how the bill is a very serious one. Today China's message on energy—where it goes into a report from China—is that the Chinese are worried about their increasing reliance on foreign oil. The difference is, the Chinese are ready to do something about it, where Congress is not. Indeed, loopholes in the Energy bill could make American cars less efficient than they are. While the Chinese say their main concern is oil dependency, not global warming, more efficient cars should help on that, too. And where are our American leaders? Feathering nests rather than imposing discipline on the Nation's fuel use.

I will not go through all of the editorials that I have seen, but it is overwhelming. Everybody who has looked at this bill realizes that it is a terrible mistake. It seems to me that this is the result of a broken process, a process that is conducted behind closed doors.

I still do not have the bill in front of me. None of us do. I guess it is printed in the RECORD. I understand, because it is 1,200 pages long, the RECORD might be long.

There was very little, if any, consultation with other Members of the Senate. My understanding is the Democratic side was cut out of it completely. And we are given a few short hours to examine a 1,200-page ''Energy bill.''

I want to return to my initial comments. It is serious when we are looking at a $½ trillion debt next year, when we have growth in the size of Government of 12 percent. What has happened to the Republican Party? What has happened to the balanced budget amendment to the Constitution? What has happened to the lockbox where we were going to take your Social Security money and put it into an account with your name on it? Instead, we have a $20 billion and some energy bill loaded with wasteful porkbarrel projects most of us had not either seen or heard of until the last few hours.

I hope we can muster 40 votes—I hope so—because I think we have to restore some kind of fiscal sanity, some kind of environmental sanity to this Nation. This legislative process needs to be fixed.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I see the manager of the bill. Senator DORGAN is going to speak. It is my understanding that Senator COLLINS wishes to speak following Senator DORGAN. Does Senator DOMENICI wish to speak in between?

Mr. DOMENICI. No, I think I will wait.

Mr. REID. Does the Senator from Maine have an idea how long she is going to speak?

Ms. COLLINS. I say to the Senator from Nevada, about 12 minutes.

Mr. REID. Mr. President, I ask unanimous consent that she be given 15 minutes.

On our side, the next speaker would be Senator AKAKA. As we have done during this day, we have gone back and forth on speakers, so after Senator COLLINS, Senator AKAKA would be recognized.

Would you like to be recognized after Senator COLLINS?

Mr. DOMENICI. That is what I thought I said.

Mr. REID. And do you have any idea how long you wish to speak?

Mr. DOMENICI. Ten minutes.

Mr. REID. So Senator DOMENICI for 15 minutes and then Senator AKAKA. How long would he like?

Mr. DOMENICI. Could we substitute Senator INHOFE for me and my 10 minutes and I will come later?

Mr. INHOFE. Let's say 15. It probably will be 10.

Mr. REID. Just so we don't get the time out of balance, Senator AKAKA wants 30 minutes. So Senator DOMENICI would follow Senator INHOFE. Because we are taking a little extra time here, we would have two Republican speakers, INHOFE for 15 minutes and DOMENICI for 15 minutes following Senator AKAKA.

Mr. INHOFE. Let me make a request of the assistant minority leader. Since Senator AKAKA is going to take 30 minutes, would it be possible, after the conclusion of the remarks by Senator DORGAN and Senator COLLINS, to have me go so we would have two at this point and then go to Senator AKAKA for 30 minutes?

Mr. REID. That would be fine. He would be followed by Senator DOMENICI, and then we would have Senator JACK REED go after that for 20 minutes. Senator AKAKA for 30 and Senator REED for 20. I so ask the Chair to approve our unanimous consent request.

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

The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have had the opportunity to listen to some of the presentations today. I especially listened to my colleague from Arizona and found it interesting. This is a serious discussion for the Congress. I find much with which to agree with virtually all of my colleagues.

My friend from Arizona just described the serious fiscal policy problem. He says we are spending more money. He mentioned the Congress. It is true that spending is up substantially. The President has recommended very large spending increases for the military budget, very large spending increases for homeland security, very substantial cuts in revenue. We have a fiscal policy that does not add up. There is no question about that. It starts with the President's fiscal policy and begins and ends as well with the Congress. But we have to have a fiscal policy that adds up.

Our economy is dependent on energy. If we don't put in place an energy policy that addresses our concerns about energy and the need for this economy to be satisfied with the energy that is required, we won't have an economy that produces revenue and jobs. If, God forbid, tomorrow night a terrorist interrupted the supply of foreign oil, our economy would be flat on its back. Fifty-five percent of that which we use, in terms of oil resources, comes from outside our borders. Much of it from troubled regions of the world.

I have said for a long while that we need to do four things in an Energy bill. We need to incentivize additional production. The fact is, I want to see us move towards a different energy construct and a different energy future.

But we are going to use fossil fuels in our future. We are going to use coal, oil, and natural gas. So the question is, how do we incentivize additional production of those fossil fuels while at the same time protecting our country's environment, and then, importantly, how do we conserve? A barrel of oil saved is equal to a barrel of oil produced. Conservation is a very important part of an Energy bill. So you have production and conservation. Third, you have efficiency. The efficiency of all the appliances and the things we use in our daily lives is a very important area of conservation.

And fourth, and very important, the issue of renewable and limitless sources and supplies of energy. Those four things need to be in energy legislation.

I will describe what is wrong with this bill, and there is plenty. This bill was, in my judgment, constructed behind closed doors in a manner that was arrogant. It is not going to happen again. Never again are we going to allow conferees to be appointed here in the Senate and then have a conference in which Democrats are told they can't participate. That is what happened in this conference. That is not going to happen again. The next time someone asks consent to appoint conferees, we are going to ask the prospective chairman of that conference, Is this going to be a conference in which you close the doors and do it in secret with no Democrats included? Because, if so, you don't get consent. We are sorry. We are not going to proceed. This will not happen again because it is arrogant. It should not have happened this time. The process was wrong.

Let me talk about what that process has wrought. Some good things and some not so good. My colleagues have raised a series of concerns and objections about this bill. I agree with many of them.

I offered an amendment in the conference committee to deal with MTBE and strip the provision out of this bill that provides protection for those oil companies that produce MTBE, the fuel additive. That amendment was defeated. But I offered that amendment because I feel strongly that this protection should not be in this bill. I strongly supported the amendment to put the Renewable Portfolio Standard in this bill. It ought to be in the bill.

The failure to include the 10-percent requirement for electric utilities to produce electricity, 10 percent of their electricity from renewable sources, that requirement needs to be in energy legislation. It is not here. That is a serious deficiency. There are others.

Let me also say that this bill has some elements that are important. In the area of production, providing incentives for production in certain areas is very important. Let me take coal as an example. Coal can cause some very serious consequences for our environment. But we are going to continue to use coal. So we need an aggressive provision in the legislation dealing with clean coal technology so that we can use coal in a manner that is not degrading to our environment. There is a very serious attempt in this bill to address clean coal technology.

This piece of legislation deals perhaps more aggressively than we have ever contemplated with respect to renewable and limitless sources of energy.

Wind energy. This extends the production tax credit for 3 years. We will see the unleashing, I believe, of substantial new projects to build wind farms in which you take energy from the wind and you extend America's energy supply. That will happen as a result of this bill.

Biodiesel, biofuels, a range of areas dealing with renewable sources of energy, are incentivized in a significant way in this piece of legislation.

My colleague spoke about ethanol. One of the strongest provisions in the bill, in my judgment, is doubling the requirement for ethanol in this country. We are banning MTBE, and for good reason. We are going to replace it with ethanol and double, to 5 billion gallons, the production of ethanol. Don't tell me that isn't good for this country. It is good to extend our energy supply by growing energy in the fields, and it is renewable. You can do it year after year. It produces new markets for family farmers, extends our energy supply, and is good for this country's environment.

Those who call ethanol a boondoggle, in my judgment, don't understand it. It is far preferable to extend our energy supply by growing energy in our fields, producing the agricultural commodity from which you extract the alcohol to make ethanol, have the protein feedstock for animals, extend our energy supply, clean our air, and relieve our dependence on foreign oil. That is a huge step forward for this country. It is not a boondoggle, it is good public policy.

Now let me talk about conservation just a bit. One of the things I have been very concerned about is something called efficiency. This deals with all the things we use every day—stoves,

refrigerators, toasters, air-conditioners—these appliances all use electricity. What are the efficiency standards by which we should aspire to conserve electricity and energy?

This bill includes nearly the identical efficiency standards that we wrote as Democrats when we controlled the Senate. That title, in this bill, is a good one. I support that title. It promotes conservation in a strong and positive way.

I believe my colleagues who talk about deficiencies in this bill with respect to the areas dealing with consumer protections are right. I am very concerned about that. But with respect to electricity reliability, the standards in this bill are good ones. They address the issues, not all, but most of the issues that are related to the recent blackouts, which caused electricity outages for 50 million people in this country.

As I mentioned before, there are several things in this bill I don't like. As I reviewed this measure last weekend, I asked myself whether or not we would advance this country's interest if we passed this legislation? I concluded that, yes, we would. But, we leave a lot behind. There will be a lot left to do and to correct if we pass this legislation, but, nevertheless, I concluded that deciding not to embrace the advancements in renewable and limitless supplies of energy would be a mistake. Deciding not to embrace those reliability portions in the bill would be a mistake because we need them. Deciding not to have the clean coal technology that will allow us to continue to use coal without degrading our environment—it would be a mistake not to embrace that.

To decide not to embrace the efficiency standards in this bill for virtually all of the appliances we use would be a mistake.

MTBE should not have been included and I tried hard to take it out. There are other provisions in this legislation that I don't like and they ought to be taken out as well. There are provisions that should be in the bill that are not there. The protections for consumers should have been stronger. If we are going to repeal PUHCA, then we need strong provisions protecting consumers. This falls short, in my judgment.

However, I believe, on balance, this legislation will advance our country's interests in energy production, and we need to produce more. Additionally, I believe this legislation charts a new course that looks at a different kind of energy future, a future I strongly support. That future is hydrogen and hydrogen fuel cells. I have been working on this initiative for a number of years, believing we cannot continue to run gasoline through carburetors. We cannot continue, as we have for a century, to just stick liquid gasoline through the carburetors and decide that is what our future is going to be. That is our past and we should realize if we keep doing that, we lose.

When we began producing automobiles in this country a century ago, we put gasoline through the carburetor. Do you know what we do with a 2003 car? We put gasoline through the carburetor.

The power from that gasoline is much less efficient than going to a different kind of energy future, using hydrogen and fuel cells, which would double the efficiency of getting power to the wheel. Hydrogen is everywhere. We can produce it, we can transport it, we can store it, and we can move toward a different future that will relieve us of our dependence on foreign oil.

I believe strongly that the $2.15 billion in this bill for the hydrogen initiative should have been doubled. I fought like the dickens on the floor of the Senate and elsewhere for an increase in this funding. It did not happen. The fact is, a $2 billion start is not insignificant.

The President proposed in his State of the Union Address something I had already introduced in the Congress as legislation, which is that we move toward hydrogen and fuel cells, as a new energy future. The reason it is important and the reason I support it is because the fastest rising part of our energy consumption is transportation. Why? Because we have decided our automobile fleet has, is, and perhaps always will be a fleet that has a carburetor through which you run gasoline. That doesn't make any sense to me.

We need to make a decision at this point. Let's pole-vault over some of these issues and create a new type of energy future. Some environmental organizations said that when the President proposed this initiative in his State of the Union he was just making an excuse not to deal with CAFE standards, and so forth.

I don't know what the motives are at the White House. I disagree with the President on a lot of things. But I do know this: If we just keep thinking that 25 years from now, and 50 years from now, our kids, their kids, and their grandkids ought to be running gasoline through carburetors, we lose. That is a philosophy of yesterday forever. I don't believe it satisfies the interests and the needs of this country.

You cannot be a world economic power without addressing the issue of energy. We use an enormous amount of energy. We need strong conservation standards, and, frankly, I looked at this bill skeptically last Saturday morning because I worried that the efficiency standards would not be there. But they were—almost the same standards we produced as a Democratic committee when we controlled the Senate.

We need conservation and incentives for new production of fossil fuels in a way that protects our environment. We need strong incentives for the use of renewables. But as important as those measures are, we also need to think differently about the future. That is why the hydrogen title in this piece of legislation is a step in the right direction.

My colleague from New Mexico is in the Chamber. He will not like the fact that when I started I said this process was an arrogant one. I told him during the process, at a time when I was a conferee and was locked out of the meetings, on the floor—and I don't care whether he likes my saying this or not—''You would not accept that in a million years. You would be shouting from the rooftops.''

Again, because my colleague wasn't in the Chamber, this process was awful. This process will not happen again because we will not allow conferees to be appointed—we simply won't allow that—until the prospective chairpersons from the House and Senate agree to have real conferences, where both parties are allowed to have substantive discussions on the pending legislation.

Having said all that, and being upset about the way this conference process worked, my main interest today is what is in this legislation for the country. Does it advance this country's interests or does it retard them? Is this a huge giveaway that does nothing to address the country's energy interests? Is it just laden with pork? Is it worthless? Should we start over?

As I look at this bill in the four areas I talked about a year ago—production—production that is sensitive to the environment; conservation—conservation that is real; efficiency—efficiency that really does address those products that we use every day in our lives and the standards by which we improve them and make them more efficient; and finally, limitless and renewable sources of energy—in every one of those four categories, I think this legislation has provisions that commend it for the future of this country.

I can think of probably a dozen areas that I want to strip out of this bill, and I can think of a dozen provisions I want to put in this bill. I can't do that because this is a conference report, and also because I had limited opportunity to do it the other evening when we had a bifurcated, abbreviated conference.

Having said all that, I don't think in this Chamber you ever give up. The Renewable Portfolio Standard, that is coming. It was kept out of this legislation in conference because some people had the clout to do that, but it is going to happen. As sure as I stand at this desk in the Senate, I will demand and enough of my colleagues will demand, a renewable portfolio standard by which we say to the electric utilities in this country that 10 percent of what you produce must come from renewable energy. As sure as I am standing here, it is going to happen because we will make it happen. Not in this bill because it is a conference report and we cannot amend it.

The question is not what is left out or what is in. The question is, Does this product in the aggregate promote this Nation's energy interest as we move forward? Does it advance us or retard

us in terms of our desire to do something about energy? Although it is a tough choice, I conclude the right choice is to adopt this conference report.

I regret that I disagree with some of my colleagues. I am usually on the floor fighting for the same interests for which they fight for. I don't come to the floor to challenge their assertion that the MTBE provisions shouldn't be in here. I happen to agree with them. I don't challenge their assertion that there should be better consumer protections. I agree with them. But I also hope they understand that when you take a look at a bill which has something that is historic in renewable fuels and limitless fuels, limitless sources of energy—yes, ethanol especially, but wind energy, solar, and so many other areas of renewable energy—and when you have legislation that has real and significant standards of efficiency that represent significant conservation, and when you have legislation that incentivizes the current production of fossil fuels in a way that allows us to continue to use them in a manner that is safe for our environment, such as the aggressive use of clean coal technology, in my judgment—speaking only for myself—that meets the standard of deciding whether or not this legislation advances our country's interests.

Let us pass what is good and fix what is wrong. We have time to do that as we move ahead in the coming years.

For all of those reasons, I choose to advance this legislation.

Mr. President, I yield the floor.

Mr. DOMENICI. Will the Senator yield before he yields the floor?

Mr. DORGAN. I will be happy to yield.

Mr. DOMENICI. Mr. President, I have on my right a diagram. I wish it were bigger, but I think the Senator from North Dakota can see it.

The Senator spoke about midway through his speech about our growing dependence, and one of the dependencies he spoke of was natural gas. It is almost incredible—we should show the American people this diagram for them to see what has been happening to their country—the red or pink is the annual use of natural gas in our generating capacity for electricity. If we look back to 1990, the pink is hardly a little sliver, and go out to 2003 and we see that almost the entire generating capacity of the country is natural gas.

As the Senator from North Dakota has so eloquently stated this afternoon, it is clear we can't continue down that path. We have to do something about it.

First, I will take whatever criticism he has lodged today with reference to how the bill evolved. I guess it is pretty fair to say that very few people get the luxury, privilege—or whatever it is—of having to write one from beginning to end and get it to the floor. I was given that privilege this year. It could have been done a different way, some of which the Senator from North Dakota has suggested. For that I thank him, and I hope we will do better if we have a chance again.

I also think that his genuine interest in hydrogen as a fuel is not going to go unnoticed. He is right out there ahead of everybody, and he is right.

Some people stand up and tell us: Why don't you change the CAFE standards and reduce dramatically the fuel use of each car that Americans drive? I don't know how the Senator from North Dakota feels about it, but I have been at it long enough to know that the Senate will not do it and the House will not do it. The question is to find another way to do it.

I think Senator DORGAN's notion of having to use another fuel is the appropriate one to be putting our resources, our energy, and our enthusiasm behind with our major researchers and our major companies. If what we got in here is not sufficient, I will join Senator DORGAN as soon as we can and try to put in more.

I would like to see what they do with some of the agreements that are advocated for the use of this money and how we use our technology to heat up that hydrogen so it is usable. I am sure Senator DORGAN would like to see that happen soon, too.

I thank the Senator from North Dakota for his words. Whether they be words that agree with me or words that disagree, I think his conclusion is the one that a vast majority of Senators should make, that we should not throw this package away. We should do it. I know one of his interests is ethanol, and I don't say this just because it happens to be a big interest of his, but there is no question that part of the bill that was hardest to get, and it took the longest and it made most of us frustrated was how do we get that maximum ethanol issue quantity that he described today. It was nigh unto impossible to get the numbers out of the House and out of their writing committees, but we did. We do not get any of these provisions, I regret to say, unilaterally, unscathed, with no commitments of any kind extracted. I am just hopeful that the good outweighs the bad in terms of the compromises we made to get us there.

In my State and Senator DORGAN's State and adjoining States, there are thousands of people who see this bill a little differently than some of those who don't care about ethanol. I heard a Senator say that wouldn't be part of a bill because he didn't think we even should do it, but I don't think that is the Senator's people. I don't think it is the thousands of people represented by these letters of support.

Second, the Senator from North Dakota is absolutely right on renewable resources. We are beginning to make a big show as Americans—solar, wind is beginning to kick up its heels. We have a very powerful tax incentive in this bill. If this bill doesn't pass, it doesn't exist. If it doesn't exist, I don't know what happens to the fast start and the moving along of these technologies. I am not sure.

I have been told by the biggest manufacturers and those who sell this energy that it will stop. Windmills will stop turning within 3 or 4 months because the tax credit will disappear. I don't want that to happen, especially since we are making some very big headway.

I thank the Senator. I yield the floor.

Mr. DORGAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. GREGG). The Senator has 6 minutes.

Mr. DORGAN. Mr. President, let me say with respect to wind energy, if the production tax credit isn't extended, the windmills will not stop turning. We have very efficient turbines, but the projects that are already planned and ready to go simply will not happen. We won't have the initial capacity for wind energy because without the production tax credit, it will not exist.

Let me make this point. If energy policy is analogous to a novel, then this is a chapter, and we might well decide this chapter ought to be rejected. I come to the conclusion that it is a chapter that is probably worthwhile and is a starting point. I want to at some point in the future amend it, change it, and improve it, but the choice for us is: Do we do nothing and pray that we don't have further blackouts or further price spikes, or, God forbid, a terrorist interrupting the supply of energy?

Or do we enact the proposed legislation and consider it the first brick of a foundation by which we start to construct an energy policy that provides the best of what both political parties has to offer? I come down on the side of believing this ought to be advanced.

There are a series of things I have explained that I believe are important in this legislation, so I will make one final point. Earlier, my colleague from Arizona talked about the cost of this bill. We have a $10 trillion to $11 trillion economy. This economy will only grow if it has a supply of energy. If tomorrow, for some reason, our supply of foreign oil were shut off, this American economy would be lying flat on its back. Talk about consequences for jobs and devastating consequences to opportunities in this country. We have to think through all of this and plan ahead.

This legislation is not as comprehensive, as wise, or as bold as I hoped it would be, but it is a start. I go back to the issue of hydrogen. My colleague talked about natural gas. We are going to face natural gas price spikes again this winter. We have serious supply problems. We have significant problems in a range of energy sectors, in the short and intermediary term with respect to supply and demand. I think we should offer no apology for supporting increased efforts to produce additional fossil fuels. We have to do that.

This legislation has something very important in it dealing with clean coal technology, which I strongly support. So I again regret that I come to a different conclusion than some of my colleagues. I hope my conclusion is right. At this point, as I look at this country's needs and as I balance legislation that has some good features to it, some good titles in it, with some things that should never have been put in it, as I balance all of that, I ask the question: Does this advance the country's energy interest? Do I believe on balance that it makes sense to proceed? The answer for me is yes, and that is why I intend to vote to support this conference report.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized for 15 minutes.

Ms. COLLINS. Mr. President, I rise to express my strong opposition to the conference agreement on the Energy bill we are debating today.

Our Nation needs a balanced energy policy that will increase supply, decrease demand, reduce our reliance on foreign oil, and protect our environment. Unfortunately, the Energy legislation before us fails to strike this necessary balance. In fact, it would be poor energy policy, poor environmental policy, and poor fiscal policy. It favors special interests, it contains billions of dollars in wasteful subsidies, and it fails to promote energy conservation. It would be bad for Maine's electricity consumers, it would be bad for Maine's manufacturers, and it would be bad for Maine's environment.

I am very disappointed that the renewable energy provision that I coauthored with Senator BINGAMAN was not included in the final version of this legislation. This provision would have required that 10 percent of our electricity come from clean, renewable energy sources by the year 2020. A majority of the Senate conferees voted in favor of this proposal, but unfortunately the House voted to remove it, thus passing up an important opportunity to increase fuel diversity, decrease natural gas prices, and reduce greenhouse gases.

This legislation would do very little to reduce our dangerous and increasing reliance on foreign fuels. The United States is nearly 60 percent reliant on foreign oil, and this number is projected to increase in the coming years, reaching as high as 70 or even 75 percent in the next decade to 15 years.

Senators LANDRIEU and SPECTER and I joined to offer an amendment to the Senate Energy version that directed the President to devise a plan to save 1 million barrels of oil per day by the year 2013. We did not dictate how that should be done. It could be done by increasing fuel efficiency standards for our trucks and cars. It could be done by moving toward more energy-efficient appliances. There are many ways that goal could be accomplished.

Not surprisingly, our amendment enjoyed widespread support in the Senate. In fact, it passed by a vote of 99 to 1. Inexplicably, the conferees voted to drop that provision from the final bill.

This legislation also contains numerous wasteful and very expensive subsidies, including a 5-billion-gallon ethanol mandate that will subsidize corn production in the Midwest at the expense of higher gas prices in New England. Ethanol is more expensive than gasoline. It is difficult to transport, it is of dubious value to the environment, and it does little to reduce our reliance on foreign fuels. In fact, studies show that it takes about 4 gallons of oil to produce 5 gallons of ethanol. If the goal were to reduce reliance on foreign fuels, we would be much better off increasing automobile fuel economy standards or mandating other achievable efficiency improvements.

The liability waiver for MTBE manufacturers also does not belong in this bill. The gasoline additive MTBE is a suspected carcinogen and has contaminated a number of ground water supplies in my home State of Maine, and I know it is also a problem in the home State of the Presiding Officer.

In 1998, for example, a ground water system serving 5,000 people and operated by the Portland Water District was contaminated by MTBE. This incident cost the Portland water district $1.5 million. The liability provisions in this legislation will leave MTBE manufacturers with little incentive to help clean up contaminated water supplies. The likely result will be that municipal ratepayers will have to shoulder a majority of the cleanup costs.

The electricity title of this bill is particularly troubling to me because it is biased against the Northeast. Three months ago, the largest blackout in our Nation's history illustrated the fundamental flaws in a haphazard and poorly regulated electricity market.

Just today, the General Accounting Office, at my request, released a new report on electricity restructuring that analyzed the blackout and identified what steps should be taken to ensure greater reliability of the electric grid. Unfortunately, the recommendations that are in the GAO report fly in the face of what has been done in the legislation we are debating today.

Electricity regulators in the areas most affected by the blackout in the Northeast and the Midwest have stated that the Federal Energy Regulatory Commission, known as FERC, needs to move ahead with standardized electricity markets in order to improve the reliability of our markets. Since electricity flows across power lines without regard to State boundaries, we need clear and consistent electricity rules that apply to the entire Nation. Unfortunately, this legislation would actually prohibit FERC from moving ahead with standardized markets for another 3 years. I am astounded by that.

Earlier this year, many of us representing States in both the Northeast and the Midwest wrote to the conferees to share our views on the electricity issues that were being debated in the conference. We quoted our regulators on the impact of delaying these FERC rules. Specifically, we stated:

> Our States feel strongly that any delay of SMD [the standard market design] hurts efforts to provide reasonably priced and reliable electricity to consumers and businesses.

In fact, Ohio Governor Bob Taft, in testimony before the House Energy and Commerce Committee, stated that he believes that any delay would ''impose an intolerable risk on the nation.''

He went on to say:

> We urge you to reject proposals to further delay FERC's ability to address issues which have a direct effect on the cost and reliability of electricity, for millions of our constituents.

Mr. President, I ask unanimous consent the letters we sent to the conferees be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Ms. COLLINS. Mr. President, in view of our urging the conferees to not interfere with FERC going ahead with these commonsense and necessary regulations, you can imagine my disappointment to discover that this bill, in fact, delays these regulations by FERC for 3 years.

I am also very troubled by the subsidies for pollution control equipment for some of our Nation's dirtiest powerplants. Why should taxpayers pay for pollution control technologies for 40-year-old coal-fired powerplants that were grandfathered under the Clean Air Act? Recently, when three advanced natural gas plants were built in Maine, these plants installed state-of-the-art, advanced pollution control technologies without any subsidies, without being subsidized by the American taxpayers. The cost of this technology was borne by electricity consumers in the State of Maine and other States in the Northeast. The cost of electricity from the oldest coal-fired powerplants has long been subsidized through exemptions from the pollution controls mandated by the Clean Air Act. To further this subsidy by authorizing billions—billions—of taxpayer subsidies for the dirtiest plants makes no sense at all, and it will have the effect of continuing to ensure a disparity in the price of electricity between regions in which pollution and other costs are subsidized and regions such as ours, in New England, which are not the beneficiary of these subsidies. That is not fair. It is not fair to our taxpayers, and it is not fair to our electricity consumers.

I am further disappointed by the inclusion of language in the electricity title which will undercut the nationwide development of clean power generation. This language, which is known as the participant funding language, effectively negates the benefits of the combined heat and power provisions that Senator CARPER and I worked so

hard to include in this bill. The participant funding language actually creates a disincentive for clean energy generation by allowing monopoly utilities to shift the costs of transmission upgrades onto clean power generation, such as combined heat and power—the cogeneration plants.

This provision is particularly harmful to our manufacturers, many of whom use combined heat and power to generate products and jobs.

The last thing we need in this country is another disincentive for our manufacturers. In the Northeast in particular, manufacturers are already struggling to cope with high electric rates. The last thing we should be doing is shifting more of the costs on to them.

The legislation would also increase greenhouse gas emissions, waste natural gas and other already scarce fuels, and harm air quality.

The bill's failure to address climate change is yet another disappointment. It seems a near certainty that greenhouse gas emissions will increase by hundreds of millions of tons under this legislation. Yet the entire climate change title has been stripped from this bill. If we are going to spend billions of dollars on oil and gas and coal projects that will increase greenhouse gas emissions, then at least we should determine whether such an increase in emissions could cause an abrupt and potentially dangerous change in our climate.

Unfortunately, the abrupt climate change provisions that I authored were also omitted from the final version of the bill.

In summary, this bill does not offer the balanced energy policy that America needs. It does not do enough to increase energy efficiency or renewable energy. It does not promote conservation. It does not protect our environment. It does not give FERC adequate authority to provide reliable electricity markets. And it will not reduce our reliance on foreign oil.

I cannot in good conscience vote in favor of ending the debate on this legislation, and I call on my colleagues to take a close look at the provisions of this bill. I believe as they delve into this bill they will realize that it is fundamentally flawed and should be rejected.

In doing so, we would save the taxpayers some $80 billion, and we would signal our support for a more balanced energy policy for this Nation.

I yield the remainder of my time.

EXHIBIT 1

U.S. SENATE,
Washington, DC, July 25, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.
Hon. JEFF BINGAMAN,
Ranking Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DOMENICI AND RANKING MEMBER BINGAMAN: We are writing to urge you to continue our nation's efforts to move toward competitive wholesale electricity markets that will benefit consumers and businesses. National competitive markets, where multiple buyers and sellers can negotiate bargains and pass cost savings along to consumers, are the best approach to the challenges facing the electricity industry.

We would like to bring to your attention a number of issues addressed in the electricity title of the Senate Energy Bill (S. 14) that have implications for residents and businesses in the Northeast-Midwest region.

Delay of Standard Market Design—S. 14 and the proposed substitute amendment delays the implementation of the Federal Energy Regulatory Commission's (FERC) standard market design until July 2005. Electricity markets have outgrown state boundaries. We are writing to express our concern with the proposed delay of standard market design and the provision to make participation in regional transmission organizations voluntary. The delay has serious implications for residents and businesses in the Northeast-Midwest region and throughout the nation.

A standard market design would streamline the wholesale electricity industry, encourage transmission investments and move the lower 48 states toward a more competitive electricity market. Congested power lines, which are the result of the current electricity system, cost customers and businesses throughout the United States billions of dollars each year, whereas competitive wholesale power markets could deliver billions of dollars in economic benefits.

Schwab Capital Markets detailed the importance of standardized markets to increasing investment in our nation's transmission grid and electricity generation.

Testifying before the House Subcommittee on Energy and Air Quality, Christine Tezak with Schwab states: ''We believe that capital will be less expensive for all market participants if FERC continues (and is permitted to continue) its efforts to provide reasonably clear and consistent rules for this business . . . Schwab WRG continues to view continued efforts to move forward with the restructuring of the electricity industry to be the best investment environment for the widest variety of participants in the electricity marketplace—whether they provide generation, transmission, distribution or a combination of these services—and most importantly, the most likely to provide sustained long-term benefits to consumers.'' Further, Ms. Tezak stated: ''Congress needs to decide whether or not it still believes in the 1992 Energy Policy Act. Today, Congress is becoming an increasing part of the reason capital is hard to attract to this business. Congress is calling for FERC to slow down, Wall Street is frustrated FERC won't move faster.''

S. 14 makes participation of federal utilities in Regional Transmission Organizations voluntary. Federal taxpayer dollars were used to develop and maintain Federal power marketing agencies such as the Tennessee Valley Authority and Bonneville Power. The energy generated by these facilities should benefit all Americans. TVA and Bonneville should be required to participate in RTOs so communities throughout the United States have access to the power generated at these Federal facilities.

The Energy Bill must put national interest above the interest of a few vertically-integrated utilities that want to maintain regional monopolies. We encourage you to support standardizing electricity markets and prevent further delay of these efforts.

Participant Funding—S. 14 and the proposed substitute amendment directs FERC to establish rules to ''ensure that the costs of any transmission expansion interconnection be allocated in such a way that all users of the affected transmission system bear the appropriate share of costs.'' The language requires FERC to fairly align the costs and benefits of transmission upgrades, a judgment that can include a consideration of relevant local factors. This is not only the most equitable approach but also the one most likely to ensure that transmission development will keep pace with growing electricity demand.

Combined Heat and Power—S. 14 currently contains the ''Carper-Collins'' language which keeps in place incentives to operate combined heat and power facilities until true competition exists in electricity markets. This language retains, for a limited time, the provisions of the Public Utility Regulatory Policy Act (PURPA) which require utilities to provide back-up power and buy electricity from qualifying combined heat and power facilities. As soon as competitive electricity markets are established, these requirements are repealed. Since combined heat and power saves energy, reduces greenhouse gas emissions, increases energy independence, and is good for the competitiveness of American manufacturing, we urge you to retain such provisions.

We urge you to complete the work Congress started with the Energy Policy Act of 1992 to provide reliable, low-cost electricity to customers. Please stand strong against pressure to reverse court on Congress' efforts to establish better working, competitive markets, and to continue working towards competitive electricity markets.

Sincerely,

Jack Reed, Olympia J. Snowe, Edward M. Kennedy, Arlen Specter, Susan M. Collins, Debbie Stabenow, Frank Lautenberg, Carl Levin.

U.S. SENATE,
Washington, DC, September 22, 2003.

Hon. PETE DOMENICI,
Chairman, Senate Energy Committee, Washington, DC.
Hon. JEFF BINGAMAN,
Ranking Member, Senate Energy Committee, Washington, DC.

DEAR CHAIRMAN DOMENICI AND RANKING MEMBER: As the Conference Committee on the Energy Policy Act of 2003 continues its deliberations, we would like to bring to your attention an issue of great concern to us.

We believe the Energy Bill must set forth a policy that will complete the work that Congress started with the Energy Policy Act of 1992. The vision of Congress and President George H.W. Bush in 1992 was to transition our nation's electricity industry to competitive wholesale power markets. The vision of today's Congress should be to complete the transition to competitive markets by allowing the Wholesale Power Market Platform (WMP) of the Federal Energy Regulatory Commission (FERC) to move forward.

Wholesale power markets remain the best approach to optimizing our country's energy resources by increasing generation efficiencies, stimulating investment in new technologies and infrastructure, providing greater choice in energy sources, especially in renewable power, and passing cost savings onto consumers. Wholesale power markets have naturally grown into regional bodies, spanning multiple state boundaries. The recent blackouts that impacted many of our states clearly illustrate the regional nature of our electricity grid. Events that occur in one state have impacts in other states.

Moreover, while we respect the need for certain regional variations among power market structures, we firmly believe that any Energy Bill should not harm those regions of the country that want to move forward with efforts to bring the benefits of

competitive power markets to consumers. Accordingly, we urge the passing of an Energy bill that will appropriately reflect the physical and business realities of the electricity business by allowing the FERC to implement its WMP.

The FERC's Standard Market Design proposal and subsequent Wholesale Power Market Platform are the logical and necessary responses to the problems experienced by nascent regional wholesale power markets. WMP seeks to standardize market rules while adhering to regional variations and allows FERC to oversee the process of Regional Transmission Organization (RTO) formation and participation. The timely implementation of WMP is critical in achieving the efficient, seamless, and non-discriminatory wholesale power markets that will optimize our nation's energy resources. Delay will only serve to further injure much needed investment in generation, transmission and demand response facilities that are the foundation of our nation's economic well-being.

The health of our state economies depends upon the free flow of interstate commerce governed at the federal level to ensure consistent, clear and fair laws over state lines. Similarly, vibrant competitive power markets rely on the free flow of electrons through state and regional boundaries. To the extent there is a standard set of rules, states with either competitive retail markets or vertically-integrated utility service will benefit in terms of greater efficiencies, greater reliability and reasonably priced electricity that our homes and businesses need.

Furthermore, a delay in the implementation of the SMD rulemaking will only serve to add uncertainty to potential investments in our energy infrastructure and negate years of progress made in the rulemaking process by the FERC, state commissions and market participants alike. Consider the testimony of Christine Tezak of Schwab Capital Markets before the House Subcommittee on Energy and Air Quality: ''Congress needs to decide whether or not it still believes in the 1992 Energy Policy Act. Today, Congress is becoming an increasing part of the reason capital is hard to attract to this business. Congress is calling FERC to slow down, Wall Street is frustrated FERC won't move faster.''

Specifically, we believe that an energy conference report should:

Support FERC's Efforts to Promote Competitive Wholesale Markets—Our states feel strongly that any delay of SMD hurts efforts to provide reasonably priced and reliable electricity to consumers and businesses. In fact, Ohio Governor Bob Taft in testimony before the House Energy and Commerce Committee stated that he believes that any delay would ''impose an intolerable risk on the nation''. We urge you to reject proposals to further delay FERC's ability to address issues which have a direct effect on the cost and reliability of electricity for millions of our constituents.

Promote Regional Transmission Organization (RTOs)—Effective, well-functioning regional transmission organizations and independent system operators are necessary for the creation of well-designed, competitive regional markets. The Electricity Title should not disrupt existing regional markets nor stall their development in regions that want to develop them. RTOs and ISOs are a key to effectively managing the increasingly interstate flow of electricity and are critical to the success of electricity restructuring. Increased participation in RTOs will help address the structural problems in our grid that created conditions for the recent blackout. RTOs will help our nation improve our ability to respond to problems in the grid by having an effective regional ''traffic cop'' with a reliability mission to manage any future incidents. They will also help improve the climate for investment in transmission infrastructure to enhance the reliability of the grid in the first place.

We urge you to complete the work Congress started with the Energy Policy Act of 1992 to provide reliable, low-cost electricity to consumers. Please stand strong to continue the efforts of Congress to establish well-functioning, robustly competitive wholesale power markets while creating a federal policy that would bring much needed certainty to our nation's energy sector.

Thank you for your consideration of these comments and we look forward to working with you to ensure the Electricity Title respects the difference among regions while moving forward with efforts to bring the benefits of competitive power markets to all American consumers.

Sincerely,

Rick Santorum, Jack Reed, Olympia J. Snowe, Edward M. Kennedy, Lincoln D. Chafee, Thomas R. Carper, John Cornyn, Jon S. Corzine, Arlen Specter, Frank Lautenberg, Barbara A. Mikulski, Mike DeWine, Joseph R. Biden, Jr., Carl Levin, Susan M. Collins, Paul S. Sarbanes, Peter G. Fitzgerald, Debbie Stabenow, Evan Bayh, Richard G. Lugar.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I have been listening to the debate. I have come to some conclusions. First of all, one of the things the Senator from Maine said that I agree with is this bill does little to reduce our reliance upon foreign countries for our ability to run this great machine called America. I would like to have had more provisions in there. I would have liked to have had some more generous nuclear generation provisions, maybe ANWR, and a few things that would more directly address this. I am hoping we will be able to do this in the future.

The Senator from North Dakota, when he was talking about the bill, said there were several things in here that he didn't like, and many things in here that he would have liked to have had in here. I feel the same way. That is almost by definition the sign of a good bill because neither one of us is real happy with it. However, we both are going to support this bill.

I think we could have gone further. I have been concerned for many years about our dependency, going all the way back to the Reagan administration when Don Hodel, who was the Energy Secretary at that time, and I used to go around the country to explain to people in consumption States that our reliance upon foreign countries for our ability to fight a war is not an energy issue but a national security issue.

Finally, this is the first approach. I have to say President Reagan didn't really address this, the first President Bush didn't address it, President Clinton didn't address it. This President is addressing it. This may not be perfect, certainly it is far from perfect, but it is the first major step since 1980 to correct a problem we all agree is there.

In deference to the time that we have here I am going to concentrate on one thing. There are a lot of things I would like to talk about because I chair the Environment and Public Works Committee. There are a number of issues that are within my jurisdiction. I thank the manager of this bill, Senator DOMENICI, for his willingness to let me have input even though I am not on the conference over some of these issues that would have been in my committee.

My concern right now, and what I want to address, is the whole idea of the ethanol and MTBE safe harbor provisions. It has been treated as a red herring. I would like to go over what it really is and what it is not. What we have heard on the floor is good rhetoric from the trial lawyers, but it is not factual.

The premise of the ethanol and MTBE safe harbor is simple: If the Federal Government approves and mandates a product, such as it did with ethanol and MTBE, that product should not be considered ''a defective product by virtue of the fact that it is, or contains, such a renewable fuel or MTBE.'' So let's walk through this and see what the safe harbor provision does.

The ethanol and MTBE safe harbor states:

> Notwithstanding any other provision of Federal or State law, no renewable fuel, as defined by section 211(o)(1) of the Clean Air Act . . . used or intended to be used as a motor vehicle fuel containing such renewable fuel or MTBE, shall be deemed a defective product by virtue of the fact that it is, or contains, such renewable fuel or MTBE.

That stands to reason. That is perfectly legal. Yet that is the provision to which most of these people are objecting. How can it be reasonable if we mandate something by law and then turn around and say it is defective by definition? It is just not reasonable.

We know that Congress is mandating renewable fuels in this conference report. The energy bill states:

> Not later than one year after the enactment of this subsection, the Administrator [of the EPA] shall promulgate regulations ensuring that motor vehicle fuel sold or dispensed in the United States . . . contains the applicable volume of renewable fuel. . . .

That is in essence the language of the legislation that we are considering today.

MTBE was also similarly mandated. The Clean Air Act Amendments of 1990 signed into law by the first President Bush clearly states:

> [t]he oxygen content of gasoline shall equal or exceed 2.0 percent by weight. . . .

At that time, Congress knew the only two additives that could be used were MTBE and ethanol. And the Record shows that.

For example, on March 29, 1990, Senator TOM DASCHLE, the author of the floor amendment that established this 2-percent standard, stated during debate:

> The ethers, especially MTBE and ETBE, are expected to be major components of meeting a clean octane program.

Under certain forms of an oxygenate mandate, Senator DASCHLE went as far as to note that:

EPA predicts that the amendment will be met almost exclusively by MTBE, a methanol derivative.

Senator DASCHLE recognized what we all know: There are substantial benefits to using MTBE as far as environmental protection is concerned. In the floor debate on the 2-percent standard, Senator DASCHLE cited evidence that:

NO_X, hydrocarbons, and carbon monoxide are dramatically reduced by adding the oxygenate MTBE to gasoline.

So it is clear that Congress mandated ethanol and MTBE in 1990, and, in this conference report, is increasing the mandate on ethanol.

Let me go on reading the ethanol and MTBE safe harbor. The safe harbor applies only:

If it [ethanol or MTBE] does not violate a control or prohibition imposed by the Administrator of the Environmental Protection Agency under section 211 of such Act, and the manufacturer is in compliance with all requests for information under subsection (b) of such section 211 of such Act.

So the safe harbor in this conference report applies only if you are in compliance with all the tough fuel requirements of the Clean Air Act.

So to review so far, if ethanol or MTBE is used as required by the Federal Government and is in full compliance of the Clean Air Act, it should not be found defective. Alternatively, if a party does not meet the requirements of the Clean Air Act, the safe harbor does not apply, stating that:

the existence of a claim of defective product shall be determined under otherwise applicable law.

It can still be exercised if they don't comply.

Most importantly, the safe harbor does not impact numerous legal mechanisms available for cleanup and damages. Specifically, the safe harbor states that:

Nothing in this subsection shall be construed to affect the liability of any person for environmental remediation costs, drinking water contamination, negligence for spills or other reasonably foreseeable events, public or private nuisance, trespass, breach of warranty, breach of contract, or any other liability other than liability based upon a claim of defective product.

In all those other cases, it remains unchanged. The safe harbor does not apply to anything except liability based upon a claim of defective product, assuming they have complied with the Clean Air Act. It is as simple as that.

As the energy conference report clearly states, the safe harbor does not affect liability under other tort theories. Tort law provides a remedy when there is a breach of a duty resulting in harm to a person, property, or intangible personal interests. The following types of actions have been used in environmental cases. These are actions where recovery took place:

Trespass—interference with the plaintiff's possessory interest in his land. Is that affected by safe harbor? No.

Nuisance—intereference with the plaintiff's use and enjoyment of his property—that is not affected by safe harbor.

Negligence—may be a basis for product liability actions, as well as actions involving the release of allegedly toxic materials. negligence could be based on the design of manufacture of the product, or failure to give warnings necessary to make the product safe. Is this affected by safe harbor? No. It is not affected.

Breach of implied warranty—similar to strict products-liability—is not affected by safe harbor.

Under breach of express warranty—if a manufacturer, distributor, or retailer makes express promises regarding a product, the party is liable if the product fails to perform as promised and that failure leads to injury. It is not affected by safe harbor.

The only thing that is affected is in the areas we have been discussing.

Moreover, this safe harbor in no way shape or form impacts any environmental law. The safe harbor provision would not affect liability, and therefore response, remediation and cleanup, under Federal and State laws. The facts of a given situation would dictate which of the following statutes would be most appropriate for an action. Here are examples of environmental laws that could apply. The following are not impacted: The Resource Conservation and Recovery Act, RCRA; Clean Water Act; Oil Pollution Act—OPA; Comprehensive Environmental, Response, Compensation, and Liability Act—CERCLA or Superfund; not to mention natural resource damages available under OPA, CERCLA, and the Clean Water Act. They are not impacted.

Furthermore, the leaking underground storage tanks provision in this energy conference report greatly enhances the amount of resources available to states and localities through the underground storage funds.

If the language and the impact are so clear, why is the debate so muddy? The answer is because trial lawyers stand to lose billions.

What is the positive affect of this safe harbor?

Liability protection is consistent with environmental protection. Without some stability in liability risk, powerful disincentives will be created to continued manufacturing of clean-fuel additives. Why should we manufacture clean fuel additives if there is no protection? Clean fuel programs have saved thousands of lives across the country. Opposition to commonsense legislation may endanger those most susceptible to air pollution impacts by reducing the ready supply of clean fuel additives.

Failure to limit liability endangers future energy security and clean air. Simply put, additive manufacturers will be extremely reluctant to invest in MTBE replacement additives without some sense of certainty that the Federal Government will not allow those investments to become the basis of undue liability. In other words, as additive manufacturers seek access to capital, demonstrating a responsible Federal role in liability limitation may be crucial to justify future investments in clean additive manufacturing. It is simply a supply and demand argument.

In conclusion, I ask my colleagues to look at the facts. The fact is that the safe harbor is a fair and important provision in an important piece of legislation, which is critical to our national and economic security.

The safe harbor only applies to defective products claims.

I believe very strongly we need to have that clarification.

I repeat one more time what is actually written into the law. It says if the Federal Government approves and mandates a product such as ethanol or MTBE, that product should not be considered a defective product by virtue of the fact that it is or contains such renewable fuel or MTBE which is mandated by law. I appreciate the opportunity to clarify that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise today to express a profound sense of disappointment. The Nation needs an energy bill. We need a comprehensive blueprint for an energy policy that will take us in new directions, away from dependence on declining reserves of fossil fuel and foreign sources of oil. We need a policy which will reconcile growth and energy conservation in our transportation, manufacturing, utility, and consumer sectors across the nation. We need to bring down the high costs of electricity and gasoline for the country, particularly in my state of Hawaii, and pursue greater energy independence from petroleum products. The conference report does not make these goals achievable.

I believe a comprehensive energy bill is possible. As a senior member of the Senate Energy and Natural Resources Committee, I am familiar with cutting-edge technologies and approaches to generating energy. I was closely involved in crafting the energy bill that we considered earlier this year under Senator DOMENICI's leadership. I also contributed heavily to the energy bill that passed the Senate under Democratic leadership last year.

I wish to thank the senior Senator from New Mexico for his persistence in drafting this energy bill under extremely difficult circumstances. The energy policies that we are addressing in this legislation cover a vast range of authorities and a patchwork of unruly regional alliances. This translates to an enormous challenge, and I appreciate Senator DOMENICI's hard work in the face of this intractable situation. I want to make it clear that I have not given up on the opportunity to have an energy bill and I will continue to work

with my colleagues to shape an energy bill for the continental United States as well as for Hawaii and Alaska, which often have special energy needs.

Unfortunately, the report that has emerged from the conference committee does not bear much resemblance to either of the two earlier bills, this year or last year, that had bipartisan support. I rise today to express my disappointment with the outcome of the conference report for several reasons.

I am particularly concerned about Title VIII, the hydrogen title. During the Committee's consideration of S. 14 earlier this year, the hydrogen title authorizing research and development, demonstration projects, and buy-back and fleet provisions was carefully worked out by a bipartisan group of Senators on the Committee. Even though my colleague from Iowa, Senator HARKIN, is not on the Committee, he contributed mightily. The hydrogen title was based on the Spark Matsunaga Hydrogen R&D Act, which has been the basic authority for federal hydrogen programs for the last 20 years. I introduced a bill to reauthorize the Matsunaga Act earlier this year, along with Senators DOMENICI, BINGAMAN, BAYH, LIEBERMAN, KYL, REID, and INOUYE. I continue to believe that the Matsunaga Act's basic focus on renewable R&D for the production of hydrogen is a critical component of a national hydrogen R&D program. I greatly appreciate the vision of Senator DOMENICI, who led the effort earlier this year to craft the hydrogen title in S. 14, along with myself and Senators BINGAMAN, DORGAN, ALEXANDER, WYDEN, SCHUMER, and HARKIN who dedicated time and energy to the bipartisan compromise. Title VIII was agreed to unanimously in the Committee in markup.

Title VIII, as it was crafted earlier this year, contained a robust authorization of hydrogen research, development, and demonstration projects to lead us into the hydrogen future. The title was later successfully amended on the floor during debate on S. 14, led by my good friend and colleague from North Dakota, Senator DORGAN. Senator DORGAN offered an amendment, which I cosponsored, to include important measurable goals and timelines for the commercial introduction of hydrogen fuel cell vehicles.

The federal government should be a leader in introducing hydrogen to the federal fleet of cars, trucks, and vans that are used to accomplish our government's business. Not many people realize it, but the federal government has a fleet of about half a million transportation units that, as a by-product of using fossil fuels, emit nitrogen oxides, ozone, and other pollutants. The original hydrogen title sought to usher in a transition to a fuel cell fleet.

The revised hydrogen title in the conference report eliminates key federal purchase requirements for vehicle fleets, stationary power, and hydrogen fueling infrastructure. It provides only the vaguest guidance to the Secretary of Energy of voluntary projects to shape demonstration programs.

Why are we going to spend $1.4 billion over six years on the production of hydrogen energy by way of a demonstration project using nuclear energy to produce hydrogen? We cannot decide what to do with our nuclear waste as it is now. Why are we going to produce waste by using nuclear material to produce hydrogen? We need to explore the production of hydrogen using renewable resources, and we need to spend a great deal more on it than this conference report provides. Hydrogen may fuel the economy of the future, but we must take action now to ensure that it comes from renewable sources for those parts of the country that will not or cannot host nuclear facilities.

The new hydrogen title, authorizes less funding through 2008 than we agreed on in the Senate earlier this year. It eliminates key demonstration programs and federal purchase requirements that I believe are critical to ensuring a hydrogen future. Mr. President, the hydrogen title is a pale ghost of what it was when it left the Senate on July 31st of this year.

This bill has some hopeful features. It provides tax incentives for wind, solar, and geothermal energy—but not enough. It encourages energy efficiency in household appliances and homebuilding. I am pleased that the report contains provisions that I specifically requested for energy studies in Hawaii and insular areas, and for noncontiguous areas to opt-in to the ethanol trading system. I thank Senator DOMENICI and Senator BINGAMAN for their assistance on these provisions, which take into account the unique energy situation faced by more remote states and territories. I also am pleased that Senator DOMENICI has included provisions of a bill I introduced earlier this year, S. 1045, to designate an office in the Department of Energy and a process within the Department for safely disposing of Greater-Than-Class C, GTCC, radioactive waste. According to a General Accounting Office study that I requested on this topic, we need a stronger plan for continued recovery and storage of GTCC waste until a permanent disposal facility is available.

The conference report has some objectionable features. It provides waivers for manufacturers of MTBE, thus leaving it to counties and cities to pay for the cleanup of groundwater contamination. There must be a better solution than that. We cannot leave the burden of cleaning up drinking water contaminated by gasoline additives to local communities.

The conference report also has objectional omissions. It does not include fuel economy standards which significantly increase the fuel efficiency of automobiles—a vital component of a comprehensive energy policy. The American people want to spend less money on gasoline, be less dependent on foreign supplies of oil, seriously address the issue of climate change, and breathe cleaner air. Strong fuel economy standards address these needs. The conference report fails to address the accumulation of greenhouse gases, which I have spoken about several times on the floor of the Senate.

Mr. President, I am disappointed in the conference report. It will not open the door for radically new energy futures such as hydrogen or even liquefied natural gas. It will not alleviate the high prices of energy in the Nation. And it will not reduce our dependency on foreign oil.

I yield back the remainder of my time.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, the Senator from Louisiana is recognized.

Mr. REID. Madam President, if the Senator will yield for a question, through the Chair, how long does the Senator wish to speak? There are other Senators who wish to speak. There is no rush. I want to know when they should come over.

Ms. LANDRIEU. Approximately 15 minutes.

Madam President, I join my colleagues on the floor to make relatively brief remarks about this very important energy bill.

As a member of the Energy Committee that has worked very hard to produce this bill, and as confident as I am that a majority of the people in Louisiana want us to produce a good and balanced bill, I want to stand to support the bill that is before us and to urge our colleagues to vote yes on this measure. I commend the chairman from New Mexico and the ranking member from New Mexico on the Senate side and the chairman and the ranking member on the House side for producing a bill that is truly the best bill this Congress can produce.

Is it a perfect bill? Absolutely not. Does it leave some very important sections out that many of us would like to see? Absolutely yes. Does it address every regional concern? No. And no national bill, no bill that comes out of this Congress, would ever be able to make each region perfectly happy because energy, of all issues, is not really a Democrat or Republican issue. It really is based on the regions of the country from which we all come.

Some regions consume a great deal more energy than they produce. Some regions and states, like Louisiana, are a net exporters of energy. We are proud of that fact. We get beat up a lot about it from people who do not necessarily understand the oil and gas industry, but we are proud to drill in environmentally sensitive ways for oil and gas and proud that we contribute so much to nations energy supply.

So we will never have a bill that is going to satisfy the regional and parochial interests of every Member. I am convinced, having worked on this Energy bill, or something like it, for the

7 years I have been in the Senate, that this is the best bill this Congress can put forward.

The second point is, after we pass this bill—and I am confident we will pass and the President will sign it, there is nothing that prevents us, either individually or as a Congress, from stepping forward in the next few months or years to make improvements and adjustments to the bill. We can continue to push for policies that increase our supply, increase new and renewable fuels, improve our conservation, and make this Nation more energy self-sufficient.

But we have not had an Energy bill since 1992. In that bill, Congress revolutionized wholesale electricity markets, encouraged renewable energy production through tax incentives and streamlined and reformed the licensing for nuclear facilities.

In this bill, one of the things I am proudest of, working with Senator DOMENICI, is to improve, increase and facilitate the construction and licensing of new nuclear facilities because I believe it is time for the United States to have a renaissance in its nuclear industry, so we can increase the supply of energy and drive down prices for all of our consumers, whether they be residential, industrial, or commercial.

For the life of me, I cannot understand why the United States cannot recognize the importance of nuclear energy as a component of our energy policy. Many developed countries, such as France, have realized the new and exciting technologies in this area that make nuclear safe, clean, and reliable. In France, approximately 80 percent of all their electricity consumption is produced by nuclear power.

I am also very proud of the fact that we have, for the first time, recognized the tremendous contribution that Louisiana and Texas and, to a certain degree, Mississippi and Alabama make in producing oil and gas off of our shores.

We have sent to the Federal Government billions and billions of dollars of tax revenues. We have produced many jobs. We are doing our part in Louisiana to make our Nation energy self-sufficient, and we are proud of it because we think for every hour we work, every month we contribute, every year we send money, we put our troops less at risk having to defend America's interests for oil and gas and energy supplies around the world. It is something that people in Louisiana are very proud of.

The fact is, there is something for all of us to gain from this compromise bill. We need to move forward on this bill, in my opinion.

No. 1, it increases our domestic production of energy and, therefore, lowers the prices for everyone. It is hard to estimate what the lowering of the prices will be, but this bill addresses that concern and make steps towards providing a variety of energy sources.

Second, it creates new jobs. So for everyone who is concerned, it lowers unemployment. There is not a Senator in this Chamber who is not concerned about increasing employment rolls and lowering unemployment rolls. This bill, by creating hundreds of thousands of jobs, will, in essence, do that.

We also take steps to conserve, not as many steps as this Senator would have liked to take. I appreciate the comments of the Senator from Hawaii and others, including Senator DORGAN, who spoke about the missed opportunities in this bill. They encouraged us to really step up for conservation measures and I agree. The Presiding Officer made some very appropriate and, I thought, discerning remarks about our missed opportunities for conservation. We have missed some opportunities, but there are still, in this bill, some very excellent conservation and research and development initiatives to be proud of.

I might remind the Democratic caucus, our No. 1 objective—not my No. 1 objective but the No. 1 objective of our Democratic caucus—was not to drill in ANWR. There is no drilling of ANWR in this bill. Other Democrats objected to more drilling off the coast of Florida. There is no more drilling off the coast of Florida in this bill. There were Democrats who objected to drilling in the Great Lakes. There is no drilling in the Great Lakes. So for those who wanted not only energy conservation but, in their view, environmental protections, this bill represents that compromise.

Let me say a word about natural gas because it is very important to Louisiana. Demand is exceeding supply and prices have been abnormally high for the better part of this year. The growing gap between demand and supply has been apparent for some time. Presently our demand is 22 trillion cubic feet annually. The Energy Information Administration projects that the demand will increase by over 50 percent by the year 2025. There is a naturally occurring abundance of natural gas. If we don't do something about producing more of this precious resource the gap between what we need and what we consume is only going to grow. We must act now. If we don't, the problem will continue to drive up prices and make our industries noncompetitive with industries in Europe and Asia, Africa, and other parts of the world. Natural gas is at the heart of helping this Nation to secure and stabilize its employment sector.

In the short term, we provide royalty relief for ultra deep gas wells, something I worked on. I am proud that is in this bill. In the long term, the bill provides for the construction of a natural gas pipeline—a great deal of controversy. The bottom line is this pipeline could bring 65 trillion cubic feet into the market over the next 10 or 20 years. It is gas we need, gas we are going to use, and gas that will lower prices.

In addition to all of that, it is going to put several hundred thousand people to work. Whether you are in Alaska or other States, a lot of people could use jobs right now. This is a jobs bill.

Let me say a word about coal. We don't produce a lot of coal in Louisiana, but there are some States that do. I guess I have a great deal of sympathy for States that, like Louisiana, utilize their natural resources. West Virginia and Pennsylvania are natural resource-based States. Why shouldn't the people of those States get to use the natural resources they have to create jobs and to do it in a way that helps keep the environment clean?

We have some clean coal technology in this bill. It might not be perfect, but what is the alternative? Shut down all the coal mining in the country, put thousands of people out of work, and drive up energy prices? Let's use the technology and encourage the development of even better technology. We have over 250 years of coal reserves in this Nation. The people of our Nation deserve to use those reserves responsibly to their benefit.

I am proud that this bill includes some important renewable fuel standards. In addition to some of the other issues that have been discussed in this bill, we promote wind power. That is very exciting. You wouldn't imagine, though, that we are going to have some of the same interesting debates we have had over oil and gas production; that is, ''not in my backyard.'' I want the energy, but I don't want to see the rigs.

I was quite amused by the fight that went on in Massachusetts or off the east coast about where we are going to put the windmills. People want wind power, but they don't want the windmills that produce the power. Unless our technology can put windmills underground and have the wind go underground, I don't know how we can avoid the aesthetics issue.

Since I am used to seeing oil rigs, I kind of like the way they look and most certainly enjoy fishing around them because they make excellent places to fish that we in Louisiana have understood now for quite some time. I am encouraging wind power and hope we won't have the same ''not in my backyard'' attitude that we have had about other ways to produce energy. Certainly, wind is a very interesting source of power and evidently something that we will never run out of. It is an endless supply.

We are encouraging wind power in this bill and solar energy which is quite exciting. I happened to visit some of the most outstanding solar institutes in the world, one of my last visits to Israel several years ago. I was very encouraged by the technology that is ready to come on the market with the right kind of encouragement and incentives. Many of these are in this bill. We can create new building materials that can lead the way to the 21st century.

This bill includes $300 hundred million for solar programs, several hundreds of millions of dollars for wind

and energy production, and $500 million in grants for biomass programs. Biomass is another example of a new and exciting technology which takes other materials to create energy. It serves to move us to a more diverse portfolio of supply to produce the energy we need for our Nation.

Another important part of this bill is the increased authorization for the Low Income Heating Assistance Program. Being from Louisiana, a State that is hot most of the year, and that we have had a hard time explaining to people that you can die from heat as well as die from cold, we have not been able to get the low-income housing assistance program directed to Southern States. This bill accomplishes that. For Southern States, this is very important to help our people who pay high energy bills and need the air-conditioning, not for comfort but literally to keep them from dying or expiring in some of the hottest and most humid weather. We are very happy that this increased authorization is in this bill.

Finally, I know the chairman from New Mexico and the ranking member will work with us to put some real teeth in the freedom car proposal that the President has launched and I support. It is not strong enough in this bill, but, as I said, nothing will stop us from coming back and putting real time frames and real measures of success.

Mandates for hydrogen fuel cells in our Federal fleet could be added to this bill. But our clean schoolbus technology, some other things that are in this bill, make it, on balance, a very fine bill and one that this country needs.

Again, this is not a Democrat or a Republican bill. It is really a bill in which regional interests are at stake. But from the perspective of Louisiana and particularly in the South, places that produce a lot of energy, this bill gives us relief. It gives us hope that natural gas prices can be reduced. It produces jobs, and it helps us lower the unemployment rate as well as makes our country more energy self-sufficient.

For all of those reasons, I will give my vote and support to the bill.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized for 20 minutes.

MEDICARE

Mr. REED. Madam President, we are debating at the moment the Energy bill, but there is another major initiative that we are all considering. That is the Medicare bill. I would like for a moment to speak about the Medicare bill.

We have a history. For 38 years, Medicare has been a central part of the life of America, not just seniors in America but every American family. Now we are being asked to consider, in the waning days of this session, fundamental changes not just to the addition of a pharmacy benefit for seniors but fundamental changes to the structure of the Medicare Program. We are being asked to do so in the waning hours of this session of Congress.

What we have seen from the situation in the committee is that it was a period of negotiation between very few people, producing fundamental changes for our Medicare system. It is important, I believe, to look at some of the changes today.

Much of the discussion that has taken place in the conference with respect to this proposal has not really been how best to use the $400 billion for pharmacy benefits for seniors but, rather, to make profound changes in Medicare, which I believe undermine, in the long run, the Medicare Program.

One could suggest that the original $400 billion budget allocation for pharmaceutical benefits for seniors was too meager. But we could have addressed at least how to make that money go as far as we could rather than simply using it as, I believe, a subterfuge in some respects to make changes to Medicare that have been promoted by many—particularly conservatives—for years previously.

The purpose of S. 1 and H.R. 1 was supposedly to craft a pharmaceutical benefit. Indeed, what happened is much more profound and more pervasive and indeed will go to undermine our Medicare Program, not strengthen it. I have serious reservations.

We all recognize that seniors need relief. Again, the $400 billion was a small part of the relief they need. It has been estimated by CBO that seniors will spend a total of $1.8 trillion on pharmaceuticals from 2003 to 2012, the 10-year period this bill will likely cover. The $400 billion, in context, is just a fraction of what seniors will pay. Nevertheless, we could have provided, I believe, much more focused, targeted, and beneficial relief to seniors than has been accomplished by this bill. More than that, we could have avoided these very serious and deleterious changes being proposed for Medicare.

Let me address a few issues. There is an issue in the bill that has been discussed, which is cost containment. It represents sort of a doublespeak, if you will. I believe if you asked most of my seniors about cost containment, they would say, hallelujah, finally, you are going to bring down the cost of the pharmaceutical drugs.

Wrong. In the language of this bill, cost containment is limiting the amount of money the Federal Government will contribute to the Medicare Program—not just pharmaceuticals but to the Medicare Program. In fact, if you look at what they have done with respect to the cost of pharmaceuticals they have made it very difficult for the Federal Government, through the Medicare Program, to negotiate lower prices.

Once again, if you asked any senior in this country, or any American, about cost containment, in the context of pharmaceutical drugs, they would say it has to be the reduction in the costs charged to seniors, not a reduction of the contribution this Government will make for seniors. It has turned the whole notion of containment upside down, topsy-turvy. Again, it will go a long way not to help seniors but to continue the unchecked increases in pharmaceutical costs we have seen.

There are reasons for this. Frankly, everyone has to recognize that revolutions in pharmaceuticals have provided a higher quality of health care in the United States. But my expectation, and my hope, was that if we were talking seriously about a Medicare benefit for seniors with respect to pharmaceuticals, we would have been able to use the market power of a nationwide Medicare Program to control prices—not set them but control them through the marketplace.

A large number of beneficiaries, purchasers, could go to pharmaceutical companies, through the Medicare system, and negotiate prices, which represents the buying power of millions of seniors. That is not going to happen because, quite deliberately and consciously, this program fragments seniors; it creates regions where certain programs will vie for the business of seniors through the Medicare system. That is not going to control costs. Yet we are talking about cost containment, not in that context at all but in the notion of just limiting the contribution we will make.

Again, I think what we have to recognize is that this is not going to be the way to deal with the crisis we face today and the crisis of the years ahead.

There is a provision in the legislation which essentially says that as the Medicaid Program exceeds 45 percent of the general fund contribution—our contribution to Medicare exceeds 45 percent of total program expenditures, and then the President must submit a plan to Congress, and there is pressure for Congress to move. But that is a rather arbitrary and artificial way to approach the cost of Medicare.

First of all, it doesn't consider the number of beneficiaries. It doesn't consider other factors, such as quality issues. It is an arbitrary device which I think will not control the real costs, which is the cost of drugs, but it will really inhibit and hamper our ability to serve our seniors. Again, this is one aspect of the legislation that I find particularly troublesome.

There is another doublespeak, and that doublespeak is premium support. Again, if you asked any senior in Rhode Island, Michigan, or Maine about premium support, they would say: Hallelujah, you are going to help me pay my premium; I have been waiting for that. That is not the case. It is helping the private insurance companies by assisting them not only in their operating expenses but with their bottom line in the process. That is not what most people thought about when we talked about premium support.

It will provide wide variations of premiums throughout the country, State by State, and even within States, region by region. Essentially, it will also encourage cherry-picking, a term we are all familiar with, in which these private companies that are being encouraged to now go after the seniors' business will be able to structure their marketing and their appeals to take the healthiest, younger seniors, leaving the older seniors—the most vulnerable and most expensive—to be covered in the Federal program. This will be great for their bottom line, but it will drive the cost of traditional Medicare up and up, and it will run right back into the cost containment trap we set up.

Medicare will be less ''efficient'' than private plans. Therefore, it will be subject to increased Federal pressure to lower the cost. All of this violates a fundamental principle of insurance, which is that you pool risk by aggregating a range of risk. You don't segregate the healthiest people and say we will ensure just those—well, if you are a profitable private insurance company, you do. But if you are trying to plan for a national program to assist seniors, you certainly don't do that.

It also defies the fundamental facts of history. In 1965, when the Medicare Program was created, seniors could not get health insurance because they were expensive to insure. They were a bad risk. No private insurance company would step up in any systematic way to insure them—unless you were phenomenally wealthy and you could probably pay for all of your medical care out of your wealth. For the average senior, in 1961, 1962 and 1963, you were not getting private insurance. That is why we stepped in. That hasn't changed.

Seniors today are still, on average, much more expensive to insure than younger people because of the nature of life and nature of disease and morbidity—all of this. This legislative proposal totally ignores that 35 years of history and the experience we all have.

Again, going back to our experience, it was not uncommon when I was a youngster, teenager or younger, to visit homes of my friends and there was at least one grandparent there—a grandmother or grandfather. Why? Because their health needs required somebody to care for them. It was the families, the 40-year-olds, 35-year-olds. Much of that changed in 1965 because now seniors had the ability to obtain health care coverage.

This whole system is being threatened by premium support, which will incentivize private insurers to come in and attract and subscribe the youngest healthiest seniors, leaving the traditional Medicare Program with the older, most expensive population to cover; and, again, all of this is leading into that trap in which cost containment will tell the Federal Government, oh, stop, we are paying too much money for seniors.

I believe this is, again, a profoundly poor concept, and it is further complicated and exacerbated by another aspect. We are creating a $12 billion stabilization fund, again, for private insurers. We are taking Medicare money, the money which our seniors—in fact, all Americans believe we are earmarking for senior health care and setting up a fund—a slush fund—that will provide further incentives to private health care purveyors and further unbalance the playing field between traditional Medicare and these new private plans.

We could have done much with this stabilization fund. We could have lowered the so-called donut hole when benefits expire for some seniors and then renew themselves after several thousand dollars of additional expenses. We could have closed that gap. We could have done a lot of creative, innovative things that not only would have assisted seniors but would also make a real concerted effort to control the cost of the program in a principled way. Yet we didn't do that.

We have created a situation in which, again, the deck has been stacked against traditional Medicare and against, I believe, the logic of insurance of aggregating as many risks as possible across regions, across the country, across ages from the youngest seniors to the oldest seniors, the healthiest seniors to the ones who are sick and frail.

We are also going to hit and create a situation where we will give incentives to these companies to fragment the Medicare system. Frankly, if insuring seniors was a profitable area of endeavor, 35 years ago we wouldn't have had to step in and create Medicare. If it was a profitable endeavor today, we wouldn't have to have a $12 billion stabilization fund, and we wouldn't have to have premium support.

We will spend more money than we have to and we will get less for our money and seniors will get less in terms of the benefits, not just pharmaceutical benefits but the overall Medicare Program. I emphasize again, this is not just trying to tailor and contain the cost of pharmaceuticals. This applies across the board.

Ms. STABENOW. Madam President, will my friend yield for a question?

Mr. REED. Yes.

Ms. STABENOW. I thank my friend from Rhode Island for laying out in a clear and concise way what our concerns are about this bill.

Madam President, wouldn't the Senator agree that our first goal should be to do no harm, rather than the items he is talking about? That the first goal of any plan to provide Medicare prescription drug coverage should be to make sure people are paying less and getting more coverage and getting more help? This bill doesn't do that, does it?

Mr. REED. I concur with my colleague from Michigan. Our first goal should have been to do what we told seniors for years we were going to do: help them buy pharmaceuticals, not change, undermine Medicare but to help them buy pharmaceuticals.

We could have applied all that $400 billion to do that. We didn't. We have stabilization funds to encourage private health concerns to compete with the traditional Medicare Program; we have health savings accounts, with billions of dollars there to encourage the insurance industry to sell health care plans to individuals. All of that very scarce money could have been used simply to say how much can we help the seniors to buy drugs and maintain our program. I agree with the Senator.

Ms. STABENOW. If I may ask another question, what the Senator is saying is there are billions of dollars being used in this plan on items that have nothing to do with helping pay for medicine, helping people get their care; is that right? The Senator is talking about billions of dollars going to HMOs, to insurance companies to help them compete against Medicare, which costs less, and that money could be used to buy medicine for people?

Mr. REED. The Senator from Michigan is absolutely right. I said this before. This represents, in some respects, the greatest bait and switch in the history of the Republic. Seniors think they are getting pharmaceutical protections, and they will wake up and discover the Medicare Program they thought was there forever has been changed irrevocably.

Indeed, even the pharmaceutical protection is not that extensive, comprehensive, or effective. The Senator's point about the cost of traditional Medicare is well taken. We already have experience with this. We have had the Medicare+Choice plans. These are private plans that are not able to provide a benefit as cheaply as traditional Medicare.

The 2003 Medicare trustees report estimated that reimbursement from managed care enrollees would exceed traditional Medicare costs. We are reimbursing HMOs more to care for their Medicare beneficiaries than we are through the traditional Medicare Program. We know that. That is 2003. That is the report of the trustees of the Medicare system. Yet we are still under this illusion that if we pour more money into the private HMOs through slush funds, through premium support—through all sorts of mechanisms—somehow we will change the reality.

We are not going to change the reality. The reality is that this general Medicare Program is efficient, is effective, it has stood the test of almost 40 years, and it is a system that I think every American sees as being effective, efficient, and, indeed, an important part of their family's well-being in the future as it has been in the past.

Ms. STABENOW. If I may continue with questions, when the Senator is saying this shifts money to HMOs and to insurance companies, I assume—at least my understanding of HMOs is—you don't choose your own doctor. We

are talking about seniors who now can go anywhere. I know in Michigan, they can go from the Upper Peninsula over to Detroit over to the west coast and the cost is the same. They can choose their doctor and go to the hospital they want.

Madam President, is it true that what Senator REED is talking about will take away people's ability to choose their own doctor and hospital?

Mr. REED. The Senator from Michigan is right again. Not only do you not have the ability to choose your own doctor, but sometimes it is the HMO that chooses you. We had the experience in Rhode Island of seniors signed up for HMO programs and the HMO said: We are not making enough money; we are leaving. They left the seniors high and dry. They found care by going back to the general Medicare system or another HMO. They found coverage, of course.

This is a one-way street. It is not a two-way street. You get to do what they tell you you can do. That is the way they make money. It is a profit-making enterprise. Frankly, there is nothing wrong with that, and if we were the managers of these companies, we might be pursuing the same techniques of carefully selecting our beneficiaries and questioning the doctors in every instance about whether this procedure is right or wrong. In fact, the greatest criticism of HMOs comes not from seniors but doctors. They can't abide working with them. It is accountants, not health care people, who are making the decisions.

We are setting this system up again. It is unbelievable, in some respects, that having had the experience of Medicare+Choice, having had the experience of a private insurance system that wouldn't touch a senior in 1965, and having the success of Medicare, we are entertaining these notions as if this is a good change, this is a good thing. We haven't learned.

This represents a triumph of aspirations or hope over the facts and reality of 30-plus years of experience and of the dynamics of the marketplace.

I thank the Senator from Michigan for her intervention because it has been useful in clarifying the discussion.

There is one other area that concerns me, and that is the notion of means testing. In the doublespeak of this bill, it is not means testing, it is income relating. It is like cost containment and premium support. It is income relating. It is really means testing.

What it does is it begins to lower the effective subsidy that the Federal Government provides the seniors based on their income. Frankly, starting off at a level of $80,000—you may say, well, maybe it is not too bad; maybe people that comfortable should be able to pay.

The point is, it begins to add another way in which we will segregate participants in the Medicare system because if your subsidy falls from 75 percent, which is what it is roughly today, down to 20 percent, that will be wealthy Americans, if this plan goes through, what it does is start raising questions: Why should I be in Medicare?

If I have to pay copays and I have to do this and I only get small support, why should I be in Medicare? A multiple class of health care is being created in this country. For all these reasons, I hope we have time to debate. I hope we have time to look at the legislation very carefully and not in the last few moments vote because time ran out.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I ask unanimous consent that Senator CLINTON be allowed to speak following my remarks.

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

Ms. STABENOW. I first want to again commend my friend from Rhode Island for his comments in laying out the concerns that many of us have. In thinking about this and thinking about my coming to the Senate, I came with a very important goal. One of my top priorities has been to help create a real comprehensive Medicare prescription drug benefit. Part 2 of that is to lower prices for everyone, for our seniors, so that the Medicare dollars, those precious dollars, can be stretched farther, but also for our businesses who are paying for very high health care costs.

We know about half of that is due to the explosion of prescription drug prices. So for businesses, for workers, for families, we have, I believe, an obligation to do everything we can to create more competition and more accountability to bring prices down. I came to the Senate with those two goals for health care for our seniors, as well as lowering prices for everyone.

Even though the bill that passed the Senate was not at all what I would personally have written, it had good bipartisan give-and-take. We passed a bill that I was willing to support in the Senate. Even though I believed it was just a first step, there was much more that could be done. We did include a strong bill to close patent loopholes and allow unadvertised brands, called generic brands, on the marketplace for better competition. We did create a low-income benefit that I believe was very good for seniors and a number of other provisions, helping our rural health providers, as well as all of our doctors and hospitals and other providers.

Now we are in a situation where, unfortunately, instead of the bipartisan effort that we came forward with in the Senate, we have seen a plan put forward primarily by only one side, and, unfortunately, one that goes way beyond the scope of any bill dealing with prescription drugs.

On the positive side, it does have positive provisions that can be pulled out if we choose not to move forward with this bill. I would hope in a bipartisan way we could pull out providing for rural health, pull out provisions for our physicians who continue to be cut and threatened with cuts as they are providing care for our hospitals and home health and nursing homes. We can do that if we want to. We can pull that out and pass that. It is very positive.

When we look more broadly at this bill, it is not a comprehensive prescription benefit under Medicare. It is not even a good first step. As my colleague from Rhode Island said, it feels like bait and switch. We are talking about prescription drug coverage, and we are going to end up dismantling Medicare. We started out talking about: How do we help seniors pay for their medicine? How do we make sure folks are not choosing between food and medicine and paying the utility bill? How do we make sure we do not continue to have the explosion in prescription drug pricing that is affecting every part of our economy and every family in this country? That is what we started out to do.

Now we find ourselves in a situation where the fight that started to add a drug benefit to Medicare is turning into a fight to save Medicare as we know it, to save it as a universal health care benefit, the only one we have in this country.

I view this as a matter of values and priorities. I am very proud of the fact that in 1965, this Congress and the President of the United States came together and decided that we, as Americans, were going to say to those 65 and older and the disabled in this country that health care would be there for them; regardless of where they live, regardless of their situation, health care would be for them.

Now, what has happened? Well, we have seen the quality of life improve for older Americans. We have seen people live longer as a result of the benefits of Medicare. Those over the age of 85 are the fastest growing part of the older generation. Why? Because Medicare has made sure that health care is available, the doctor is available, the hospital is available, and so on. This is not a bad thing. This is a good thing. This is a great American success story that we should be celebrating together, not beginning the process of unraveling the promise of Medicare.

When I explain to folks what is before us, they look at me, frankly, like I am crazy. When we say, well, we have a deal for you; a quarter of Medicare beneficiaries would pay more for their prescription drugs under this plan, not less, not even the same but more. That is because 6 million seniors who are the poorest of the poor, who are on Medicaid, 6 million seniors who really are choosing between their food and their medicine would end up paying more under this plan than they would staying under Medicaid.

Another issue of particular concern to my State, up to 3 million seniors could lose their current coverage. In Michigan, I have a whole lot of folks who have worked hard their whole life,

sometimes giving up a pay raise to get good health care and to get a good pension. In fact, in my State of Michigan, it is estimated that 138,810 Medicare beneficiaries would lose their retiree health benefits under this plan. How in the world can that be a good idea? How in the world can we say to people, ''We have a deal for you; you are going to lose your coverage as a result of this plan''? We started out saying we are going to put together a voluntary prescription drug benefit under Medicare, and now we are seeing a situation where people would actually lose benefits.

In Michigan, 183,200 Medicaid beneficiaries, the poorest of the poor seniors, will pay more for their prescription drugs that they need, and 90,000 fewer seniors in Michigan will qualify for low-income protections—90,000 fewer than in the Senate bill that we worked on, on a bipartisan basis, because of the assets test and the lower qualifying income levels.

I see my friend from Iowa, who I know has worked very hard on this legislation and who led the effort in the Senate that resulted in a bill that many of us embraced because it was a true, honest, bipartisan effort. I thank him again for that. This bill does not reflect what we did in the Senate. It does not reflect what we did on a bipartisan basis.

Unfortunately, even though hours and hours have been spent on this issue, we find ourselves in a situation where too many of the folks we represent will be worse off than they are now. That is of deep concern to me.

I am also very concerned that we are not seeing the competition put into this bill that would lower prices. When we talk about bringing prescription drugs back from Canada in particular, which is right next to my State of Michigan, that is something near and dear to me and the people I represent. It takes only 5 minutes to cross a bridge or a tunnel to go to Canada to bring back prescription drugs. Many of them are made in the United States. In fact, most of them are made in the United States, sold in Canada for 50, 60, 70 percent less, and then brought back.

In some cases they are prescription drugs that are made by American companies but actually manufactured in other countries—Lipitor, manufactured in Ireland; Viagra, manufactured in Ireland. They have a way to safely bring those back to the United States, working with the FDA and the companies. With a closed supply chain, they can do that.

There is absolutely no reason we cannot do that through our licensed pharmacists in the local drugstore or the licensed pharmacists in the hospital. There is no reason we cannot do that if we want to do that. It is just as safe. It can be crafted to be exactly the same, and just as safe, by allowing our local pharmacists to bring back these lower priced drugs to the local pharmacy rather than doing what is happening today, which is too many folks getting in a car or a bus and going to Canada.

I do have concerns about folks going through the Internet more and more, or mail order where they are not working with a physician, not working with a pharmacist, and don't know the interactions of their drugs and may not know, in fact, where those drugs are coming from. That is something we ought to be tackling as well from a safety standpoint, but that is different from reimportation. That is different than giving licensed pharmacists the ability to do business with a licensed pharmacist in other countries and, in particular, Canada where their system is so much like ours in terms of safety.

I am very concerned that that provision is not in this bill, despite a heroic effort among House Members, a bipartisan effort to pass a bill that would do what needed to be done to create that competition.

Also, I am very concerned that we have a lessened provision in here relating to closing patents and allowing more generic drugs to compete on the market because those things would really bring prices down.

Although we have yet to see everything in final form, it is my understanding there is actually language that doesn't allow Medicare to bulk purchase, to negotiate on behalf of all of our 39 million seniors to get a big group discount to lower prices.

Essentially, on top of our poorest seniors paying more, those with coverage possibly losing their coverage, we are being told that our precious tax dollars and Medicare dollars are going to be forced to pay the highest prices for prescription drugs. In fact, because our uninsured pay the highest prices in the world, I think it is fair to say we would be paying the highest prices in the world for Medicare prescription drugs. That means the dollars are spread even thinner than they would be. In order for us to really spread these precious dollars as far as they can be spread, we need to bring prices down. This bill not only does not allow competition, it stops Medicare from group purchasing in order to bring the price down.

Thank goodness we don't include that language for the VA and our veterans. In the VA, we negotiate for our veterans for prescription drug coverage. We don't pay retail as the Federal Government. We don't pay retail. We get somewhere between a 30 percent and a 40 percent discount.

That is exactly what the pharmaceutical industry doesn't want to happen under Medicare, which is exactly why there is no competition in here. There is no ability to group purchase in terms of overall Medicare leverage.

This is a bill celebrated by the large pharmaceutical companies, because they know they are going to get a whole new group of folks, their customers, who will be locked into the highest possible prices.

I know they have a reason to celebrate. I understand. There are six drug company lobbyists—probably more with this bill but at least six—to every one Senator. They must be celebrating. But I know the seniors of this country and the disabled, when they see what is really happening—unfortunately, it doesn't take effect until 2006 so they won't really be able to see what is happening until then—but once they see it, they are not going to be celebrating. They are, in fact, going to be very angry.

We can do better than this. We have to do better than this. There is no reason we can't come together, as we did when this bill was before the Senate, and work out something that makes sense. People are counting on us to do that. They are trusting us to do that.

Unfortunately, what is in front of us is much more about making sure we are protecting special interests than the people's interests. This is much more about HMOs and insurance companies and pharmaceutical companies than what seniors are going to be doing tonight when they decide if they are going to be able to have dinner or they are going to have to wait because they have to buy the medicine tomorrow.

We can do better. I hope we will. If what comes before us is what we have heard and what I have described tonight, I will strongly oppose it and do everything I possibly can to join others to oppose this and send this back to the drawing board.

I saw some numbers this morning of a poll done in the last couple of days of those 55 and older, describing this plan. It was interesting to me, of those polled, 65 percent who were members of AARP said: Go back and go to work and get it right. Don't pass this.

I agree with those 65 percent of the people. I know they reflect the people I represent in Michigan. I urge we go back to work and get it right.

The PRESIDING OFFICER (Mr. ALEXANDER). Under the previous order, the Senator from New York is recognized.

Mrs. CLINTON. Mr. President, this is a day of considerable activity around the Senate because we have two significant pieces of legislation that are drawing the attention of Members who come to this floor to express their opinions. It is hard to know where to start. There are significant problems and issues with both the Energy bill and the proposed Medicare bill. But because they have only recently been provided—with the Energy bill only in the last 24 to 48 hours finally being made available; with the Medicare bill still not being available in its full form—it is difficult to know what to say because, although we have the outlines of legislation, we don't have the full details, and we certainly don't have adequate time to digest and analyze these important matters.

So, I am sure that, like others, I am somewhat bewildered by the rush to deal with these two bills, to force action before the Thanksgiving holiday on such grave matters before our country.

I want to say just a few words about the Energy bill, and then I want to say a few words about the Medicare bill, because I think it is important that the country understand what is at stake with both of these significant changes.

With respect to the Energy bill, I am strongly opposed to it. I think it is bad for my State of New York and I think it is bad for our entire Nation. Yet I am very disappointed to find myself in this position where I feel compelled to oppose something called an Energy bill. There are provisions in this bill that are good, ones that I have worked on and have supported and am very pleased that they made their way into the final product.

Of course, after the August blackout, I wanted to do everything I could in my power to ensure that New Yorkers never had to go through anything like that again. I thought certainly in the face of a massive blackout that this body and our friends on the other side of Capitol Hill would rally together to take appropriate steps to increase the reliability of our electricity transmission and distribution system. What could be more obvious? The lights went out, and they went out because of failures and problems within that system.

Unfortunately, the Energy conference report did not get that job done, which to me is job one. I know the bill's proponents point to the fact that it includes mandatory enforceable reliability standards. I agree. Reliability rules are important. There should be mandatory rules with penalties, but those rules are not terribly meaningful if the entities that operate and manage the transmission system are unable to plan for and respond to crises. For that, you need a transmission system to be operated on a regional basis so responses can be coordinated on a regional basis and connected up to a national grid. At the very least, you need regional transmission organization.

What have we found out today? There has been a report issued about what happened to cause the blackout. Although details are not yet fully available, we know there were a number of causes for what happened to us on August 14. The fact is, no one appears in charge of the sprawling, heavily loaded, and troubled part of the transmission grid running around Lake Erie. A portion of the Midwestern grid centered in Ohio has long worried industry regulators.

The Energy bill that passed the House yesterday and which is now before us would create operating rules to lessen the risk of blackouts, but it does not overcome that region's fragmented line of authority where control is shared by 23 different power and transmission companies. The bill before us prevents the Federal Energy Regulatory Commission from setting up regional transmission organizations—so-called RTOs—that can effectively coordinate transmission on a regional basis.

If you are supporting this bill because you think it will prevent future blackouts, you had better take another look at the bill.

I start with this point because it is absolutely critical to my constituents and because there has been a lot of talk about how we had to move this bill because of the blackout. But how ironic it is that we move a bill which does very little to solve the problems that have now been analyzed and pinpointed as being at the root of what happened to us in August.

That is just one of many problems with the bill. I join many of my colleagues in expressing dismay about the MTBE provision in the legislation.

First, the bill provides a retroactive liability waiver for MTBE producers. This provision turns the so-called polluter-pay principle on its head. It basically says to communities from New York to California: Guess what; we may have contaminated your groundwater, we may have contaminated your wells, and we are not going to help you clean it up.

I heard some of my friends on the other side say: Wait a minute; it doesn't remove liability from people who negligently used MTBE. The fact is, there is no good use for MTBE. It is a contaminant. It pollutes water. Whether somebody poured it in fast or poured it in slow, the result is the same.

We don't know the full cost of these cleanups. I have read estimates that it could be on the order of $29 billion nationwide. In New York, we are coming to grips with that kind of extraordinary cost, especially in light of the budget problems that we face.

Paul Granger, superintendent of the Plainview, NY, Water District, has provided estimates to my office about contamination on Long Island, one part of our State. But it is a beautiful part that has an underground water aquifer from which we draw water for Long Island. Mr. Granger estimates that testing the 130 supply wells known to be contaminated by MTBE will cost between $990 million to $1.4 billion. If you divide the 3.3 million Long Island population into that cost range, the MTBE drinking water cleanup costs will range from $118 to $315 per person. The cost impact for a typical family of four trying to make ends meet would be from $472 to $1,206 per family.

With respect to the Plainview Water District, Mr. Granger informs me that in the event that MTBE wellhead treatment is required at all of its facilities, the average monthly cost for water will jump by 49 percent.

As far as I can tell, this is another one of these unfunded mandates we like to pass around here. You have problems with water contamination directly caused by a contaminant that was manufactured by large conglomerates. They have deep pockets, and they could at least participate or contribute to helping to clean up water systems on Long Island, across New York, and across our country.

Well, you are out of luck. Is that fair? I don't think it is fair. I don't think it is fair to the people of Plainview, NY. But it is fair if you consider it along those terms for the MTBE producers.

Apparently, that is all that matters to the people who put this bill together. Maybe they don't have this problem in their States, although I have looked at the numbers. It looks as if all but 8 or 10 States are affected by MTBE. The costs associated with cleanup—where is money going to come from? Is this body going to pass on the billions and billions of dollars that are going to be needed to clean up our water systems across our country?

I can't imagine under our current budget situation that is a likely possibility. Therefore, what are we going to have happen? Once again, the taxes on local people will rise—again, another unfunded mandate just like special education, just like No Child Left Behind, and so much else that we passed in this body and then let somebody else pay for it.

New York City, which obviously has a very significant water issue, had been taking action to try to get some help in paying the bills and had sued the MTBE producers. Under this bill, their lawsuits are going to be thrown out of court.

I find it hard to understand why local governments aren't going to be permitted to protect themselves and to get the resources from the people who profited from producing and selling MTBE. I thought that is the way the system worked. Somebody said it is the trial lawyers. I don't think so. Mr. Granger in Plainview, NY, and the city of New York are trying to protect their water supply. Yes, they may have to go to court to do that. Why should they be prohibited in this bill from doing so?

As bad as the MTBE liability waiver is, the bill doesn't stop there when it comes to the MTBE producers. Unbelievably, the bill provides $2 billion in grants to MTBE producers. What about grants for the water systems of our country? What about lending a helping hand to Plainview, NY, and all the other places in my State that are looking at tens of millions of dollars to clean up their water supply?

I can't understand how anybody can go home from this body and go back to wherever they represent and look into the eyes of their fellow citizens and say: Not only did we tell your mayor and your city council and your county leaders they couldn't sue, we are going to give $2 billion to the folks who polluted your water but not a penny for you.

I wasn't on that side of this argument. Nevertheless, that is what is in this bill.

There are many other problems in this bill. The numerous rollbacks of environmental and health protections deeply concern me.

I hope we will be able to revisit those and try to figure out ways to avoid

turning the clock back on making our air cleaner, on helping people avoid the ill effects of pollution and contaminants in their emissions.

But there is so much else in this bill that, unfortunately, I believe will set us back. It is a shame because there are many ways this could have turned out differently, that we could have had the good provisions without so many of the egregious ones being put into this legislation.

I will now turn to the other issue we are confronting in the Senate. I don't see how we can deal with a Medicare bill of this significance at this time when, so far as my office knows, we still do not have the final bill as I came to the floor. We will have a lot of explaining to do to our constituents.

Every Member hoped we could get a bill to provide a prescription drug benefit for our seniors. They need it and they deserve it. I wish I could support this bill. Analyzing what we are able to find out and what the likely impacts will be leads me to conclude that not only will this bill not deliver on the promise of a drug benefit for our seniors but it will mean the slow, but steady unraveling of the Medicare system.

Let's look at some of the people who will be directly affected by this 1,100-page bill. I cannot avoid mentioning this is a long bill. I am not sure anyone has read it yet—maybe some staff person in the basement has read it all—but it is 1,100 pages. I remember another long bill 10 years ago, a bill to change the whole health care system, not just tinkering with Medicare and trying to provide a benefit.

A lot of our seniors are asking: What does this mean? Who can tell me what is in it? How will it affect me? On an individual level, that is an impossible question to answer. We do not know who is a winner or loser. My office is being inundated with calls from constituents, asking: I am a senior in New York City living on a small pension; what does this do for me? Or a widow in Buffalo, with high drug benefits: What does this do for me? We do not know yet.

Here is what we do know. At first glance, there are a number of groups who definitely lose under this legislation. The numbers in the groups add up to about 25 percent of all Medicare recipients, 10 million or so. This bill causes retirees to lose benefits they currently have. At least 2.2 million retirees will lose under this deal and over half of them have incomes below $30,000. In New York, over 200,000 Medicare beneficiaries are likely to lose their retirement benefits.

As a result, my phones are ringing off the hook over this. People are saying: I have good benefits; I do not want this if it will take away the good benefits.

I have to say, honestly, based on my reading, the assessment on the numbers who will lose, I may even be a little conservative. Nevertheless, there will be a loss.

We could have done more to avoid having 2.2 million lose, but the conferees chose instead to spend $12 billion on a slush fund for private insurers and $6.8 billion on tax breaks that will undermine insurance coverage even beyond Medicare.

It is fair to say this bill threatens benefits that people already receive from their employers. There is no argument it is going to take that reality and turn it into something other than what it is. It is a bitter pill to swallow.

This bill also threatens to reduce drug coverage for the 6 million people who are eligible for both Medicare and Medicaid. I have spoken about the so-called dual eligibles before because they are the people about whom I am most concerned. They are the lowest-income, sickest Medicare beneficiaries. Many rely on Medicaid right now for drugs because Medicare does not cover drugs. This bill bars Medicaid from providing drugs not covered by the new Medicare plan. That is a departure from the practice for all other Medicare benefit gaps. This will affect nursing home residents, people with disabilities, and the truly indigent nationwide. We estimate it will affect 440,000 in New York alone.

If we look at the New Yorkers who are eligible for both Medicaid and Medicare, right now they can get access to any drug they need and they can access most any pharmacy. This bill will increase their copays, limit their choice of drugs, and restrict the pharmacy network.

HIV/AIDS patients are particularly affected since this bill only requires coverage of two drugs in any class. HIV/AIDS patients need multidrug cocktails that may require more than two such drugs and often require very specific medicines that are prescribed for their condition. Some drugs they might take or have taken for a period of time could eventually encounter resistance within their bodies. For those patients, this provision on dual eligibles does a grave injustice.

The millions who currently receive coverage through State prescription drug assistance programs, such as the one we have in New York called EPIC, are also at risk. In New York, over 400,000 seniors, nearly a quarter of our Medicare beneficiaries, rely on EPIC, which does not have a formulary and often offers better coverage than what a senior will be able to get under this bill. The compromise in the bill puts seniors in EPIC at risk of a new formulary, higher copays than they have now, and places limitations on the pharmacies they can use. It will force the New York Legislature to change the law and the design of EPIC, assuming they even want to continue it.

I have also asked that seniors who will either have to disenroll from the current EPIC plan or will have to enroll in two plans to continue to qualify for drug coverage be given a grace period so they are not penalized if, in the confusion and disruption of this transition, they do not understand what they have to do to continue to get whatever State program is available because they have to sign up for a new Medicare benefit program to continue with EPIC.

I recently heard from the people who are finalizing the bill that the new formularies, limitations on pharmacies, and higher copays will not only affect seniors in State prescription programs but also veterans who depend on the VA and members of the military in TRICARE, many of whom currently pay very low and in some cases zero copays. Again, the millions who have coverage throughout these programs will be worse off than they are now.

What about the issue of premium support? For those 6 million seniors affected by the premium support experimental demonstration, overall Medicare premiums will increase yet again; this time, as the price of privatization.

MedPAC has studied this issue and found that private plans cherry-pick. That means they pick the healthiest seniors to be in their plans. That is how they make a profit. If you are insuring the healthiest people, you do not have to pay as much money as if you insure people who are not so healthy. Therefore, they try to attract the healthiest beneficiaries. That way, they get a big payment for those healthy beneficiaries and they, frankly, do not have to pay much out when it comes to beneficiaries needs.

The GAO has said the population is so much healthier that the Medicare+Choice plans are now overpaid by 19 percent when one considers the health condition of their beneficiaries.

If fee-for-service has to compete and it is the only plan willing to continue to serve the sickest and costliest patients, anyone who wishes to keep their regular fee-for-service Medicare will see their cost rise, probably up 5 percent each year. But who knows how high that percentage will go in the future? Ultimately, the 6 million seniors across the country who are going to be put in the demonstration experiment will pay more just to maintain their Medicare benefit.

This is not just an academic exercise for me because New York is likely to be one of the States with residents chosen for this experiment. Our seniors will be used as guinea pigs, so to speak, in the rush to try to in some way prove that Medicare, which has the most cost-effective delivery system, which has provided a guaranteed benefit that is the same across the country now for nearly 40 years, is somehow inadequate and unable to really deliver the goods. So we are going to see what happens when over 500,000 New York seniors who reside in areas that could be chosen for premium support are thrown into that mix, and told that you are just going to have to pay those higher prices, and just shovel that money out the door to the HMOs and other health insurers that are going to be standing there with their hands out.

But the bill does not just create a radical scheme for Medicare; it really does take aim at our whole system of insurance by the inclusion of these so-called HSAs. They used to be called MSAs, medical savings accounts; so now I guess they are health savings accounts. The new name does not change the fundamental problems with these proposals.

By promoting these accounts, these provisions will allow wealthy and healthy seniors to get tax benefits. But it would also mean increased premiums of as much as 60 percent for those who wish to keep their current private insurance.

To arm the enemies of Medicare, there is a so-called cost containment provision which designates an arbitrary cap on Medicare. We are bound to hit that cap as the baby boomers age. Once we hit it, that guarantees that current Medicare benefits will be on the chopping block year after year. So I have to send out a big warning to everybody on Medicare, but also to those like me who are not that far away from Medicare, that we are looking at the dismantling of this program, and we are moving back toward a survival of the richest and the fittest.

Now, considering all those harmed by the bill, you would think we would be getting a generous drug benefit out of all of this. Well, in fact, we do not. Many seniors will be paying more out of pocket for drugs under the skimpy benefit in this proposal than they are now without any so-called drug benefit at all.

Every single senior in this country will pay more out of pocket than they do now for doctor services in 2005. That means that before the drug benefit even starts, seniors will be hit with increased cost-sharing. Seniors can expect a 10- increase in their Part B deductible right away, and yearly increases after that for the first time in history. Those increases are pegged to grow at a rate faster than seniors' Social Security checks.

In addition, the drug premium may be $35 a month, on average, but it increases so quickly that seniors will be left paying more and more for little additional benefit.

As we know, this bill creates a new insurance structure where seniors will continue to pay premiums for part of the year even though they are receiving zero benefit at the same time. Now, I don't know. I don't think we have ever passed an insurance plan in this country where you are told you have to pay all year but there are going to be a few months in the year that you don't get sick, don't get hurt, don't have an accident because you will be out of luck.

There is not an insurance commissioner in this country who would gladly allow such an insurance policy to be marketed in their State. Yet here we are. Seniors will pay premiums, even in the so-called gap months, when they have no benefits.

Then the $35 premium goes up to $40, and then nearly doubles, reaching $60 by 2013. I think that is a burden for seniors if the benefit they return is not guaranteed all year, every year, and if it, in and of itself, may not even meet the cost they put into the system.

I have heard from some analysts that the break-even point for seniors in this bill is $835. Now, 40 percent of seniors spend less than that on drugs each year. According to the analysis I was given, this bill will actually represent a net loss to 40 percent of our seniors if they join. That is a lot of seniors. We are talking about 16 million or so. They will end up paying more in costs in premiums than they receive in returns. So when all is said and done, this is a bill that decreases some people's benefits, eliminates other people's benefits, and costs more to many.

I think history has demonstrated the political repercussions of such experiments that go right to the heart of what people value the most; namely, their health.

But now, even though there are many losers in this bill, I want to be fair. There are also some winners. They are many industries and some individuals. But there are winners. A recent study found this bill will give drug companies a $139 billion windfall. Because there is no cost containment in the bill, the drug companies are assured of their profits.

Furthermore, the health plans—already overpaid 19 percent compared to what Medicare is paying for seniors in traditional Medicare—will receive another 7 percent on top of that in addition to the $12 billion slush fund in this bill.

Now, there may be some help in this bill for some of the 12 million or so Medicare beneficiaries without any kind of drug coverage—not through Medicaid, not through Medicare+Choice, not through the VA, not through TRICARE. They simply do not have it. Maybe some among those 12 million might be winners but only if they make it through a thicket of confusion and hit a moving target.

Because, let's face it, this is a very complicated bill. It is going to be very complicated to implement. I remember hearing a lot of complaints about that bill of 1,300 pages, the Health Security Act back in 1994, and that dealt with the entire health care system, not just with seniors.

Now, all signs show this bill is not seeking to add prescription drugs; it is seeking to change the whole health care system. I have to give them credit, they got it to 200 pages less, so that is some accomplishment.

I think we ought to look at what is going to be facing seniors as they try to make decisions about their health care.

What I have done is to take the tales of two seniors, to look at what the differences would be, and what a typical senior would face when trying to determine what they could have under this bill.

The first tale concerns a retired small business owner in New York City, an urban senior. Now, this senior has many choices in the first year, 2006. He looks at his choices. He has PPOs and HMOs and private drug plans and Medicare. He has choices. So he takes a look at his choices and decides to stay in traditional Medicare. He picks the private, stand-alone drug plan with the lowest premium of $35 a month.

He gets into that plan.

Then he discovers, too late, that his drug that he has been taking for a few years is not on the private insurer's formulary. So even though he has had bad side effects from the drug that is listed, he has to go through a lengthy appeals process. Although he eventually wins his battle with the private insurer, he has had to pay out of pocket for the drug in the interim.

So suppose what he is suffering from is, let's say, diabetes—a very common disease among our seniors. In the process of trying to get on the right drug, trying to pay for the drug he has been on, he is locked into this plan and he cannot change until the next year.

Now, let's go to year 2, 2007. So let's say the private drug insurer plan the senior was in has dropped out of Medicare, which happens all the time because its low premium, the $35 a month premium, could not sustain enough profit. But our elderly gentleman does not mind because he wanted to switch anyway. He did not want to stay in that drug plan because they did not treat him well.

So he chooses another private drug insurer and he pays a higher premium. This time he decides to go with a more expensive premium, thinking he is going to get more of what he needs. He pays $50 for drug coverage on top of his now $79 Part B premium. But he makes absolutely sure his drug for diabetes is on the plan's preferred drug list and he can continue to see his doctor.

During the year, however, the private insurer changes its formulary—there is no rule that says it cannot—so that his drug gets assigned a higher coinsurance amount. Although the plans can change what they cover during the year—it can be the old bait and switch: Sign up with us. Your drug is on the formulary; and 6 months later, no, it is not—the senior cannot get out of the plan until the year is up.

So year 3, our senior does the math. This is a man who has really been working on this. He has spent a lot of his waking hours trying to figure out this maze of so-called benefits.

To stay in traditional Medicare, he will pay the monthly premium of $83 in 2008, plus at least $50 for prescription drugs, in addition to relatively high copayments. The private insurer he was with has dropped out. If he joins an HMO, he can pay $75 for base Medicare coverage, plus $42 for prescription drug coverage. Now he is up to $192 a year extra to stay in regular Medicare, and he has to worry about whether or not the private drug plans are going to change on him again as they have in the past.

You could make this even worse because suppose that the HMO plan no longer recognizes his doctor, and if he joined he would be stuck again for another year. It just goes on and on. I am not looking forward to explaining this to my 84-year-old mother. We are going to have to set up a whole gigantic bureaucracy of individual case counselors to try to explain to seniors what this all adds up to. And this maze, this totally confused picture, is what is available in an urban area where at least there are choices for seniors. Let's look at what happens to a woman who lives in upstate New York.

Let's pick an 85-year-old widow who has had a stroke. She hasn't had drug coverage before. She has lived on a Social Security payment and a small pension from her late husband. She took regular trips across the border to Canada, though, because we are lucky in upstate New York. We can just go right across that border, or we used to be able to go right across that border. She could afford those drugs because they were a lot cheaper, and they were absolutely the same drugs. She takes five different drugs on a daily basis.

In the first year, 2006, no private HMOs or PPOs plan to come to her town. She is up in the north country, up near the Adirondack Park. For anybody who has been up there, it is really beautiful. It is isolated, and it is really rural. She loves living there, and she wouldn't live anywhere else.

Well, she has never had any of these private plans in her community before, and she doesn't know what is going to be available to her. So two of the new private drug-only plans are offered. One has monthly premiums of $60; the other has monthly premiums of $50. The lower premium plan has a complicated set of copayments that tends to be higher, when you add it all up—assuming somebody helps you figure out how to add it all up—than the higher premium plan. But she goes ahead and chooses the $50 plan, and she sees some relief. But she calculates that with annual drug costs below the catastrophic benefit, she is still not getting a very good deal because for her, she is still paying about 70 to 80 percent of what she had before.

Now year 2—and this happens all the time in rural areas, as we know—the private plan drops out of Medicare. That is a common experience for rural residents. So Medicare must provide a fallback plan. This plan seems quite good to our widow. She pays $5 less than what she paid in the private plan the previous year, and her prescription drug benefits are covered. But year 3 the local papers announce that the payment rates for HMOs, which are 30 percent above the local cost of traditional Medicare, have finally attracted an HMO to the area. Remember, we are pumping all this premium subsidy out there. We have billions and billions of dollars to entice folks to come to the North Country and other areas.

Well, this creates a dilemma for our senior because she now has to determine with whom she can go and who is going to take best care of her because if the HMO comes, maybe it will attract some competition. And let's say that another private drug-only insurer shows up. Medicare is providing bonuses to private plans who come to the area. So as a result, remember, even if it only lasts for just a year, even if it doesn't have your drug on the formulary, even if it no longer is affordable for you, once you have two competing private insurers, there is no fallback plan as an option. So the senior faces the so-called choice of monthly premium increases of $24 to stay in traditional Medicare or just $1 more per month to join the HMO. Given that this difference is $288 a year, it is not even a choice. That would wipe out her annual increase in Social Security benefits.

She feels forced to go into the HMO. She loses her doctor, she loses the drug that she needs, and she has to go through an appeal. I can guarantee you, there is not going to be a lot of appeals courts in isolated areas like the North Country. So it is going to take a while even to go through this. Now this 87-year-old woman is having to fight for, litigate for, argue for the drug her doctor says she needs, or her former doctor, because she can't go to him anymore because there is no affordable regular Medicare fallback. So she is stuck with one of these two private plans. Here today; gone tomorrow.

The lesson I draw from this is whether you live in a rural or an urban area, your choices are tilted toward enrolling in HMOs and PPOs. I think that is a shame.

Medicare's strength, a reliable system of coverage and predictability, will have been replaced by a complex, insured-driven, cherry-picking system. There may be some seniors who will be helped under this bill. I hope I am healthy enough when I reach that age that I am not going to be disadvantaged by whatever we have in place, but I find it hard to explain how we could end up with a bill that is so much narrower, so much more uncertain than the bill that received a majority of votes in the Senate last year, the Graham-Miller-Kennedy bill.

Among those who might gain under this bill, they are not only small in number, they don't even know who they are. I asked seniors this morning at a big meeting: Who among you knows for sure that you won't get hit by the fine print in the bill? How many of you really believe you are winners under this bill? Don't you wonder why nobody is really telling you everything you need to know to be an informed citizen, to make a decision in your own mind that you can then tell your elected officials what you think should be done?

We are on a course to passing a bill where no senior watching or listening to this debate is going to be sure that he or she will be helped. We have pushed it past the next election so the full burden of trying to figure it out won't really fall on anybody until 2006. And if you look at this chart, it is kind of hard to draw any other conclusion. If you are a retiree, you would have no idea of knowing whether your former employer will keep you or drop you. If you are poor, you be poor enough to get coverage under Medicaid. And if you are, you may no longer get all the coverage you need for your needs. If you are sick, will you be sick enough to be covered under Medicaid, and under this bill will Medicaid really cover your particular health care needs? If you are in a nursing home, are you going to be really left to fend for yourself in a nursing home in a State prohibited from providing Medicaid wraparound funding. And your health needs will compete with those of children and other needy people? If you are in a State prescription drug program, you will pretty likely be a loser as well. If you are in the premium support guinea pig category, good luck, because I think you will see that you are going to have an amazing obstacle course to try to run.

I must say many of the obstacles confronting our seniors are triggered by decisions we have had made for us in this conference that was quite small in number and exclusive in membership and came out with a product that is going to be very hard to defend. It will be particularly hard to defend if we look down the road and we see the threats to Medicare on the horizon.

I have heard colleagues say—and I respect this—that this bill is not perfect, but it is all we could get. I understand that perspective. There is good and bad in every bill. I don't think since I have been here I have voted for a perfect bill or voted against a totally bad bill. I understand that perspective. I am grateful this bill does take steps to help our rural and small community hospitals to resolve some of our teaching hospital issues and to address the absolutely compelling physician payment issues. We should be addressing those important matters, but not in the context of a bill which will further undermine the program providing the capacity for hospitals and doctors to provide decent care at an affordable cost.

This bill has too many flaws for us to go forward. The privatization scheme that is tied into this bill, in a box with a big bow saying prescription drugs, is one that will make structural changes to this program which has been the bedrock of protecting our seniors and guaranteeing them the health care they have needed.

So I hope we can still salvage this bill. I hope we can still try to keep faith with our seniors. I think we should postpone dealing with it beyond the forced deadline of right before Thanksgiving, so that everybody has a chance to read and evaluate it.

But if we are required to go forward, then I certainly cannot be a party to a bill that I think will undermine health

care for our seniors, fail to provide the benefit that is advertised, and lead to the slow and steady unraveling of Medicare, which I consider to be one of the great achievements of our country in the 20th century.

On behalf of the hundreds of thousands of seniors I represent, who are definitely losers under this bill, I have to respectfully request that we go back to the drawing board, that we try once again to do a job on a bill that will really help our seniors, and that we not take steps that will undermine the guarantee of health care under Medicare.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, is there a time agreement?

The PRESIDING OFFICER. There is not.

Mr. SESSIONS. Mr. President, I don't think we are rushing into the prescription drug bill, nor are we rushing into the Energy bill. We have been wrestling with those bills for an interminable period of time—years. They have been up and down and debated and discussed, and conferees have worked their hearts out on these bills.

We are spending, on prescription drugs, an additional $400 billion. I don't believe anyone is going to be hurt by this effort. AARP has reviewed this bill and they support it. They would like it to spend even more, but they are supportive of this bill as a historic effort.

There is no doubt, with regard to prescription drugs, that there is the potential to provide the poor in this country, many of whom this very day are choosing between food and drugs that they need for their health, with prescription drugs essentially for free, up to 150 percent of the federal poverty level. A huge percentage of the seniors in this country are going to have access to necessary prescription drugs, virtually free, under this bill.

If there is any problem with it, I suggest that maybe we have done a bit too much, that we could have been somewhat more restrained and focused less universally on this bill. But conferees debated it and it is a bipartisan effort by Democrats and Republicans in both the House and the Senate. Now we have a bill and we will have to see how it goes.

I hope to be able to support it because I told my people in Alabama that I wanted the people who could not afford drugs to have them paid for. This change does, fundamentally, make sense. At the present time, we pay for your surgery, we pay for your heart operations, but we will not pay for the drugs that we know will help prevent a heart operation. We will not pay for the drugs that could avert the need for a kidney transplant, but we will pay for the kidney transplant. It is an odd thing.

I will take a few moments to talk about the MTBE question. It is a matter that has become a big point in the debate on the Energy bill. Frankly, I think it is a bit overdone. Some senators have said that if a company makes a product, the company ought to pay for it if their product causes damage. But that is not true. That is not the law in America.

That is not classical American liability law, tort law. As a matter of fact, it is an indication that this Congress and this country is losing its discipline on what is a legitimate basis for a lawsuit.

You can say, well, they made MTBE and it got into the water system in this community; therefore, the maker of MTBE ought to pay for it. They say that is what the law ought to be and they ought to pay.

Would somebody say Folgers should be responsible if a Folgers brand of hot coffee burned somebody in a McDonald's restaurant, or that McDonald's should be liable? If somebody takes a can of Campbell's soup and smashes a guy on the head with it, is the maker of the can of soup liable? Certainly not.

Let me share a couple of things. After 9/11, we realized we were facing a situation in which airlines had suffered a dramatic loss of ridership. Somebody woke up and said: Wait a minute, they are going to sue the airlines for 9/11. Why? Well, maybe somebody was asleep at the switch when a terrorist got by, so we can sue them. They think the airlines have a lot of money and they can pay for everybody and everybody will make lots of money. We can attach liability to them.

Congress, in considering that, passed legislation that would compensate the victims in New Jersey and their families for $1 million or $2 million each. As a consequence of that, they would waive liability claims against the company. The airlines' planes were seized, commandeered by terrorists. In truth, in the history of America, under classical law, the airlines are victims just as much as the owner of the Trade Center towers is a victim. We are in a situation in which the lawsuits in America, having eroded classical constraints on them, too often are successful in suing whoever is standing around—whether they have any real liability or not.

I think about the gun liability question. There are over 60 Senators, including Democratic Leader Tom Daschle, who support legislation to protect gun manufacturers, under certain circumstances, from liability. Why? Because cities and other groups, for political reasons, are suing the gun manufacturers because someone used their gun and committed a crime with it.

Well, under the classical rule of law—and I used this defense in one case—a person is not responsible for an intervening criminal act. The gun manufacturers make a gun that does what it is supposed to do. You aim it and point it and a bullet hits something or somebody. That is what the gun is supposed to do. The Federal Government passes legislation about how and to whom you can sell a gun, under what circumstances. They have to sign a statement, and there is a waiting period. They have to certify that they are not a drug addict or they have not been convicted of a felony. Then they can buy the gun, under certain circumstances. States have even more rules, and they comply with that. But they want to go further. They want to sue the gun manufacturer because somebody took a legal product, sold according to Federal law, and used it for a crime. They want to sue the gun manufacturer because I guess they think the gun manufacturers have a deep pocket of money. That is not what we ought to be about.

The MTBE was essentially a Government requirement over a decade ago. It is an oxygenate. It was produced and it did what we required to be done in order to improve air quality in America. The EPA could have stopped it if they had wanted to, but they never stopped utilization of it. It was encouraged. It was passed by Senator DASCHLE, who introduced an amendment that required it to happen. Everybody knew MTBE would be the product utilized more than any other product as an oxygenate to meet the environmental regulations.

So you say, well, if they put it in the water system, they ought to be liable. Right, if they put it into the water system, they ought to be liable. But if they didn't put it in the water system, they ought not to be liable. It is getting into water, but not because it is burned in the engines and goes through the environment and settles into the water. The argument is that some water aquifers are being polluted with MTBE as a result of leaking from tanks and from pipelines and matters of that kind.

It is legitimate, fair, legal theory that if a manufacturer of MTBE allowed its pipeline to leak or allowed the storage tanks to leak and the chemical got into the water system, then you can sue him. That is what we ought to be doing.

As I understand the language in this bill, it does not prohibit that kind of lawsuit. If you allow it to escape negligently into the system, then you are liable. That is what classical American law is all about. That is what it has always been about. However, it has never been about the producer of a substance being liable for pollution if somebody else takes it and dumps it into the water system of America. How ridiculous can that be? The person who dumped it in the water system is the one who ought to be liable and ought to pay.

As I understand the language in the bill, that is all that it says. You have to be the one who was responsible for letting it get into the water system. Maybe it is a local gasoline distributor who has a bunch of old tanks that leak and that person allowed it to get into the water. Is a manufacturer somewhere that didn't have any contact

with this company liable for the leak? Certainly not. If we have any legal discipline left in this country, certainly not. But that is where we are heading.

I also know there have been a good many problems with leaking tanks in this country. There is a big trust fund—I believe there is $2 billion in that fund—in case the gas station or the small gasoline distributor has gone bankrupt, doesn't have insurance, or doesn't have any money. What happens then if some of these even more dangerous chemicals, certainly more dangerous chemicals than MTBE, leak? Who would pay? This fund will pay.

The point is, Shouldn't we make sure we are thinking clearly about this issue? What is wrong with having within this legislation language that affirms a classical understanding of liability? That is what it is all about.

Companies get nervous. You get a water system that has some MTBE in it, which is not a cancer-causing substance, it is not a disease-causing substance, according to every report I have seen. If enough of the substance gets into the water, it will have a bad taste and unpleasant smell, and it is bad—we don't want it in our water system—but it has not proven to be any kind of significant health hazard, to my understanding——

Mr. GREGG. Will the Senator yield at that point?

Mr. SESSIONS. Yes.

Mr. GREGG. Has the Senator been in a home that has MTBE pollution?

Mr. SESSIONS. No, I have not.

Mr. GREGG. I suggest the Senator—Mr. President, I ask the Senator a question—I suggest the Senator might want to go to a home with MTBE pollution before the Senator makes the representation the home is livable.

Mr. SESSIONS. I didn't say the home. I understand the water smells. Is the Senator aware of any report that says MTBE is a cancer-causing substance?

Mr. GREGG. I didn't suggest that MTBE was cancer causing. The Senator suggested it is not a health hazard. I ask the Senator, if a person cannot live in their home, is that not a health hazard? If a person cannot take a shower, is that not a health hazard? If a person cannot drink the water, is that not a health hazard?

Is that the Senator's position, that if you cannot live in your home, if you cannot shower, if you cannot drink the water you, therefore, do not have a health hazard? Is that the Senator's position?

Mr. SESSIONS. The Senator's position is this—if someone polluted your water so you can't drink it, and did so to the required degree of negligence and liability, they are responsible for it and should pay.

The question is, What if you didn't do anything that justifies a lawsuit? What if you had no connection whatsoever? You made MTBE and somebody takes it and pollutes your house with it. Who is responsible? I can tell you what the law has been historically in America.

Mr. GREGG. Will the Senator yield for a further question?

Mr. SESSIONS. The person who caused the action, made the house uninhabitable, that is who should pay; not the person who made the substance.

Mr. GREGG. Will the Senator yield for a further question?

Mr. SESSIONS. Yes.

Mr. GREGG. Is it the Senator's position that if a person cannot use their house, cannot use the water, cannot take a shower, that person should be barred from suing the potential people who are responsible for that and that a State that has brought an action on that issue should have a law passed by the Congress which says that action brought by that State will no longer be in existence?

Mr. SESSIONS. Two questions there. One is the existing lawsuit question. The Senator makes a legitimate point and expresses a legitimate concern. Frankly, I am not sure it is fully meritorious, but he certainly raises a legitimate concern.

The second point is, Who should be responsible? That is the question. That is all, as I understand it, this legislation deals with.

If this legislation were to say that the person who is responsible for putting the MTBE in a New Hampshire citizen's home was not liable, I would oppose it. But if they took asphalt and dumped it in somebody's home, should the asphalt maker be liable if they were not responsible for putting it in that home? That is the legal question with which we are dealing.

Mr. GREGG. Will the Senator yield further?

Mr. SESSIONS. I yield.

Mr. GREGG. Is it, therefore, the Senator's position that the determination of whether or not the person who polluted the water in that home which is no longer livable, can't take a shower and can't drink the water, that the person who seeks redress on that should have the Congress unilaterally decide that a product which appears to have a fairly significant proximity to the problem should no longer be subject to liability simply because the product has been designed in a certain way, and that it should be the Congress—many Members of Congress never having even been in that home or a home of a similar nature—that should eliminate the capacity of that individual to have redress in a lawsuit? Would it not be a court's decision or jury's decision to make the determination if the product was produced without defect, that product should not be liable rather than the Congress unilaterally deciding that product should not be liable?

Mr. SESSIONS. I thank the Senator for the question. I think it is a good one. I just hosted and chaired a hearing on the question of restaurants that sell food that might cause obesity. The question is, Is a restaurant that makes a good cake responsible for somebody's obesity? They made the product that perhaps made the person overweight and obese, but they are not responsible for it. Should Congress act?

I think it is perfectly appropriate and fair that the Congress set the rules for litigation in America. We established when the statute of limitations runs. We established a lot of rules. In fact, we established basically that MTBE should be used. It was a congressional action that required this to be done before I arrived in the Senate.

I don't know how the Senator from New Hampshire voted on that legislation. It was a good Government environment bill at the time. Senator DASCHLE, I believe, was the prime sponsor of it.

The question is this, Companies make a substance. Somebody else spills it in the environment. Now we are going to have the person who made it, because maybe they have good insurance, pay for cleaning up any place in America that this stuff was spilled? I don't think so. Of course, we have in this bill liability protection for ethanol, and the House stuck in the liability protection for MTBE. It really was not considered in the Senate, I admit, but I think it is appropriate we follow through with it. At least I believe there is a strong justification for it. I don't believe this bill should be blocked on that basis.

Mr. TALENT. Will the Senator yield for a brief question?

Mr. SESSIONS. I will be delighted to yield.

Mr. TALENT. I wonder if the Senator's position isn't similar to mine, on the point the Senator from New Hampshire raised, that we at least should not refuse to vote on a bill that could mean millions of jobs for everybody in the country in all sections of the country because of one provision in the bill which could perhaps be fixed or compromised in some other legislation. I wonder if that isn't the Senator's position.

Mr. SESSIONS. I think that is a very good point. I know a number of Senators who favor this bill said they would be open to consider reforming it on a short basis if there was any abuse. Any language of this kind deserves to be carefully examined. I understand New Hampshire has filed a lawsuit that might be prohibited by this legislation, so I can understand the Senator from New Hampshire being concerned about that.

From what I understand, if the fundamental principle in the legislation appears to be sound, I can be supportive of it. If, in its application, it is unfair and unjust, I would be prepared to support reform.

Mr. TALENT. I thank the Senator for yielding for a question.

Mr. SESSIONS. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Missouri.

Mr. TALENT. Mr. President, it is a real pleasure for me to come down and speak on behalf of the Energy Policy

Act. I want to begin by congratulating those involved in the conference committee who reached an agreement upon it.

I saw my friend, the senior Senator from Iowa. He certainly did yeomen's work on behalf of a provision that is very important to us in Missouri: The renewable fuel standard, as well as the biodiesel tax credit. I am going to begin my brief remarks and end them by commenting on those provisions. They stand to create hundreds of thousands of jobs in the short term around the country and in the long term have the potential not just to revolutionize family production by bringing in a whole new wave of value-added enterprise but also help create energy independence for this country.

As we have said on this floor on many occasions, when we are able to grow our own fuel, by growing corn, by growing soybeans, and turning them into fuel that we can burn in our cars, it just revolutionizes international relations in the world and also helps the environment and protects the economy as well. This bill is a major step in that direction. For that reason alone, I think it deserves to be voted on and passed.

There are provisions in this bill, as the Senator from North Dakota said before in his very eloquent remarks, that all of us would pick out or change if we could. But this is one Energy bill that this Congress has had to write for a very diverse country. I would suggest, when we are trying to come out of a recession, when we are trying to create jobs, when we are trying to achieve energy independence for this country, now is the time for statesmanship, not obstruction. Now is the time for compromise rather than confrontation over discrete points of a very big bill. Now is the time to move forward with all the good parts of this bill that we know are going to create jobs, that we know are going to help create energy independence, that we know are going to be good for the environment, with a view toward getting together afterward and helping to fix or reform the parts of the bill about which we may have some doubts. I hope we can do that. I hope we can get a vote on this bill.

I hope in particular that we will not see that weapon, the filibuster, hauled out to stop us from even expressing an opinion on the first national energy policy that this Congress has ever really passed.

We have heard much discussion in the last week or two about the importance of jobs. I very much believe in that. We cannot do anything we want to do in this country, we cannot do education, we cannot have health care, we cannot have defense, we cannot have opportunity without prosperity, and we cannot have that without jobs. This bill flat creates jobs. It will protect hundreds of thousands of jobs against being lost. It will create nearly a million. The natural gas and coal provisions, which are not those over which Missouri has a parochial interest but which I strongly support, would create more than 400,000 direct and indirect new jobs just through the construction of the Alaska natural gas pipeline, which will at the same time bring affordable energy to the lower 48 States, 38,000 direct jobs, 80,000 indirect jobs, an estimated 400,000 jobs from the multiplier effect. The investment the bill provides for in clean coal technology creates 62,000 jobs; 40,000 construction jobs created by the construction of approximately 27 large new clean coal plants.

When we use this clean coal technology and we make coal environmentally safe, we secure America's energy future because we have hundreds of years of reserves of coal. There is no reason not to move forward so as to create the possibility of reliance upon that even more greatly in the future, if necessary.

The renewable fuel standard I will discuss in a few minutes. Nuclear energy, building a first of its kind nuclear reactor to co-generate hydrogen will create 3,000 construction jobs and 500 long-term high-paying, high-tech jobs. I toured the nuclear energy plant in Missouri in Callaway County just a few weeks ago. It is the wave of the future. We can have more nuclear energy plants like that securing energy for our people around this country. This bill is a key to achieving that.

Some examples of job losses that the Energy Policy Act will prevent in the future, these are job losses we have had in the past: The Potash Corporation, one of the world's largest producers of fertilizer products located in Northbrook, IL, and Canada, that spends $2 million per day on natural gas, has announced layoffs at its Louisiana and Tennessee plants.

Economists predict that Louisiana's chemical industry will lose more than 2,000 jobs in the next 2 years. I have had people come and visit me from the chemical industry saying they are being forced to push jobs offshore because of the high cost of energy. I have had manufacturers in Missouri tell me that the high cost of energy and the unpredictability of the cost of energy is driving jobs offshore. It does not have to be that way. We can have an energy policy that encourages all different kinds of energy—the traditional forms, the alternative forms. This bill does that.

No, the bill is not really liked too much, if I may so, by those on the extreme ends of either part of the political spectrum. There are some who do not want the Government involved at all, even in stimulating the production of supply of energy. There are others who for other reasons on the other side of the spectrum do not want the private market to be stimulated for the production of energy. But Americans are out there, Missourians are out there, worrying about the loss of their jobs, worrying about what opportunities are going to be available in the future. Access to affordable, stable supplies of energy of all kinds is a key to this country's prosperity and independence, and that is what it comes down to.

Those of us on the Energy Committee, on both sides of the aisle in the Senate, have had that target in view from the minute that we began writing this bill. The Senator from Tennessee is certainly well aware of that because of the major part that he played in it.

I close by talking about the special importance of the renewable fuels section of this bill. Everybody back home is so pleased that we have recognized in this Congress, by an overwhelming margin, the importance of ethanol and biodiesel to this Nation's energy supply. The bill will increase ethanol production and the use of ethanol throughout our national economy to 5 billion gallons by the year 2012. It will create 214,000 jobs, $5.3 billion in new investment in renewable fuels production facilities. The biodiesel tax credit of a dollar is groundbreaking for the production of biodiesel in this country. With this tax credit, we can expect biodiesel, in just a few years, to be in the same situation that ethanol is now, and a few years after that the situation that ethanol will be in in the future, one of the mainstays of energy production. These are a key to value-added enterprises as well.

I will never forget on a day I was traveling around central Missouri and I talked to some corn farmers and they were talking about commodity prices. They were pretty depressed, and there has been a lot of reason to be depressed about prices of corn in the last 2 years. They did not really see a lot of hope. These were great producers, efficient producers, but they knew even if prices creeped up, one change in the international situation might push them down again. Then I went to the ethanol plant in Macon, the same kind of producers, but these were investors in the ethanol plant. One of them pulled me aside. There was an air of optimism there, an air of energy. One of them pulled me aside and said: Jim, the good thing about this is when the price of corn goes down, I just make more money off the ethanol. That is what value-added enterprises mean to family production in this country.

If we lose family farmers, if we lose the family production sector in this country, we lose something that we cannot recover, the values that go with an attachment to and a belief in the land. Value-added enterprises, of which the chief is renewable fuel, is the future for family producers. It is the future for energy independence in the country as well.

We are proud in Missouri, as I know the Presiding Officer is proud in Minnesota, of the leadership role we have played in the production of ethanol. We expect to have a leadership role, we do, and expect our leadership role to grow in the production of biodiesel. That is what this bill provides for.

I close by saying that although there are many parts of the bill that are going to help Missouri, there is no question about that, and I am enthusiastic about it, I am pleased to have participated in writing a lot of the bill, and pleased to vote for it, there are many parts of it I like. This renewable fuels section is really important to Missouri. Agriculture and tourism are the two biggest parts of Missouri's economy.

This bill is a joint effort. I think it is idle for any section of the country or any group of Senators who want a particular kind of energy to believe that they can get what they want for their section of the country, or that they can get what they want for the kind of energy supplies that they favor apart from a bill like this that helps everybody pull together. We cannot unravel this thing and pass a bunch of different bills. It is not going to happen. We are one country. We have to rely on many different sources of energy, but it has to be one policy. We have to have it all in one policy. It is not going to be perfect, but it is going to make a difference for the future. To the extent that it is not perfect, we can work on it.

I would so much rather have a view of legislation that says, look, we would rather go ahead knowing that we will take what is good and we can work on the things that we are concerned about than stopping everything because we cannot achieve that perfection given the state of human nature and the realistic possibilities in which we have to operate.

I am going to be pleased to support this bill. I urge Senators who have greater doubts than I do, or maybe who have themselves dug in on one issue or another, to try to work out an arrangement with the bipartisan group of Senators who have pushed this bill for so long. I know the Senator from New Mexico is ready to talk. The leadership is ready to talk. I am hopeful we will see the leaders on both sides of the aisle supporting this bill.

Now, as I said before, is the time for us to pull together and send a clear signal to this country that we can and will pass a comprehensive national energy policy that will create a stable and affordable supply of energy for years to come and allow our entrepreneurs, our manufacturers, our farmers, our small business people, to move ahead with the predictability that a stable energy supply gives them.

I yield the floor.

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.

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

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

UNEMPLOYMENT INSURANCE EXTENSION

Ms. CANTWELL. Mr. President, I know we are still under consideration of the Energy conference report and many Members have been to the floor talking about the prescription drug conference report as well.

Before we adjourn, whatever date that is, sometime in the very near future, hopefully before the Thanksgiving holiday, it is imperative that this body take a stance and pass the unemployment benefit extension before we go home.

We are in the same position we were in virtually a year ago. What has changed? The economy might have gotten slightly better but not really much better. We have a .4 percent improvement in the unemployment rate. We in Washington State are still just above 7 percent in unemployment.

The reason we do the unemployment benefit extension program at the Federal level is to help States, which includes those that have been hardest hit by unemployment, get some extra weeks of unemployment benefits. It has been a successful program in the times of downturns of our economy. During the first Bush and Clinton administrations, when our economy was not doing so well, we basically extended Federal unemployment benefits for a total of 30 months. At that time, the benefits were at the Federal level, 20 additional weeks.

We are at this point in time now where we have extended the Federal program in this recession for about 22 months. Yet while we have seen a slight economic improvement, as I said, .4 percent, I believe it is not enough to continue the improvements we would like to see in our economy.

In an economic downturn, make no mistake about it, working Americans would rather have a paycheck than an unemployment check. But giving people an unemployment check in times of tough economic situations helps our economy overall. Every $1 spent on unemployment benefits generates $2.15 of stimulus. That is mortgage payments paid, health care bills that are met, a continuation of the economy at the most stable level we can have when we are not seeing job increases.

It is vitally important, before we adjourn—we have spent all this time debating judges and there was a good debate on both sides—we get back to some of the basic issues that need to be accomplished before we adjourn. Certainly unemployment benefits, I believe, should be that priority.

What is going to happen in December if we adjourn sometime next week—this program expires at the end of December. What is likely, if that happens, is we will see 90,000 people at the national level fall off this benefit program and as many as 2 million people in the first several months of the year could be without unemployment benefits.

Like many of my colleagues, I hope the economy improves. But I don't think we are seeing an indication it will improve that rapidly that soon. To leave these people without benefits at a time when we could be stimulating the economy is irresponsible.

For Washington State, the numbers are similar. We have about 200,000 people in Washington State who will exhaust their benefits in the first 6 months of 2004. I would rather those people be receiving some benefits and having the certainty of receiving those benefits now, even if it is a shorter extension period.

The challenge we ran into last December as we bantered back and forth—and, actually, the Senate did the right thing in the eleventh hour by passing the unemployment benefit extension; the House decided not to act on it. What happened was we left many Americans without certainty of the unemployment benefits.

Some of my colleagues believe nothing happened, that when we got back in January we reconstituted that program and people did not lose a thing. That is not true. I know constituents who made alternative plans, not knowing whether Congress had the intention of extending the unemployment benefit program. There was not the certainty. I had constituents who took money out of pension programs with 30 percent penalties, basically trading off their long-term investment for short-term return because they did not think we were going to extend benefits.

We ought to give working Americans some certainty that as this economy continues to struggle, we are going to be there with unemployment benefits.

My colleague from Nevada has cited several times that many Members of Congress voted to terminate this program. In the 1990s, after we had the 30 months of an extension of employment benefits by both the Bush and Clinton administrations, and after we had a 1.2 percent improvement in the unemployment rate, yes, we curtailed that program. However, we are doing less now, less under more severe economic conditions, than the first President Bush and President Clinton did during that time period. They went for 30 months. They had a Federal program that was 20 weeks instead of the 13 we have now, and they only curtailed the program once they saw a better return to the economy.

I encourage my colleagues to put this bill on the priority list for the next several days. Let's figure out a way to give unemployed Americans some certainty as they face the holiday season. Let's give those millions of people who are going to be impacted by not having this Federal program continued some relief and know we will be also holding up our economy. Let's not say to people that this Congress went ahead and passed tax cuts for the wealthiest of Americans, did a variety of things that may have been targeted tax credits, but failed to extend to hard-working Americans the unemployment benefit program into which they have paid.

UNANIMOUS CONSENT REQUEST

I ask unanimous consent that the Senate proceed to legislative session

and the Finance Committee be discharged from further consideration of S. 1853, a bill to extend unemployment insurance; that the Senate proceed to its immediate consideration; the bill be read the third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. On behalf of the majority leader, in my capacity as a Senator from Minnesota, I object.

Ms. CANTWELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Mr. FRIST. Mr. President, we have had a full day of debate on this very important conference report. We have had a number of Senators come to the floor in support of the bill and others who have used this as an opportunity to highlight their opposition to one aspect of the bill or another. The bill finally establishes a comprehensive energy policy, and I do urge my colleagues to look at the bill not just piece by piece but in its entirety. Chairman DOMENICI had to negotiate a whole range of tough issues to put together a bill that requires a very fragile balance, as people even more fully understand this and come to the floor to address different aspects of the bill.

I understand there are some Members who want to preserve their rights on this legislation and who don't want to allow a time limitation. But given the importance of the legislation, at this juncture I send a cloture motion to the desk.

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

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate to the conference report H.R. 6, the energy policy bill to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

Bill Frist, Pete Domenici, John Cornyn, Mike Crapo, Larry Craig, Ben Nighthorse Campbell, Michael B. Enzi, Mike DeWine, Christopher Bond, Robert F. Bennett, Trent Lott, Pat Roberts, Jim Bunning, Mitch McConnell, Richard G. Lugar, Norm Coleman, Conrad Burns.

Mr. FRIST. Mr. President, this cloture vote will occur on Friday of this week unless changed by unanimous consent. I hope that cloture is invoked and that the Senate can then act expeditiously to vote adoption of the conference report. Until that time, Members will be allowed to come to the floor to express themselves with regard to this legislation. We encourage them to do so.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

IN MEMORY OF RUTH BURNETT, MAYOR OF FAIRBANKS AND BELOVED STAFF MEMBER

Mr. STEVENS. Mr. President, my heart became heavy with sadness as I learned this weekend of the death of my close personal friend Ruth Burnett.

Ruth Burnett was not only a person who gave me great support as the manager of my Fairbanks office, she, her husband Wally Burnett, Sr. and I became friends 50 years ago after my family and I moved to Fairbanks. As the years went by, we kept in touch and from the days of my earliest Senate campaign Ruth and Wally supported me.

Ruth's time as mayor of Fairbanks brought us even closer together and I was delighted when Ruth agreed to be my representative in Fairbanks. She worked tirelessly, without regard to office hours. And she was responsible for bringing to our attention the plight of thousands of interior Alaskans so that my staff and I in Washington, DC could try to help them. She gave me many ideas on where to send Federal money in the interior so that we could do the most good for the most people.

Ruth's whole family pitched in to support her. Wally Burnett, Jr. was a leading member of my Washington, DC staff and the Senate Appropriations staff. Public service has been a hallmark of the Burnett family—a family with a great Alaskan tradition.

Ruth will be dearly missed, but her spirit will live on through the great family she leaves behind and through the many lives she touched.

HONORING OUR ARMED FORCES

Mr. KENNEDY. Mr. President, in these difficult days when the brave men and women of our Armed Forces face such great dangers in Iraq, we continue to mourn the losses of our heroes who gave their lives in past wars. One of those heroes is Major Richard W. Cooper, Jr., of Holyoke, MA, and his loss is very much in our minds now. Major Cooper was a navigator aboard a B–52 bomber from Westover Air Force Base. He was on one of the final bombing runs in the Vietnam War in 1972, and his plane went down on December 19 of that year. He has been listed as Missing in Action ever since. The Air Force never gave up the search and recently, his remains were discovered and identified through the Joint Task Force Full Accounting operation in Vietnam. Next month, on December 19, at long last, 31 years to the day after his final mission for our country, Major Cooper will be laid to rest with full military honors in Arlington National Cemetery.

Major Cooper earned many decorations for his loyal service to our country, including the Distinguished Flying Cross, and we honor his great courage. Our Nation has often called its sons and daughters into harm's way, and their families bear the scars of battle forever. America owes an enormous debt of gratitude to Major Cooper and his family, and our thoughts and prayers are very much with them now. Massachusetts is proud of him and so is our country.

Mr. WARNER. Mr. President, I seek recognition to honor a Virginia Soldier, CWO Sharon T. Swartworth, who was tragically killed in action in Iraq on Friday, November 7, 2003. I want to express gratitude, on behalf of the Senate, for her service to our Nation. The American people, I am certain, join me in expressing their prayers and compassion to her family.

CWO Sharon T. Swartworth entered the Army shortly before her eighteenth birthday, her father signing the papers allowing her to enlist early. ''She traveled around the world before she was assigned to the Pentagon.'' She understood the importance of her present assignment and despite the personal risk, wanted to serve the United States and the people of Iraq during this critical time.

A warrant officer of the Judge Advocate General's Corps, she served as the primary adviser to the judge advocate general on all matters concerning legal administrators in the Army. She was temporarily in Iraq to process awards for deserving soldiers and to ensure the legal needs of soldiers were being met.

CWO Sharon T. Swartworth leaves behind: her son, William III; her husband, William, a captain of the Naval Medical Corps; and her father, Bernard Mayo.

I, among many friends and colleagues, attended the ceremony at Arlington Cemetery. Her family, who has borne this tragedy with dignity, are brave souls who have sacrificed so much for this Nation. We owe them and the other families who have lost their loved ones a debt of gratitude.

She was an exceptional woman with a bright future and family in front of her. Her father related, ''She did it all, and we can be proud of her. She was a soldier.'' I can not craft a finer eulogy. The Commonwealth of Virginia and the entire Nation shall mourn her loss.

Mr. JEFFORDS. Mr. President, I was deeply saddened to learn yesterday of the death in Iraq of another of Vermont's sons. LT Pierre Piche of Starksboro, VT was one of 17 brave young soldiers who died in the crash of two Blackhawk helicopters last Saturday. This brings to five the number of

Vermonters who have given their lives in Iraq.

The newspaper articles reporting on the death of Lieutenant Piche, and also on the Nov. 7 death of SSG Scott Rose, a young man whose wife and parents in-law are from Springfield, VT, bring home the heart-wrenching pain felt by those who have lost a son or daughter, mother or father, sister or brother, or close friend in this war.

Lieutenant Piche was Lisa Johnson's only child. Ms. Johnson speaks of the daily anxiety she faced hearing the reports of dead and wounded and wondering if it was her son. At first, she turned for consolation to her father, a World War II veteran. Tragically, he died in July. Hearing reports of the helicopter crash last Saturday, she spent the rest of the weekend with her stomach in knots until she received a phone call from her daughter in-law, Cherish, with the simple, chilling words ''They're here.''

Army officers had come to Lieutenant Piche's home to tell his wife that the lieutenant was dead. An hour later, officers arrived at Ms. Johnson's home to deliver the same message.

Staff Sergeant Rose became a father for the first time on July 31. He never saw his child, though. He already had left for Iraq and was unable to get home on leave before the tragic crash that ended his life. His wife Michele Rose is now left to raise their infant daughter in his absence.

I have been concerned throughout this conflict, and most particularly during the recent debate on the President's request for an additional $87 billion, that our focus on the financial costs and broader strategic and tactical questions associated with the war has blinded us somewhat to the brutal anguish faced by those who have lost a loved one in Iraq. We must never forget that each and every casualty suffered in Iraq delivers a crushing blow to many here at home. Moreover, we must have sympathy for the terrible anxiety faced daily by the families of men and women serving in Iraq. This war has many victims and we must not lose sight of their pain.

I ask unanimous consent to print in the RECORD the two newspaper articles detailing this war's effects on the lives of these two Vermont families.

There being objection, the material was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, Nov. 18, 2003]

FIFTH VERMONT SOLDIER DIES IN IRAQ

(By Brent Hallenbeck)

STARKSBORO.—Pierre Piche last spoke to his mother a few weeks ago by phone from Iraq. He told her he wanted to come home to his wife of 3 years and earn his master's degree so he could become a teacher.

His mother had recently sent him a rubber koi fish, and he said he planned to have a pond filled with the tranquil Japanese fish. ''He tried not to focus on how dangerous it was getting over there. He just wanted peace,'' his mother, Lisa Johnson, said Monday afternoon at her home in Starksboro. ''He was determined to do what he needed to do to keep his men safe and get home.''

Piche, 28 and 16 of his fellow soldiers died Saturday when their Black Hawk helicopters crashed, possibly as a result of enemy fire, in Mosul, Iraq. The crash is the single deadliest incident since the war began in Iraq 8 months ago.

Piche, a first lieutenant with the Army's 101st Airborne Division, is the fifth soldier with Vermont roots to die in the war. He is the only child of Lisa Johnson, who has wanted to pull Piche back into her arms ever since he was deployed to Iraq a month before the war began.

''I wanted to take him home. When your child goes into something dangerous, a mother goes and gets him,'' Johnson said, fighting tears. ''It's been a pretty hellish time since February.''

Piche grew up in Colchester, where he attended Malletts Bay School. His mother remembers that Piche was a complex child who would ask heavy questions about the origins of the universe or the workings of the human body and expect, almost demand, an answer.

''When he was born I called him my Mr. Magoo because he was this very serious little boy,'' she said, pointing to a photograph of her and her 2-year-old son sitting in the woods. The child was wearing an expression that was intense but wise. ''He was like a little old man right away,'' she said.

He was also ''full of all the right kind of mischief,'' according to Hugh Johnson, who became his stepfather when Piche was 6. He remembers once that his stepson tried unsuccessfully to ride his bike up a boat ramp on dry land. ''Suddenly there was a great tumbling of boy and steel,'' Hugh Johnson said.

The family moved when Piche was 9 to South Hero, where he attended Folsom School. Lisa Johnson said he demonstrated his kindly nature by taking in all sorts of animals, from dogs and cats to iguanas, chickens and geese.

The family moved to Starksboro when Piche was 14. He went to private school in Connecticut, then college, including for a time the University of Vermont. He graduated from Middle Tennessee State in 1998 after majoring in political science.

Piche was always patriotic and believed in serving his country, his mother said. While in college he joined the Army Reserve and soon after entered the Army full-time, rising through the ranks of the 101st Airborne at Fort Campbell, KY, where he and his wife, Cherish, made their home.

Pierre Piche made his final visit to Vermont last Christmas. Friends and family came to Starksboro for festive holiday parties. He took Cherish Piche, who has lived in the South most of her life, out for snowmobile rides and sledding expeditions.

War in Iraq was looming last December, and Piche and his mother knew he was likely to be deployed. ''I deliberately avoided that subject,'' Lisa Johnson said. ''He didn't want to talk about it either. We knew, and there wasn't any point.''

She held out hope he would be safe. Months earlier, he had switched jobs, from a command post to maintenance duties that would perhaps be less risky. ''The idea was he wouldn't be out there on the front line,'' Hugh Johnson said.

Piche arrived in Iraq 9 months ago, and the Johnsons followed the news intently from Starksboro. Whenever Lisa Johnson heard a soldier died anywhere near where she believed her son was she would cry, and immediately struggle to gather her senses—as a social worker, she said it was essential to be composed.

Her father, Robert Fusco of Jonesville, would console her. A World War II veteran, Fusco would tell her Piche was well-trained, smart and vigilant, and would make sure he and his soldiers would come home. ''Anytime I got scared my father would tell me to toughen up,'' Lisa Johnson said. Fusco died of heart failure July 8, proud to the end of his grandson's accomplishments.

Piche e-mailed his mother often, and recently sent photos showing him in his cropped brown hair and brown camouflage while holding an automatic weapon.

Another photo showed him in uniform holding a dog. Lisa Johnson said he frequently discovered abandoned pets in Iraq and tried to find good homes for them. ''Even in the middle of chaos he could find good things,'' she said. ''That's what good guys do.''

Piche's unit was being moved from one location to another Saturday, a move he was dreading. He told his mother that Iraq was becoming a more dangerous place—more aggressive, less predictable.

She heard Saturday about the two helicopters crashing in Mosul. ''I spent the rest of the weekend in knots,'' she said. She and Cherish Piche spoke by phone all day Saturday, telling each other that they hoped by some fluke Piche was not on either of those helicopters, and just couldn't get to a computer to e-mail either of them to say he was safe. Then Cherish Piche called Sunday afternoon. Her words were simple: ''They're here.'' Army soldiers had come to her home at Fort Campbell to say that her husband was dead.

An hour later, at 5 p.m., two soldiers came to the gray Cape Cod on Big Hollow Road to give Lisa and Hugh Johnson the same news. ''I just said, 'No, no, no,' and I went outside and I was crazy,'' Lisa Johnson said. She wandered through the miles of woods behind her home. ''I just cried and screamed—'No, it can't be, it just can't be.'''

Hugh Johnson said he knows that if he could, his stepson would have been trying to save his fellow soldiers until the last minute. Pride doesn't translate to solace, not when parents are mourning the loss of a son who was always giving to others. ''It's such a waste,'' Hugh Johnson said. ''He should have had another 60 years of doing that.'' ''I'm proud of him and I'm proud of him no matter what,'' Lisa Johnson said. ''That doesn't make his dying any easier.''

The Johnsons and Piche's widow are making funeral arrangements while awaiting for his body to return home. Lisa Johnson said they hope to bury him near his grandfather, Fusco, at Holy Rosary Cemetery in Richmond.

Meanwhile, the family is welcoming a constant flow of visitors bearing generous amounts of food and any words of consolation they can muster. The food and the words are appreciated, Lisa Johnson said, but not important. ''All that matters,'' she said, ''is that they loved him.''

[From the Rutland Herald, Nov. 18, 2003]

SOLDIER KILLED IN IRAQ WILL BE EULOGIZED IN SPRINGFIELD

(By Susan Smallheer)

SPRINGFIELD.—An Army soldier who died in Iraq without ever holding his newborn daughter will be eulogized with full military honors Saturday in Springfield. Staff Sgt. Scott C. Rose, 30, whose wife, Michele, is from Springfield, will receive full military honors and a special farewell Saturday at St. Mary's Catholic Church, according to Rose's father, Alfred Rose of Fayetteville, N.C.

Rose was one of six soldiers who died on Nov. 7 near Tikrit when their Black Hawk helicopter came under attack, exploded and fell to the ground. He had been in Iraq since April. Rose was the crew chief.

Alfred Rose said his son and his wife met at North Carolina State University and married, living at Fort Campbell, Ky., the base of the 101st Airborne Division. Michele (Basso) Rose gave birth to their daughter Meghan Louise at Fort Campbell on July 31, and the baby never met her father, the elder Rose said.

Rose said that he was able to hook up a Web camera so his son could watch the baby over the Internet from Iraq, but that he died before he was able to get leave and come home to visit his new daughter. She is the couple's only child.

Rose said his son died with three of his fellow crew members, all of whom were very close friends. According to news reports, the Black Hawk was transporting two officials from the Army's Judge Advocate General corps from the Pentagon when the helicopter was hit.

Alfred Rose, himself a retired lieutenant colonel from the 82nd Airborne Division, said his son's mission on Nov. 7 was to transport ''command and control'' personnel from Mosul to Tikrit. His son was the crew chief.

He said his son was born in Attleboro, Mass., but grew up in North Carolina, attending high school in Fayetteville. He was captain of the wrestling team and also played soccer, was also involved in drama and debate. He graduated second in his class and attended North Carolina State on a full Navy scholarship.

But he switched to the Army even after receiving orders to the Navy's prestigious flight school in Pensacola, Fla., his father said, to combine his love of flying and his wish to be a family man. Navy flight training involves six month stints on aircraft carriers. ''However, the world situation turned sour and he was deployed nearly continuously from Bosnia to the NCO School in Virginia and immediately to Iraq. Scott badly wanted to join his unit, which was already over there,'' his father recalled.

His father called him ''the Tom Cruise of the Lancer flight line, he loved his work, he loved to teach others.'' ''He was one of those rare great men, soldier, leader, husband, father . . . our son,'' he said.

The elder Rose said his son's unit was not expected back from Iraq until February or March 2004. According to an article in the Fayetteville Observer, Rose had started flying when he was 14 years old. In college, he started studying aeronautical engineering, but switched to history.

His son called his helicopter ''Goat 26431.'' He named it so in honor of his grandfather's military aircraft, which was also nicknamed Goat. His grandfather also died on active duty.

The father said his son's helicopter came under fire the morning of Nov. 7. A second Black Hawk helicopter was following close behind and was not hit, but Rose said those in the second helicopter heard the impact of the weapon, saw flames erupt and his son's helicopter crash. At the time the helicopter was hit, they were about 280 feet above the ground and had slowed to make a landing in a designated area.

His son received a Bronze Star and a Purple Heart, as well as the Army Commendation medal. His wife's father and stepmother, Alfred and Paula Basso, live on Poppe Road in Springfield, according to William Young, director of the David Memorial Chapel, which is working closely with the military to plan Saturday's funeral. Details of the service are still being worked out, according to a spokesman at the funeral home.

Young said Rose would not be buried in Vermont as his remains were being cremated. The elder Rose said that a memorial account in his son's name has been set up to benefit his infant daughter at the Bryant Credit Union in Springfield.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On October 25, 2003, a Miami, FL, teen was charged with a hate crime after police say he harassed a 19-year-old woman driving with a gay pride sticker on her car.

The teen leaned out of his car window at a traffic light to make an obscene gesture toward the young woman and said to her, ''We hate faggots . . . we kill people like you.'' The truck pulled up to her again at the next light where he continued to make lewd comments and gestures. The teen cut in front of the woman and hit his brakes, causing the woman's car to swerve, according to police. Police say the driver then swerved his truck three times towards the woman's car, running her off the road.

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

SBA ASSISTANCE FOLLOWING HURRICANE ISABEL

Mr. ALLEN. Mr. President, I wish to call to the attention of my colleagues the well-coordinated and rapid response of the good people from the United States Small Business Administration in the days and weeks that have followed the disaster caused by Hurricane Isabel.

Virginia is still recovering from this terrible natural disaster. In Virginia, initial assessments indicate that 1,062 homes were destroyed; over 8,800 homes sustained major damage; 1.8 million customers lost electricity of varying duration from a day to over a week; there were 28 deaths in the Commonwealth; crop losses are in the tens of millions; and total damages are in the billions to homes, businesses, transportation and other infrastructure facilities.

Our Commonwealth was devastated and the residents of Virginia, as they always do, have come together to help neighbors repair damages, to help families find housing and to console those who lost loved ones in their time of grief.

Soon after the storm cut across Virginia, and the economic impact began to be felt, I contacted Small Business Administration leaders, seeking to bring direct assistance to these affected businesses. On September 22, SBA representatives responded quickly. My colleague, JOHN WARNER, and I toured the significant damage to many flooded small businesses in Old Town Alexandria, VA.

The quick response, expertise and enthusiasm of the SBA leaders gave hope to small business owners who were upset at the great losses and burdened by damage to their infrastructure, uncertainty when to reopen, loss of inventory, very little capital and lost incomes. The people saw that there was help, that it was not just their own sweat, worry and furrowed brows, but that the SBA was there to assist them directly.

Herb Mitchell, associate administrator for the Office of Disaster Assistance at the SBA, Anthony Bedell, associate administrator for the Office of Congressional and Legislative Affairs, Sue Hensley, associate administrator for the Office of Communications and Public Liaison and their leader Melanie Sabelhaus, Deputy Administrator for the SBA walked with us while we viewed the damage first hand, talking with business owners who were able to ask specific questions and receive answers and solutions.

On the spot, Melanie Sabelhaus of the SBA also set up an onsite Business Disaster Recovery Center with the local Chamber of Commerce in Old Town Alexandria to help business owners who suffered loss. Our top priority was to get small businesses dried out, disinfected and back in business, and I am proud that this team effort has proceeded successfully. By getting our boots in the mud, we were able to get a direct, human response to promptly assist distressed small business owners, who are the backbone of the American economy.

Later the same week they answered my call and came with me again to southeastern Virginia, to places such as Burwell's Bay in Isle of Wight County, Suffolk and Wakefield in Sussex County. There we witnessed the terrible devastation. People there not only experienced great trauma, difficulty and loss, they were still without power, looking to the SBA for assistance, which was able to provide human, personal attention to help get them up and running again. Small businesses such as Cameron Chemical and the Marina Restaurant, whose owners we were able to talk with, which were forced to close their businesses indefinitely, and which together employ dozens of hard-working Virginians were given hands-on assistance by the SBA to reopen in a timely manner. Low interest loans, business disruption assistance from the SBA visibly cheered their faces with hope and gratitude. Traveling with me again was Melanie Sabelhaus, along with Anne Bradbury, assistant administrator for congressional affairs and Becky Brantley, assistant administrator for disaster assistance.

I commend the Small Business Administration's leadership, under the direction of Administrator Hector

Barreto, Jr., and the entire team at the SBA. They responded to each of my requests and demonstrated knowledge, experience and genuine care by helping small businesses get clean, dry, rebuilt and open again for customers and employees. Their enthusiastic outreach truly gave hope to many owners and employees. And, as a U.S. Senator, one can often try to get Federal agencies to help people. From my perspective, the Small Business Administration is demonstrably one of the very best lead teams in the Federal Government. On behalf of Virginians, I thank them for their special care. Many small entrepreneurs are open for business due to our efforts. It is a satisfying job well done.

VOTE EXPLANATION

Mr. KENNEDY. Mr. President, regarding the voice vote on the nomination of Major General Robert T. Clark, U.S. Army, yesterday in the U.S. Senate, had such vote been a rollcall vote, I would have voted ''nay.''

ADDITIONAL STATEMENTS

TRIBUTE TO DELEGATE HOWARD ''PETE'' RAWLINGS

• Ms. MIKULSKI. Mr. President, I rise to pay tribute to the life and legacy of Delegate Pete Rawlings. He was a big man with a big heart—who leaves an indelible mark on the people of Maryland.

The Baltimore Sun said Delegate Rawlings had ''the passion of a civil rights activist and the analytical mind of a mathematician combined with the savvy of a backroom pol.'' I think that captures him perfectly.

Delegate Rawlings used America's unique opportunity structure to build a life of accomplishment and of service. But more importantly, he expanded that opportunity structure for thousands of others. In over a quarter century in the House of Delegates, Pete Rawlings was known as a man of principle who put his principles into action.

Mathematician and politician, educator and leader, Pete Rawlings may be best remembered for his untiring advocacy to improve education for all. He was an unfailing advocate for education. He used his power and influence to provide an unprecedented State commitment to education, a $1.3 billion commitment that the State recognized it would be constitutionally bound to fulfill. Maryland's schools are better today because of Delegate Rawlings.

The passing of Delegate Rawlings is a tragedy, but his life was a triumph. His wife, Dr. Nina Cole, and his children, Wendall Rawlings, Lisa Rawlings, and Councilwoman Stephanie C. Rawlings Black are in my thoughts and prayers.

I ask that an editorial from the Baltimore Sun be printed in the CONGRESSIONAL RECORD.

The editorial follows:

[From the Baltimore Sun, Nov. 16, 2003]

PETE

He'd thunder and preach, he'd deplore and beseech, he'd count pennies and votes and usually come out on the money.

With the death Friday of Del. Howard P. ''Pete'' Rawlings, Maryland lost an extraordinarily gifted leader and one of the most accomplished politicians of his era—known for both a tight fist and a caring heart.

Mr. Rawlings' intellectual grasp of policy detail and instinct for mastering the levers of power propelled him to a top post in the General Assembly. His greatest contributions arose, however, from his willingness to take on the unpopular yet critical tasks of fiscal management.

He never forgot his West Baltimore constituents, yet he had the rare courage to sometimes tell them no.

Such was the force of his conviction that he managed not only to survive such battles but to prosper. His remarkable legacy includes a new generation of political leaders he mentored along the way.

As a freshman delegate, part of a tiny minority of black lawmakers, Mr. Rawlings claimed his seat on the House Appropriations Committee in 1979 and immediately started breaking the rules. He publicly questioned every spending item, including those dear to the hearts of his committee mates, wanting to know what good the money would do for ''his people.''

Colleagues rolled their eyes. Who was this guy? They were used to machine-backed black legislators who were reliable votes, and to the ''screamers'' who would grandstand in protest of the system but never get anything done. In Mr. Rawlings, they found the passion of a civil rights activist and the analytical mind of a mathematician combined with the savvy of a backroom pol.

He was quickly tagged as a ''comer,'' was named to a subcommittee chairmanship and by 1992 was awarded the gavel of Appropriations Committee chairman.

Running Appropriations in Annapolis isn't like in Congress, where the bounty flows seemingly without limit. In Maryland, the budget has to balance. Mr. Rawlings made it his business to try to ensure the taxpayers' money was being spent wisely.

He battled with Baltimore mayors and officials of Morgan State University. He authored reforms in education, housing and health care. He brought home the bacon as he saw fit.

The strongest testimony to his style may be his endorsement of Martin O'Malley in the 1999 mayoral race against black competitors, thus awarding the job of running a majority-black city to a white politician Mr. Rawlings thought better qualified.

Much of Mr. Rawlings' success stemmed from the sense that he was not interested in power for its own sake, but for what he could accomplish. That, and a deep bass voice that boomed with such moral authority it seemed to come from the heavens.

His passing robs Baltimore of its most effective and empathetic advocate. All of Maryland, though, is poorer for his loss.•

COMMENDING MAJOR FIRMAN RAY ON RECEIVING THE SILVER STAR MEDAL

• Mr. BAUCUS. Mr. President, it is my great pleasure and pride to rise today to honor a true Montana hero—MAJ Firman Ray. Major Ray grew up in Butte and Stevensville. He attended the University of Montana. To this day, he remains a staunch Grizzly fan. His mother Tempie Ray is a retired high school librarian in Stevensville. Firman is the nephew of Carl and Martha Davis from Dillon. At the Montana Constitutional Convention, I was Carl's intern. Furthermore, Firman's wife Sheila Hall Ray was my son's babysitter when we lived in Missoula. Firman and his family are 100 percent Montana.

MAJ Firman Ray has a distinguished career with the Army and he is only getting started. He has excelled in each of his positions since he was commissioned in 1991. Firman also survived the 9/11 attack on the Pentagon where his office was hit by the terrorists.

Today, we recognize MAJ Firman Ray to receive the Silver Star for distinguished gallantry in action against the enemy in Somalia in 1993. The Silver Star is the third highest medal awarded for combat service and the fourth highest medal that a soldier may receive. The Silver Star is awarded to a person who, while serving in any capacity with the U.S. Army, is cited for gallantry in action against an enemy of the United States while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in conflict against an opposing armed force in which the United States is not a belligerent party.

For those reasons and so many more, I am honored to announce that today MAJ Firman Ray will finally receive the distinguished Silver Star award for his valorous performance of duty with the U.S. Army in Somalia that is long overdue.

Many of you may remember the movie, ''Black Hawk Down.'' MAJ Firman Ray, then Lieutenant Ray, was part of the team that the movie, Black Hawk Down, portrayed. It was during the predawn hours of September 25, 1993, that a U.S. Army UH–60 Blackhawk helicopter was shot down in Mogadishu, Somalia. Lieutenant Ray was part of AT Platoon that was given the mission to conduct a search and rescue operation at the helicopter crash site. Clearly understanding the urgency of the situation, Lieutenant Ray took his two lead MK–19 gun vehicles and instructed them to quickly advance to the crash site. Upon entering the site, intense small arms fire and sporadic rocket propelled grenade fire erupted. The gunners under Lieutenant Ray's command were able to destroy three enemy positions in a building just north of the crash site. While attempting to again secure the site, another firefight ensued on the west side. Lieutenant Ray dismounted and on the run, dodged under considerable fire to position the gun vehicles to establish security. Lieutenant Ray's unit was again under fire two more times where Firman moved the gun vehicles into strategic positions that were vital to

suppressing enemy fire. Once the perimeter was finally secured, Lieutenant Ray assisted in collecting the remains of the soldiers killed in the helicopter crash.

Shortly afterwards, the stillness was broken by yet another attack and a firefight resumed. During the next 30 minutes of battle and under fire, Lieutenant Ray ran to and from each gun vehicle's position, directing counter fire and ensuring adequate ammunition. The mission was complete and all personnel and sensitive equipment attempted to withdraw to the airfield. Lieutenant Ray directed his rear security gun vehicle to assume the lead and, again, enemy militia began firing with small arms and RPG's, inflicting casualties. With four blocks to go, Lieutenant Ray remained dismounted and slowly moved south, deftly crossing intersections proven treacherous by prior American casualties.

From the onset to outcome, Lieutenant Ray was first in and last out. He performed his duty with bravery and poise. He is a decisive leader who inspires fierce soldier loyalty, trust, and cohesiveness. Because of his quick and intelligent decisions, and due to his confident direction, Lieutenant Ray's platoon, under the most extreme battle conditions, provided the decisive ingredient to the success of the mission. Due to his combat performance, Firman Ray is deserving of the Silver Star for distinctive recognition as an exceptional soldier and leader of men.

I commend Major Ray for his heroic efforts in Operation Restoration Hope and I am proud that he receives the Silver Star today. He exemplifies valor, bravery, and courage. Major Ray put his life on the line to defend our country. He put his life on the line to save his men. For that, we all owe him a huge debt of gratitude.

We are proud to call MAJ Firman Ray a Montanan. And as Montanans and Americans, we are eternally grateful for his selfless service to our country, which has made our Nation a safer place and has helped to promote and defend democracy across the globe.

Firman, as you know, receiving a Silver Star Medal is quite an accomplishment. I can think of no one more deserving than you. From one Montanan to another, thank you for your commitment to your country, service to your community, and for making America safer for each and every one of us.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Finance.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:48 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 254. An act to revise the boundary of the Kaloko-Honokohau National Historical Park in the State of Hawaii, and for other purposes;

S. 867. An act to designate the facility of the United States Postal Service located at 710 Wick Lane in Billings, Montana, as the ''Ronald Reagan Post Office Building''; and

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''.

The message also announced that the House passed the following bills in which it requests the concurrence of the Senate:

H.R. 280. An act to establish certain National Heritage Areas, and for other purposes;

H.R. 1189. An act to increase the waiver requirement for certain local matching requirements for grants provided to American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, and for other purposes;

H.R. 1204. An act to amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System, to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties, and for other purposes;

H.R. 1274. An act to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouse in that county;

H.R. 1651. An act to provide for the exchange of land within the Sierra National Forest, California, and for other purposes;

H.R. 1658. An act to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes;

H.R. 2130. An act to redesignate the facility of the United States Postal Service located at 121 Kinderkamack Road in River Edge, New Jersey, as the ''New Bridge Landing Post Office'';

H.R. 2907. An act to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership;

H.R. 3287. An act to award congressional gold medals posthumously on behalf of Reverend Joseph A. DeLaine, Harry and Eliza Briggs, and Levi Pearson in recognition of their contributions to the Nation as pioneers in the effort to desegregate public schools that led directly to the landmark desegregation case of Brown et al. v. the Board of Education of Topeka et al; and

H.R. 3300. An act to designate the facility of the United States Postal Service located at 15500 Pearl Road in Strongsville, Ohio, as the ''Walter F. Ehrnfelt, Jr. Post Office Building.''

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res 69. Concurrent resolution expressing the sense of Congress that Althea Gibson should be recognized for her ground breaking achievements in athletics and her commitment to ending racial discrimination and prejudice within the world of sports; and

H. Con. Res. 313. Concurrent resolution to urge the President, on behalf of the United States, to present the Presidential Medal of Freedom to His Holiness, Pope John Paul II, in recognition of his significant, enduring, and historic contributions to the causes of freedom, human dignity, and peace and to commemorate the Silver Jubilee of His Holiness' inauguration of his ministry as Bishop of Rome and Supreme Pastor of the Catholic Church.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1066. An act to correct a technical error from Unit T–07 of the John H. Chafee Coastal Barrier Resources System;

S. 1590. An act to redesignate the facility of the United States Postal Service, located at 315 Empire Boulevard in Crown Heights, Brooklyn, New York, as the ''James E. Davis Post Office Building'';

S. J. Res. 18. Joint resolution commending the Inspectors General for their efforts to prevent and detect waste, fraud, abuse, and mismanagement, and to promote economy, efficiency, and effectiveness in the Federal Government during the past 25 years; and

S. J. Res. 22. Joint resolution recognizing Agricultural Research Service of the Department of Agriculture for 50 years of outstanding service to the Nation through agricultural research.

The enrolled bills and joint resolutions were signed subsequently by the President pro tempore (Mr. STEVENS).

At 4:52 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1824. An act to amend the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation, and for other purposes.

The message also announced that the House passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1813. An act to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

ENROLLED BILL SIGNED

At 6:20 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1588. An act to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities

of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

ENROLLED BILLS SIGNED

At 7:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 254. An act to revise the boundary of the Kaloko-Honokohau National Historical Park Addition Act of 2003.

S. 867. An act to designate the facility of the United States Postal Service located at 710 Wick Lane in Billings, Montana, as the ''Ronald Reagan 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''.

H.R. 23. An act to amend the Housing and Community Development Act of 1974 to authorize communities to use community development block grant funds for construction of tornado-safe shelters in manufactured home parks.

H.R. 2744. An act to designate the facility of the United States Postal Service located at 514 17th Street in Moline, Illinois, as the ''David Bybee Post Office Building''.

H.R. 2754. An act making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

H.R. 3175. An act to designate the facility of the United States Postal Service located at 2650 Cleveland Avenue NW in Canton, Ohio, as the ''Richard D. Watkins Post Office Building''.

H.R. 3379. An act to designate the facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, as the ''Francis X. McCloskey Post Office Building''.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 280. An act to establish the National Aviation Heritage Area, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1189. An act to increase the waiver requirement for certain local matching requirements for grants provided to American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1204. An act to amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System, to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties, and for other purposes; to the Committee on Environment and Public Works.

H.R. 1651. An act to provide for the exchange of land within the Sierra National Forest, California, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1658. An act to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2130. An act to redesignate the facility of the United States Postal Service located at 650 Kinderkamack Road in River Edge, New Jersey, as the ''New Bridge Landing Post Office''; to the Committee on Governmental Affairs.

H.R. 3300. An act to designate the facility of the United States Postal Service located at 15500 Pearl Road in Strongsville, Ohio, as the ''Walter F. Ehrnfelt, Jr., Post Office Building''; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 69. Concurrent resolution expressing the sense of Congress that Althea Gibson should be recognized for her ground breaking achievements in athletics and her commitment to ending racial discrimination and prejudice within the world of sports; to the Committee on the Judiciary.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, November 19, 2003, she had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 1066. An act to correct a technical error from Unit T–07 of the John H. Chafee Coastal Barrier Resources System;

S. 1590. An act to redesignate the facility of the United States Postal Service, located at 315 Empire Boulevard in Crown Heights, Brooklyn, New York, as the ''James E. Davis Post Office Building'';

S.J. Res. 18. Joint resolution commending the Inspectors General for their efforts to prevent and detect waste, fraud, abuse, and mismanagement, and to promote economy, efficiency, and effectiveness in the Federal Government during the past 25 years; and

S.J. Res. 22. Joint resolution recognizing the Agricultural Research Service of the Department of Agriculture for 50 years of outstanding service to the Nation through agricultural research.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC5258. A communication from the Attorney, Aviation Enforcement and Proceedings, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Reporting Requirement for Disability-Related Complaints'' (RIN2105-AD04) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5259. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 757-200 Series Airplanes Docket No. 2001-NM-192'' (RIN2120-AA64) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5260. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes Powered by General Electric (GE) Series Engines Doc. No. 2001-NM-17'' (RIN2120-AA64) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5261. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce Deutschland Ltd. & KG, Model Tay 62015 and 650-15 Turbofan Engines Doc. No. 2002-NE-37'' (RIN2120-AA64) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5262. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: CFM International CFM56-5B and 7B Series Turbofan Engines Doc. No. 2001-NE-37'' (RIN2120-AA64) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5263. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 Series Airplanes Doc. No. 202-NM-271'' (RIN2120-AA64) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5264. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace, Holyoke, Co Doc. No. 00-NM-32'' (RIN2120-AA66) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5265. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace, Dunkirk, NY Doc. No. 02-AEA-08'' (RIN2120-AA66) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5266. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Jet Route No. 02-AGL-16'' (RIN2120-AA66) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5267. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E5 Airspace; Augusta, GA Doc. No. 02-ASO-19'' (RIN2120-AA66) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5268. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments Doc. No. 30341'' (RIN2120-AA65) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5269. A communication from the Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Limitations on the Issuance of Commercial Driver's Licenses With a Hazardous Materials Endorsement; Delay of Compliance Date'' (RIN2126-AA70) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5270. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''16 CFR 305—'Appliance Labeling Rule' [Clothes Washer Ranges—2003]'' (RIN3084-AA74) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5271. A communication from the Chief Counsel, Saint Lawrence Seaway Development Corporation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Seaway Regulations and Rules: Inflation Adjustment of Civil Monetary Penalty'' (RIN2135-AA16) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation .

EC–5272. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''FMVSS No. 208, Response to Petitions for Reconsideration of the December 2001 Amendments to the Advanced Air Bag Rule—pt. 2'' (RIN2127-AI82) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5273. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Bureau, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems; Establishment of Policies and Service Rules for the Mobile-Satellite Service in the 2 GHz Band'' (FCC03-16) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5274. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Bureau, transmitting, pursuant to law, the report of a rule entitled ''Partial Band Licensing and Loading Standards for Earth Stations in the FSS that Share Spectrum With Terrestrial Services, Blanket Licensing for Small Aperture Terminals in the C-Band, Routine Licensing of 3.7 Meter Transmit and Receive Stations at C-Band, and Deployment of Geostationary-Orbit FSS Earth Stations'' (FCC02-17) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5275. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Bureau, transmitting, pursuant to law, the report of a rule entitled ''Order on Reconsideration, 'In the Matter of Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands'' (FCC03-162) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5276. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the Commission's Rules for Implementation of its Cable Operations and Licensing System (COALS) to Allow for Electronic Filing of Licensing Applications, Forms, Registrations, and Notifications in the Multichannel Video and Cable Television Service and the Cable Television Relay Service'' (CS Doc. No. 00-78) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5277. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Section 304 of the Telecommunications Act of 1996—Commercial Availability of Navigation Devices/Compatibility Between Cable Systems and Consumer Electronics Equipment'' (CS Doc. No. 97-80) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5278. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television'' (FCC02-230) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5279. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Band'' (FCC96-54) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5280. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands'' (IB Doc. No. 02-364) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5281. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''The International Bureau Revises and Reissues the Commission's List of Foreign Telecommunications Carriers that are Presumed to Posses Market Power in the Foreign Telecommunications Markets'' (IB Doc. No. 00-106) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5282. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Enforcement of Other Nations' Prohibitions Against the Uncompleted Call Signaling Configuration of International Call-back Service; Petition for Rulemaking of the Telecommunications Resellers Association to Eliminate Comity-Based Enforcement of Other Nations' Prohibitions Against the Uncompleted Call Signaling Configuration of International Call-back Service'' (IB Doc. No. 02-18) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5283. A communication from the Associate Bureau Chief, Wireless Communications Commission, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)'' (GN Doc. No. 01-74) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5284. A communication from the Associate Bureau Chief, Wireless Communications Commission, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Federal-State Joint Board on Universal Service'' (FCC03-249) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5285. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report relative to the audit of the Telecommunications Development Fund; to the Committee on Commerce, Science, and Transportation.

EC–5286. A communication from the Acting Assistant Secretary for Export Administration, Bureau of Industry and Security Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Addition of Kazakhstan to the Nuclear Suppliers Group (NSG), and Other Revisions'' (RIN0694-AC90) received on November 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5287. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range'' (FCC03-24) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5288. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Parts 2 and 87 of the Commission's Rules to Accommodate Advanced Digital Communications in the 117.975-137 MHz Band and to Implement Flight Information Services in the 137-137 MHz Band'' (FCC01-378) received on November 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5289. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 99-01; to the Committee on Appropriations.

EC–5290. A communication from the Director, Regulatory Review Group, Farm Service Agency, transmitting, pursuant to law, the report of a rule entitled ''Removal of Obsolete Regulations'' (RIN0560-AH04) received on November 14, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5291. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, a report relative to funding transfers made during FY 2003 under the authority of the Department's Appropriations Acts 2001, 2002, and 2003; to the Committee on Armed Services.

EC–5292. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2001-17'' (FAC2001-17) received on November 14, 2003; to the Committee on Armed Services.

EC–5293. A communication from the Deputy Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Amendments to the Bank Secrecy Act Regulations; Definitions of Futures Commission Merchants and Introducing Brokers in Commodities as Financial Institutions; Requirement that Futures Commission Merchants and Introducing Brokers in Commodities Report Suspicious Transactions'' (RIN1506-AA44) received on November 17, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5294. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Elibility; 66 FR 54718'' (FEMA-7771) received on November 14, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5295. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law,

the report of a rule entitled ''Changes in Flood Elevation Determinations; 66 FR 56769'' (44 CFR Part 65) received on November 14, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5296. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevations Determinations; 66 FR 56773'' (FEMA-B-7422) received on November 14, 2003; to the Committee on Banking, Housing, and Urban Affairs .

EC–5297. A communication from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects'' (RIN2501-AC98) received on November 14, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5298. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Kingdom of the Netherlands; to the Committee on Banking, Housing, and Urban Affairs.

EC–5299. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–5300. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Kazakhstan; to the Committee on Banking, Housing, and Urban Affairs.

EC–5301. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Abandoned Mine Land (AML) Reclamation Program; Enhancing AML Reclamation'' (RIN1029-AC07) received on November 17, 2003; to the Committee on Energy and Natural Resources.

EC–5302. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Kentucky Abandoned Mine Land (AML) Plan'' (KY-239-FOR) received on November 17, 2003; to the Committee on Energy and Natural Resources.

EC–5303. A communication from the Director, Office of Human Resources Management, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Congressional and Intergovernmental Affairs, Department of Energy, received on November 17, 2003; to the Committee on Energy and Natural Resources.

EC–5304. A communication from the Director, Office of Human Resources Management, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Congressional and Governmental Affairs, Department of Energy, received on November 17, 2003; to the Committee on Energy and Natural Resources.

EC–5305. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Emergency Wartime Supplemental Appropriations Act, a report relative to the export to Iraq of electronic counter measures; to the Committee on Foreign Relations.

EC–5306. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, a report relative to Cuban emigration policies; to the Committee on Foreign Relations.

EC–5307. A communication from the Commissioner, Social Security Administration, transmitting, a report of the Administration's processing of continuing disability reviews for fiscal year 2002; to the Committee on Finance.

EC–5308. A communication from the Commissioner, Social Security Administration, transmitting, the Administration's Performance and Accountability Report for Fiscal Year 2003; to the Committee on Finance.

EC–5309. A communication from the Director, Executive Office of the President, Office of Management and Budget, transmitting, pursuant to law, a report entitled ''Statistical Programs of the United States Government: Fiscal Year 2004''; to the Committee on Governmental Affairs.

EC–5310. A communication from the Inspector General, Department of the Interior, transmitting, pursuant to law, a report relative to the Department's inventory of commercial and inherently governmental activities; to the Committee on Governmental Affairs.

EC–5311. A communication from the Auditor of the District of Columbia, transmitting, a report relative to the District's Sports and Entertainment Commission; to the Committee on Governmental Affairs.

EC–5312. A communication from the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a copy of the Commission's FY 2001 commercial inventory submission; to the Committee on Governmental Affairs.

EC–5313. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to D.C. Act 15-210, ''Sports and Entertainment Commission Financial Affairs Temporary Amendment Act of 2003''; to the Committee on Governmental Affairs.

EC–5314. A communication from the Auditor of the District of Columbia, transmitting, a report relative to the District's Sports and Entertainment Commission; to the Committee on Governmental Affairs.

EC–5315. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''National Coverage Determinations'' relative to Medicare and Medicaid; to the Committee on Health, Education, Labor, and Pensions.

EC–5316. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Skin Protectant Products for Over-the-Counter Human Use; Astringent Drug Products; Final Monograph; Direct Final Rule; Confirmation of Effective Date'' (RIN0910-AA01) received on November 14, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5317. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Iron-Containing Supplements and Drugs; Label Warning Statements and Unit-Dose Packaging Requirements; Removal of Regulations for Unit-Dose Packaging Requirements for Dietary Supplements and Drugs'' received on November 14, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5318. A communication from the Deputy General Counsel, National Endowment for the Arts, transmitting, pursuant to law, the report of a rule entitled ''Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)'' (RIN3135-AA18 and -AA19) received on November 17, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5319. A communication from the Assistant General Counsel, National Endowment for the Humanities, transmitting, pursuant to law, the report of a rule entitled ''Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)'' (RIN3136-AA25 and -AA26) received on November 17, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5320. A communication from the General Counsel, Institute of Museum and Library Services, transmitting, pursuant to law, the report of a rule entitled ''Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)'' (RIN3137-AA14) received on November 17, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5321. A communication from the Secretary, Judicial Conference of the United States, a report relative to the legislative proposals recently adopted by the Conference at its September 2003 meeting; to the Committee on the Judiciary.

EC–5322. A communication from the Acting Deputy General Counsel, Office of Disaster Assistance, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Disaster Loan Program'' (RIN3245-AE82) received on November 14, 2003; to the Committee on Small Business and Entrepreneurship.

EC–5323. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to U.S. military personnel and U.S. individual citizens retained as contractors involved in the anti-narcotics campaign in Columbia; to the Committee on Foreign Relations.

EC–5324. A communication from the President of the United States, transmitting, a report relative to the President's decision to take no action to suspend or prohibit the proposed investment by Singapore Technologies Telemedia Pte. Ltd. in Global Crossing Ltd.; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment:

S. 551. A bill to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes (Rept. No. 108-201).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 733. A bill to authorize appropriations for fiscal year 2004 for the United States Coast Guard, and for other purposes (Rept. No. 108-202).

S. 1218. A bill to provide for Presidential support and coordination of interagency ocean science programs and development and coordination of a comprehensive and integrated United States research and monitoring program (Rept. No. 108–203) .

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committees was submitted on November 17, 2003:

By Mr. HATCH for the Committee on the Judiciary.

James B. Comey, of New York, to be Deputy Attorney General.

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

Foreign Service nomination beginning with Robert Goldberg and ending with Robert Goldberg.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN (for herself and Mr. BINGAMAN):

S. 1889. A bill to amend titles XIX and XXI of the Social Security Act to permit States to cover low-income youth up to age 23 with an enhanced matching rate; to the Committee on Finance.

By Mr. ENZI (for himself, Mr. REID, Mr. ENSIGN, Mrs. BOXER, Mr. ALLEN, Mrs. MURRAY, Mr. ALLARD, Mr. BURNS, and Mr. SMITH):

S. 1890. A bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRAHAM of South Carolina (for himself and Mr. DURBIN):

S. 1891. A bill to amend title 11, United States Code, to establish a priority for the payment of claims for duties paid to the United States by licensed customs brokers and sureties on behalf of a debtor; to the Committee on the Judiciary.

By Mr. BAYH:

S. 1892. A bill to provide information and advice to pension plan participants to assist them in making decisions regarding the investment of their pension plan assets, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. CRAIG):

S. 1893. A bill to provide for review in the Court of International Trade of certain determinations of binational panels and committees under the North American Free Trade Agreement; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. ALLEN, and Mr. HATCH):

S. 1894. A bill to amend the Internal Revenue Code of 1986 to provide for the deduction of interest paid in certain situations where the debt is guaranteed by a related foreign person; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. KERRY):

S. 1895. A bill to temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958 through March 15, 2004, and for other purposes; considered and passed.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. SMITH, Mr. ROCKEFELLER, Mr. HATCH, Mr. CONRAD, Mr. BUNNING, Mr. GRAHAM of Florida, Mr. SANTORUM, Mr. JEFFORDS, and Mr. BREAUX):

S. 1896. A bill to provide extensions for certain expiring provisions of the Internal Revenue Code of 1986, and for other purposes; to the Committee on Finance.

By Mrs. DOLE:

S.J. Res. 25. A joint resolution proposing an amendment to the Constitution of the United States relative to the line item veto; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 595

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 664

At the request of Mr. HATCH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 857

At the request of Mr. ROCKEFELLER, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 857, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board for Professional Teaching Standards, and for other purposes.

S. 1266

At the request of Mrs. CLINTON, the names of the Senator from Georgia (Mr. MILLER), the Senator from Indiana (Mr. LUGAR), the Senator from Arizona (Mr. MCCAIN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1266, a bill to award a congressional gold medal to Dr. Dorothy Height, in recognition of her many contributions to the Nation.

S. 1277

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1277, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement discipline, accountability, and due process laws.

S. 1380

At the request of Mr. SMITH, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1380 , a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1628

At the request of Mr. ALEXANDER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1628, a bill to prescribe the oath of renunciation and allegiance for purposes of the Immigration and Nationality Act.

S. 1679

At the request of Mr. BUNNING, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1679, a bill to amend the Internal Revenue Code of 1986 to reduce the depreciation recovery period for roof systems.

S. 1700

At the request of Mr. HATCH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1858

At the request of Mr. COCHRAN, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1858, a bill to authorize the Secretary of Agriculture to conduct a loan repayment program to encourage the provision of veterinary services in shortage and emergency situations.

S.J. RES. 19

At the request of Mr. SPECTER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S.J . Res. 19, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities

that appear to be designed to develop nuclear weapons.

S. RES. 253

At the request of Mr. NELSON of Florida, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 253, a resolution to recognize the evolution and importance of motorsports.

S. RES. 262

At the request of Ms. SNOWE, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. Res. 262, a resolution to encourage the Secretary of the Treasury to initiate expedited negotiations with the People's Republic of China on establishing a market-based currency valuation and to fulfill its commitments under international trade agreements.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. REID, Mr. ENSIGN, Mrs. BOXER, Mr. ALLEN, Mrs. MURRAY, Mr. ALLARD, Mr. BURNS, and Mr. SMITH):

S. 1890. A bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, I rise to introduce the Stock Option Accounting Act. This bill has been a long time in the making. It is a strong bipartisan bill that addresses the important role stock options play in our economy.

As an Accountant, and as a member of the Senate who was a small businessman for many years, I tend to believe most of the issues we address in Congress should be examined with an eye toward preserving the strength and integrity of our small business sector, and ensuring that the regulations that govern it are fair and preserve and promote, rather than discourage, innovation and competition.

I think that's something we can all agree on, so I know I won't have to go into too much detail about the importance of our small business sector, especially our small, high tech businesses. When it comes to small businesses, especially our high technology centers, we truly are the envy of the world. Our talented and creative engineers and inventors have paved the way for innovations in advanced technologies and computer software that other countries will always try to imitate.

Here in the United States, our Small Business Administration is well aware of the importance of that sector to our Nation's economy. Nearly 23 million strong, small businesses represent more than 99.7 percent of all employers, employ more than half of all private sector employees, generate 60 to 80 percent of net new jobs annually, create more than 50 percent of nonfarm private gross domestic product (GDP) and produce 13 to 14 times more patents per employee than large patenting firms.

Last week, I chaired a hearing in the Banking Committee's Subcommittee on Securities and Investment that featured testimony from the Financial Accounting Standards Board (FASB) and the small business community. It became quite evident during the hearing that FASB is ill equipped to conduct economic impact studies of the accounting standards that it adopts even through its one of their precepts. FASB may be able to conduct a cost analysis of an accounting standard proposal determining the costs of computers and additional manpower necessary to implement a new statement. But, it does not have the expertise to look at the comprehensive impact a new standard may have on the economy.

In addition, as the hearing progressed, it was evident that FASB is not listening to small businesses, and not taking their concerns seriously about a standard that FASB Board members stated was ''set in concrete'' prior to an official comment period on any draft proposal.

At the hearing, small business witnesses testified about how they are worried that the expensing of stock options would make this form of employee compensation prohibitive. They said it would make it very difficult if not impossible to attract and retain talented employees. It would also have a detrimental effect on the entrepreneurial nature and spirit of our country. In all of my years listening on this issue, not one small business owner has spoken in favor of expensing stock options.

After the hearing, I was more convinced than ever that legislation like this bill was needed to address the issue of the expensing of stock options.

A key element of FASB's current structure is its independence and I want to make it clear that I support that principle. FASB's independence, like freedom, must be earned—and it's independence does not provide a shield that absolves FASB of accountability and due process.

When it comes to the issue of stock options, a case can be made that FASB took up the project with a pre-ordained result in mind. It's no surprise, therefore, that the process that was established to pursue the matter seems to reflect a project that was begun with the end in mind. There is enough evidence there to at least make one wonder.

First, FASB doesn't seem to have given much consideration to the more than 200 public comment letters they received. The public comments made by FASB Board Members seem to also reflect a skewed process, as does the lack of response to the many high tech companies that have visited with FASB in the past several months. In addition, FASB has refused to conduct real road tests to actual valuation methods.

According to the FASB website ''Facts about FASB 2003–2004,'' the Board follows certain precepts in the conduct of its activities. They are: 1. To be objective in its decision making and to ensure, insofar as possible, the neutrality of information resulting from its standards. To be neutral, information must report economic activity as faithfully as possible without coloring the image it communicates for the purpose of influencing behavior in any particular direction. 2. To weight carefully the views of its constituents in developing concepts and standards. However, the ultimate determinant of concepts and standards must be the Board's judgment, based on research, public input and careful deliberation about the usefulness of the resulting information. 3. To promulgate standards only when the expected benefits exceed the perceived costs. While reliable, quantitative cost-benefit calculations are seldom possible, the Board strives to determine that a proposed standard will meet a significant need and that the costs it imposes, compared with possible alternatives, are justified in relation to the overall benefits. 4. To bring about needed changes in ways that minimize disruption to the continuity of reporting practice. Reasonable effective dates and transition provisions are established when new standards are introduced. The Board considers it desirable that change be evolutionary to the extent that it can be accommodated by the need for relevance, reliability, comparability and consistency. 5. To review the effects of past decisions and interpret, amend or replace standards in timely fashion when such action is indicated.

Precept number 3 greatly interests me. I am very concerned that FASB has repeatedly refused to consider the economic consequences of its decisions. The mandatory expending of all employee stock options has serious economic, labor, trade and competitiveness implications. These issues fall squarely within the jurisdiction and oversight of Congress. It's not hard to imagine what would be said of Congress if we failed to take note of the economic implications of the actions we take on the floor.

Simply put, at the end of the day, if FASB is going to earn its independence, it will have to adhere to a process that is objective, fair, open and balanced. So far, FASB seems to be more concerned about getting the job done—than in getting it right.

That is why I am offering legislation that will expense the stock options given to the top five executives of a company, exempt small businesses and start up companies, and set conditions for the expensing of broad-based options for the remaining employees. I treat the three groups differently in this matter because a very real and strong accounting distinction exists between the two types of workers.

First of all, in a very real sense the top five executives of an organization

are different from the general employee group in the manner in which they are treated by the SEC and the manner in which their compensation is defined and distributed from an accounting perspective.

The top five executives, for instance, are treated differently when it comes to their compensation and a wide range of other matters. Proxy rules, for instance, require significant additional disclosures from the top five executives than they do of any other group.

Second, from an accounting perspective, there is a clear distinction between executives and the broad employee group. In their recent book, In the Company of Owners, Professor Joseph Blasi and Douglas Kruse concluded, based on extensive research, that options granted to all but the top executives in a company are not labor income, but a form of capital income.

To quote from their book, ''They represent risk sharing profits that workers receive on top of their normal market wages and benefits. As such, it makes little sense to deduct the value of those options from profits.''

In addition, Blasi and Kruse found that, ''options turn employees into economic partners in the enterprise. As such, they stand to share in the stock appreciation that they help to bring about. . . . Options provide an additional dimension to their employment relationship, allowing workers to participate in both the risks and the rewards of property ownership. . . . There's substantial economic evidence that options bring workers capital rather than labor income. . . . The earnings workers get from options comes on top of their regular market wage.''

In contrast, options for top executives function more as labor income, particularly in companies without broad based option plans. These top executives bargain for their entire ''compensation'' package and, in many cases, stock options represent a large part of the total package. Their negotiations about compensation are distinctly different than other employees.

That brings me to our bill and its purpose—or, to continue with my line of reasoning—If these two groups should be compensated differently for their efforts when it comes to stock options, how should it be done?

Our legislation would mandate a valuation method of the options given to the top five executives that does not require companies to predict their future stock price volatility. One of the members of the Option Valuation Group, Fred Cook, appointed by the FASB strongly recommended this method—one where stock price volatility is set at zero so that companies don't have to use a crystal ball and try to predict their future stock price.

Another key principle in our legislation is the requirement that FASB develop a method of ''truing up''—or correcting errors—that are made when stock option estimates are made at grant date. There are several other areas where estimates are made in financial statements, and then corrected over time as the precise facts are learned. Today, no such corrections are made in the stock options area—a fundamental flaw in the system.

To address these issues, the bill has three major components. First, the bill would target executive compensation. A company would be required to expense immediately options of the top five highly compensated individuals at a company. The Securities and Exchange Commission already requires this information in annual statements and proxy statements. In addition, it would provide investors with a clearer understanding of the stock options of top company officials. This also would work in conjunction with the self-regulatory organization's rules, approved last week by the Securities and Exchange Commission, to require shareholder approval of stock option plans.

Second, small business would be exempt from expensing stock options. The exemption for small businesses would follow the current SEC rules for defining small businesses. The bill would allow small companies a 3-year grace period after an initial public offering prior to a company being required to expense stock options. This would allow a sufficient period of time to work out any initial volatility after the initial public offering.

Finally, the bill would not permit the Securities and Exchange Commission to recognize a stock option expensing standard unless two things happen. First, companies must be able to recognize the true expense of stock options on their financial statements. Currently, FASB wants companies to expense stock options upon the grant date of an option. Unfortunately, the current valuation models for stock options, Black-Scholes, binomial, Crystal Ball, and others, are horrible indicators of the true cost to a company stock options.

The bill would require that a company be able to ''true-up'' its financial statements when a stock option is exercised, lapses or is forfeited. If the cost goes up then the company must record the increase when an option is exercised. Likewise, if an option lapses or is forfeited then a company should be able to wipe those previously taken expenses off its balanced sheet. This is only fair.

The second item prior to an accounting standard to be recognized is the completion of an economic analysis study by the Secretary of Commerce and the Secretary of Labor. This study would look at how the use of stock options may stimulate economic growth in our nation's economy. In addition, the study would relate how stock options expensing could effect the competiveness of U.S. companies in international markets.

I strongly believe that this bill is essential to our economic strength. It is clear that FASB is not listening to small business and therefore is not listening to the future of our country. FASB is therefore ill equipped to make the economic analysis decisions to determine the true effect of stock option expensing on our economy.

In addition, the bill also targets the invasion's need for greater information on executive compensation. I ask my colleagues to take a serious look at this bill and to support its passage.

I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUMMARY OF KEY PROVISIONS OF THE ENZI-REID STOCK OPTION ACCOUNTING REFORM ACT

MANDATORY EXPENSING OF STOCK OPTION HELD BY HIGHLY COMPENSATED OFFICERS

The legislation requires that the chief executive officer and the next four most highly compensated executive officers shall expense their stock options in the annual reports filed with the Commission.

Expensing the options granted to the CEO and next four most highly compensated executive officers would go into effect immediately.

This is consistent with information that must be filed with the Commission as part of Securities Exchange Commission Regulation S–K and part of proxy statement filings pursuant to Securities Exchange Act Rule 14.

The section would require that the ''fair value'' of a stock option would be equal to the value that would be agreed upon by a willing buyer and seller taking into account all of the characteristics and restrictions imposed upon the stock option.

In light of the extreme inaccuracy of existing stock valuation models (e.g., Black Scholes, binomial, etc.), particularly with regard to the factor that requires companies to predict the volatility of their stock price, the legislation requires that the assumed volatility of the underlying stock option shall be considered zero.

SMALL BUSINESS EXEMPTION

The legislation exempts from the top five expensing requirement all small businesses as defined currently by the Securities and Exchange Commission pursuant to Regulation S–B.

The legislation also delays stock option expensing of a small business issuer until three years after an initial public offering has taken place. This would allow a small business issuer's stock to settle down from the initial volatility of the initial public offering.

PROHIBITION ON EXPENSING; ''TRUING UP'' REQUIREMENT; AND ECONOMIC IMPACT STUDY

The legislation prohibits the SEC from recognizing any stock option expensing accounting standard set by a standard setting body unless and until: 1. The expensing standard recognizes the true expense of the stock option on a company's financial statement when the option is exercised, expires or is forfeited, a ''truing up'' requirement; and 2. A comprehensive economic impact study has been conducted by the Departments of Commerce and Labor.

As to the first requirement above, currently, stock options must be expensed based upon the grant date of the option. There is no ''truing up,'' or correcting, errors made at the time of grant when subsequent events prove the initial estimates to be inaccurate. The legislation requires that when an option is exercised, expires or is forfeited, the company would reconcile the actual expense to

the company to the amount expensed previously upon the date of grant.

As to the second requirement, the legislation requires the Secretary of Commerce and the Secretary of Labor to conduct and complete a joint study on the economic impact of the mandatory expensing of all employee stock options. The study will address: 1. the use of broad-based stock option plans in expanding employee corporate ownership to workers at a wide range of income levels with particular focus on non-executive workers; 2. the role of such plans in the recruitment and retention of skilled workers; 3. the role of such plans in stimulating research and innovation; 4. the effect of such plans in stimulating the economic growth of the United States; and 5. the role of such plans in strengthening the international competitiveness of United States' businesses.

Mr. REID. Mr. President, I want to thank Senators ENZI, ENSIGN, BOXER, and ALLEN for their hard work and continued efforts on this issue.

It is with pleasure that I introduce bipartisan legislation, the Stock Option Accounting Reform Act of 2003, that is good for economic growth and the American way.

We have to protect investors and stockholders by ensuring that our Nation's accounting standards are transparent, open and balanced. At the same time, we don't want to choke the entrepreneurial spirit of start-up companies with too much bureaucratic red tape.

This legislation achieves just the right balance. It gives regulators a framework to protect the integrity of the accounting process, but it doesn't stifle free enterprise.

This bill requires a joint study by the Department of Labor and Department of Commerce to help FASB (Financial Accounting Standards Board) treat stock options fairly. It will help regulators valuate stocks for accounting purposes. It will curb stock option abuse by requiring the top five executives at large companies to expense their options. This will provide a true picture of a company's financial health.

Finally, it will protect small businesses and start-ups that rely upon stock options to attract good employees.

This bill is good for emerging companies and good for consumers. It's a balanced approach that deserves broad bipartisan support.

By Mr. BAYH:

S. 1892. A bill to provide information and advice to pension plan participants to assist them in making decisions regarding the investment of their pension plan assets, and for other purposes; to the Committee on Finance.

Mr. BAYH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1892

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

SECTION 1. NOTICE OF HIGH CONCENTRATION OF PENSION ASSETS IN EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) in amended by adding at the end of the following new subsection:

''(e) NOTICE OF HIGH CONCENTRATION OF PLAN ASSETS IN EMPLOYER SECURITIES.—

''(1) IN GENERAL.—In the case of an individual account plan to which this subsection applies, if the percentage of assets in the individual account that consists of employer securities and employer real property exceeds 50 percent of the total account, the plan administrator shall include with the account statement a notice that the account may be overinvested in employer securities and employer real property. Any determination under this paragraph shall be made as of the most recent valuation date under the plan.

''(2) EXCLUSION OF ASSETS HELD THROUGH POOLED INVESTMENT VEHICLES.—Employer securities and employer real property held through an investment option of the plan which is not designed to invest primarily in employer securities or employer real property shall not be taken under paragraph (1) is determining the percentage of assets that consist of employer securities and employer real property.

''(3) APPLICATION.—

''(A) IN GENERAL.—This subsection shall apply to any individual account plan which—

''(i) holds employer securities which are readily tradable on an established securities market, and

''(ii) permits a participant or beneficiary to exercise control over assets in the individual's account.

''(B) EXCEPTION FOR ESOPS.—This subsection shall not apply to an employee stock ownership plan (as defined in section 4795(e)(7)) of the Internal Revenue Code of 1986) if the plan has no contributions which are subject to section 401 (k) or (m) of such Code.

''(4) EMPLOYER SECURITIES AND REAL PROPERTY.—For purposes of this subsection, the terms 'employer securities' and 'employer real property' have the meanings given such terms by paragraphs (1) and (2) of section 407(d), respectively.''

(b) PENALTY.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6), by striking ''(6), or (7)'' and inserting ''(6), (7), or (8)'',

(2) by redesignating paragraph (8) of subsection (c) as paragraph (9), and

(3) by inserting after paragraph (7) the following new paragraph:

''(8) The Secretary may assess a civil penalty against a plan administrator of up to $100 a day from the date of the plan administrator's failure or refusal to provide notice to participants and beneficiaries in accordance with section 105(e). For purposes of this paragraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2003.

SEC. 2. TREATMENT OF QUALIFIED RETIREMENT PLANNING SERVICES.

(a) IN GENERAL.—Subsection (m) of section 132 of the Internal Revenue Code of 1986 (defining qualified retirement services) is amended by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively, and by inserting after paragraph (1) the following:

''(2) LIMITATIONS.—

''(A) DOLLAR LIMITATION.—The aggregate amount which may be excluded with respect to qualified retirement planning services provided to any individual during a taxable year shall not exceed $1,500.

''(B) ADJUSTED GROSS INCOME.—No amount may be excluded with respect to qualified retirement planning services provided during a taxable year if the modified adjusted gross income of the taxpayer for such taxable year exceeds $100,000 ($200,000 in the case of married individuals filing a joint return). For purposes of this subparagraph, the term 'modified adjusted gross income' means adjusted gross income, determined without regard to this section and sections 911, 931, and 933.

''(3) CASH REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified retirement planning services' includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1).

''(4) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between any qualified retirement planning services provided by a qualified investment advisor and compensation which would otherwise be includible in the gross income of such employee. The preceding sentence shall apply to highly compensated employees only if the choice described in such sentence is available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer's qualified employer plan.''

(b) CONFORMING AMENDMENTS.—

(1) Section 403(b)(3)(B) of such Code is amended by inserting ''132(m)(4),'' after ''132(f)(4),''.

(2) Section 414(s)(2) of such Code is amended by inserting ''132(m)(4),'' after ''132(f)(4),''.

(3) Section 415(c)(3)(D)(ii) of such Code is amended by inserting ''132(m)(4),'' after ''132(f)(4),''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. SMITH, Mr. ROCKEFELLER, Mr. HATCH, Mr. CONRAD, Mr. BUNNING, Mr. GRAHAM of Florida, Mr. SANTORUM, Mr. JEFFORDS, and Mr. BREAUX):

S. 1896. A bill to provide extensions for certain expiring provisions of the Internal Revenue Code of 1986, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1896

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Tax Relief Extension Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

SEC. 101. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 9812(f) is amended by striking ''December 31, 2003'' and inserting ''June 30, 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2004.

SEC. 102. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking ''January 1, 2004'' and inserting ''July 1, 2004''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2003.

SEC. 103. WORK OPPORTUNITY CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking ''December 31, 2003'' and inserting ''June 30, 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

SEC. 104. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking ''December 31, 2003'' and inserting ''June 30, 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

SEC. 105. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended—

(1) by striking ''January 1, 2004'' and inserting ''July 1, 2004'', and

(2) by adding at the end the following new sentence: ''In the case of any taxable year beginning after December 31, 2003, which includes June 30, 2004, any increase in the allowance for depletion by reason of this subparagraph shall be equal to the amount which bears the same ratio to the increase in such allowance determined without regard to this sentence as the number of days in the taxable year before July 1, 2004, bears to the total number of days in such taxable year.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 106. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by inserting ''$200,000,000 for the period beginning after December 31, 2003, and before July 1, 2004,'' after ''2003,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 2003.

SEC. 107. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2004'' and inserting ''July 1, 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2003.

SEC. 108. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY.

(a) EXTENSION OF DEDUCTION.—Section 170(e)(6)(G) (relating to termination) is amended by striking ''contribution made during any taxable year beginning after December 31, 2003'' and inserting ''contribution made after June 30, 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after December 31, 2003.

SEC. 109. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking ''December 31, 2003,'' and inserting ''June 30, 2004,'',

(B) in subparagraph (A), by striking ''calendar year 2004'' and inserting ''after June 30, 2004, and before July 1, 2005'',

(C) in subparagraph (B), by striking ''calendar year 2005'' and inserting ''after June 30, 2005, and before July 1, 2006'', and

(D) in subparagraph (C), by striking ''calendar year 2006'' and inserting ''after June 30, 2006, and before July 1, 2007'', and

(2) in subsection (e), by striking ''December 31, 2006'' and inserting ''June 30, 2007''.

(b) CONFORMING AMENDMENT.—Clause (iii) of section 280F(a)(1)(C) is amended by striking ''January 1, 2007'' and inserting ''July 1, 2007''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

SEC. 110. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

(a) IN GENERAL.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking ''December 31, 2003,'' and inserting ''June 30, 2004,'',

(B) in clause (i), by striking ''calendar year 2004'' and inserting ''after June 30, 2004, and before July 1, 2005'',

(C) in clause (ii), by striking ''calendar year 2005'' and inserting ''after June 30, 2005, and before July 1, 2006'', and

(D) in clause (iii), by striking ''calendar year 2006'' and inserting ''after June 30, 2006, and before July 1, 2007'', and

(2) in subsection (f), by striking ''December 31, 2006'' and inserting ''June 30, 2007''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2003.

SEC. 111. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended—

(1) by inserting ''and the period beginning after December 31, 2003, and before July 1, 2004,'' after ''2003,'', and

(2) by inserting ''for each taxable year or $125 for such period'' after ''$250''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to expenses paid or incurred after December 31, 2003.

SEC. 112. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking ''2003'' each place it appears and inserting ''2004''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended by striking ''1998, 1999, 2001, or 2002'' each place it appears and inserting ''1998, 1999, 2001, 2002, or 2003''.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking ''and 2002'' and inserting ''2002, and 2003''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

SEC. 113. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking ''December 31, 2003'' and inserting ''June 30, 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003.

SEC. 114. EXPANSION OF WOTC TO NEW YORK LIBERTY ZONE.

(a) IN GENERAL.—Subclause (I) of section 1400L(a)(2)(D)(iv) is amended by inserting ''or the period beginning after December 31, 2003, and before July 1, 2004'' after ''2003''.

(b) CONFORMING AMENDMENT.—Subclause (II) of section 1400L(a)(2)(D)(iv) is amended by inserting ''or period described in subclause (I)'' after ''year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2003.

SEC. 115. TEMPORARY SPECIAL RULES FOR TAXATION OF LIFE INSURANCE COMPANIES.

(a) IN GENERAL.—Subsection (j) of section 809 is amended by striking ''or 2003'' and inserting ''2003, or 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 116. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—Subsection (f) of section 1400 is amended by striking ''December 31, 2003'' both places it appears and inserting ''June 30, 2004''.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2003'' and inserting ''June 30, 2004''.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''January 1, 2004'' each place it appears and inserting ''July 1, 2004''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''December 31, 2008'' and inserting ''June 30, 2009'', and

(ii) by striking ''2008'' in the heading and inserting ''JUNE 2009''.

(B) Section 1400B(g)(2) is amended by striking ''December 31, 2008'' and inserting ''June 30, 2009''.

(C) Section 1400F(d) is amended by striking ''December 31, 2008'' and inserting ''June 30, 2009''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2004'' and inserting ''July 1, 2004''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

SEC. 117. COMBINED EMPLOYMENT TAX REPORTING PROGRAM.

(a) IN GENERAL.—Paragraph (1) of section 976(b) of the Taxpayer Relief Act of 1997 is amended by striking ''for a period ending with the date which is 5 years after the date of the enactment of this Act'' and inserting ''during the period ending before July 1, 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disclosures on or after the date of the enactment of this Act.

TITLE II—REVENUE PROVISIONS

SEC. 201. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''the date of the enactment of the Tax Relief Extension Act of 2003''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 202. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(N) Any trivalent vaccine against influenza.''.

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 203. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Paragraph (5) of section 420(b) (relating to expiration) is amended by striking ''December 31, 2005'' and inserting ''December 31, 2013''.

(b) AMENDMENTS OF ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking ''Tax Relief Extension Act of 1999'' and inserting ''Tax Relief Extension Act of 2003''.

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''Tax Relief Extension Act of 1999'' and inserting ''Tax Relief Extension Act of 2003''.

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking ''January 1, 2006'' and inserting ''January 1, 2014'', and

(B) by striking ''Tax Relief Extension Act of 1999'' and inserting ''Tax Relief Extension Act of 2003''.

SEC. 204. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

By Mrs. DOLE:

S.J. Res. 25. A joint resolution proposing an amendment to the Constitution of the United States relative to the line item veto; to the Committee on the Judiciary.

Mrs. DOLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. J. RES. 25

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

''ARTICLE—

''SECTION 1. Congress shall have the power to enact a line-item veto.''.

AMENDMENTS SUBMITTED & PROPOSED

SA 2203. Mr. THOMAS (for Mr. SPECTER (for himself and Mr. GRAHAM, of Florida)) proposed an amendment to the bill S. 1156, to amend title 38, United States Code, to improve and enhance the provision of health care for veterans, to authorize major construction projects and other facilities matters for the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes.

SA 2204. Mr. THOMAS (for Mr. SPECTER) proposed an amendment to the bill S. 1156, supra.

SA 2205. Mr. THOMAS (for Mr. SPECTER (for himself and Mr. GRAHAM, of Florida)) proposed an amendment to the bill H.R. 2297, to amend title 38, United States Code, to improve benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes.

SA 2206. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 671, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2203. Mr. THOMAS (for Mr. SPECTER (for himself and Mr. GRAHAM of Florida)) proposed an amendment to the bill S. 1156, to amend title 38, United States Code, to improve and enhance the provision of health care for veterans, to authorize major construction projects and other facilities matters for the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans Health Care, Capital Asset, and Business Improvement Act of 2003''.

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

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—HEALTH CARE AUTHORITIES AND RELATED MATTERS

Sec. 101. Improved benefits for former prisoners of war.
Sec. 102. Provision of health care to veterans who participated in certain Department of Defense chemical and biological warfare testing.
Sec. 103. Eligibility for Department of Veterans Affairs health care for certain Filipino World War II veterans residing in the United States.
Sec. 104. Enhancement of rehabilitative services.
Sec. 105. Enhanced agreement authority for provision of nursing home care and adult day health care in contract facilities.
Sec. 106. Five-year extension of period for provision of noninstitutional extended-care services and required nursing home care.
Sec. 107. Expansion of Department of Veterans Affairs pilot program on assisted living for veterans.
Sec. 108. Improvement of program for provision of specialized mental health services to veterans.

TITLE II—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Program Authorities

Sec. 201. Increase in threshold for major medical facility construction projects.
Sec. 202. Enhancements to enhanced-use lease authority.
Sec. 203. Simplification of annual report on long-range health planning.

Subtitle B—Project Authorizations

Sec. 211. Authorization of major medical facility projects.
Sec. 212. Authorization of major medical facility leases.
Sec. 213. Advance planning authorizations.
Sec. 214. Authorization of appropriations.

Subtitle C—Capital Asset Realignment for Enhanced Services Initiative

Sec. 221. Authorization of major construction projects in connection with Capital Asset Realignment Initiative.
Sec. 222. Advance notification of capital asset realignment actions.
Sec. 223. Sense of Congress and report on access to health care for veterans in rural areas.

Subtitle D—Plans for New Facilities

Sec. 231. Plans for facilities in specified areas.
Sec. 232. Study and report on feasibility of coordination of veterans health care services in South Carolina with new university medical center.

Subtitle E—Designation of Facilities

Sec. 241. Designation of Department of Veterans Affairs medical center, Prescott, Arizona, as the Bob Stump Department of Veterans Affairs Medical Center.
Sec. 242. Designation of Department of Veterans Affairs health care facility, Chicago, Illinois, as the Jesse Brown Department of Veterans Affairs Medical Center.
Sec. 243. Designation of Department of Veterans Affairs medical center, Houston, Texas, as the Michael E. DeBakey Department of Veterans Affairs Medical Center.
Sec. 244. Designation of Department of Veterans Affairs medical center, Salt Lake City, Utah, as the George E. Wahlen Department of Veterans Affairs Medical Center.

Sec. 245. Designation of Department of Veterans Affairs outpatient clinic, New London, Connecticut.
Sec. 246. Designation of Department of Veterans Affairs outpatient clinic, Horsham, Pennsylvania.

TITLE III—PERSONNEL MATTERS

Sec. 301. Modification of certain authorities on appointment and promotion of personnel in the Veterans Health Administration.
Sec. 302. Appointment of chiropractors in the Veterans Health Administration.
Sec. 303. Additional pay for Saturday tours of duty for additional health care workers in the Veterans Health Administration.
Sec. 304. Coverage of employees of Veterans' Canteen Service under additional employment laws.

TITLE IV—OTHER MATTERS

Sec. 401. Office of Research Oversight in Veterans Health Administration.
Sec. 402. Enhancement of authorities relating to nonprofit research corporations.
Sec. 403. Department of Defense participation in Revolving Supply Fund purchases.
Sec. 404. Five-year extension of housing assistance for homeless veterans.
Sec. 405. Report date changes.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH CARE AUTHORITIES AND RELATED MATTERS

SEC. 101. IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR.

(a) OUTPATIENT DENTAL CARE FOR ALL FORMER PRISONERS OF WAR.—Section 1712(a)(1)(F) is amended by striking ''and who was detained or interned for a period of not less than 90 days''.

(b) EXEMPTION FROM PHARMACY COPAYMENT REQUIREMENT.—Section 1722A(a)(3) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) to a veteran who is a former prisoner of war; or''.

SEC. 102. PROVISION OF HEALTH CARE TO VETERANS WHO PARTICIPATED IN CERTAIN DEPARTMENT OF DEFENSE CHEMICAL AND BIOLOGICAL WARFARE TESTING.

Section 1710(e) is amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

''(E) Subject to paragraphs (2) and (3), a veteran who participated in a test conducted by the Department of Defense Deseret Test Center as part of a program for chemical and biological warfare testing from 1962 through 1973 (including the program designated as 'Project Shipboard Hazard and Defense (SHAD)' and related land-based tests) is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such illness is attributable to such testing.'';

(2) in paragraph (2)(B)—

(i) by striking out ''paragraph (1)(C) or (1)(D)'' and inserting ''subparagraph (C), (D), or (E) of paragraph (1)''; and

(ii) by striking ''service described in that paragraph'' and inserting ''service or testing described in such subparagraph''; and

(3) in paragraph (3)—

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

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(D) in the case of care for a veteran described in paragraph (1)(E), after December 31, 2005.''.

SEC. 103. ELIGIBILITY FOR DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FOR CERTAIN FILIPINO WORLD WAR II VETERANS RESIDING IN THE UNITED STATES.

The text of section 1734 is amended to read as follows:

''(a) The Secretary shall furnish hospital and nursing home care and medical services to any individual described in subsection (b) in the same manner, and subject to the same terms and conditions, as apply to the furnishing of such care and services to individuals who are veterans as defined in section 101(2) of this title. Any disability of an individual described in subsection (b) that is a service-connected disability for purposes of this subchapter (as provided for under section 1735(2) of this title) shall be considered to be a service-connected disability for purposes of furnishing care and services under the preceding sentence.

''(b) Subsection (a) applies to any individual who is a Commonwealth Army veteran or new Philippine Scout and who—

''(1) is residing in the United States; and

''(2) is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.''.

SEC. 104. ENHANCEMENT OF REHABILITATIVE SERVICES.

(a) REHABILITATIVE SERVICES THROUGH MEDICAL CARE AUTHORITY.—Section 1701(8) is amended by striking ''(other than those types of vocational rehabilitation services provided under chapter 31 of this title)''.

(b) EXPANSION OF AUTHORIZED REHABILITATIVE SERVICES.—(1) Section 1718 is amended—

(A) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(B) by inserting after subsection (c) the following new subsection (d):

''(d) In providing to a veteran rehabilitative services under this chapter, the Secretary may furnish the veteran with the following:

''(1) Work skills training and development services.

''(2) Employment support services.

''(3) Job development and placement services.''.

(2) Subsection (c) of such section is amended—

(A) in paragraph (1), by striking ''subsection (b) of this section'' and inserting ''subsection (b) or (d)''; and

(B) in paragraph (2)—

(i) by striking ''subsection (b) of this section'' and inserting ''subsection (b) or (d)''; and

(ii) by striking ''paragraph (2) of such subsection'' and inserting ''subsection (b)(2)''.

SEC. 105. ENHANCED AGREEMENT AUTHORITY FOR PROVISION OF NURSING HOME CARE AND ADULT DAY HEALTH CARE IN CONTRACT FACILITIES.

(a) ENHANCED AUTHORITY.—Subsection (c) of section 1720 is amended—

(1) by designating the existing text as paragraph (2); and

(2) by inserting before paragraph (2), as so designated, the following new paragraph (1):

''(1)(A) In furnishing nursing home care, adult day health care, or other extended care services under this section, the Secretary may enter into agreements for furnishing such care or services with—

''(i) in the case of the medicare program, a provider of services that has entered into a provider agreement under section 1866(a) of the Social Security Act (42 U.S.C. 1395cc(a)); and

''(ii) in the case of the medicaid program, a provider participating under a State plan under title XIX of such Act (42 U.S.C. 1396 et seq.).

''(B) In entering into an agreement under subparagraph (A) with a provider of services described in clause (i) of that subparagraph or a provider described in clause (ii) of that subparagraph, the Secretary may use the procedures available for entering into provider agreements under section 1866(a) of the Social Security Act.''.

(b) CONFORMING AMENDMENT.—Subsection (f)(1)(B) of such section is amended by inserting ''or agreement'' after ''contract'' each place it appears.

SEC. 106. FIVE-YEAR EXTENSION OF PERIOD FOR PROVISION OF NONINSTITUTIONAL EXTENDED-CARE SERVICES AND REQUIRED NURSING HOME CARE.

(a) NONINSTITUTIONAL EXTENDED CARE SERVICES.—Section 1701(10)(A) is amended by striking ''the date of the enactment of the Veterans Millennium Health Care and Benefits Act and ending on December 31, 2003,'' and inserting ''November 30, 1999, and ending on December 31, 2008,''.

(b) REQUIRED NURSING HOME CARE.—Section 1710A(c) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2008''.

SEC. 107. EXPANSION OF DEPARTMENT OF VETERANS AFFAIRS PILOT PROGRAM ON ASSISTED LIVING FOR VETERANS.

Section 103(b) of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1552; 38 U.S.C. 1710B note) is amended—

(1) by striking ''LOCATION OF PILOT PROGRAM.—'' and inserting ''LOCATIONS OF PILOT PROGRAM.—(1)''; and

(2) by adding at the end the following new paragraph:

''(2)(A) In addition to the health care region of the Department selected for the pilot program under paragraph (1), the Secretary may also carry out the pilot program in not more than one additional designated health care region of the Department selected by the Secretary for purposes of this section.

''(B) Notwithstanding subsection (f), the authority of the Secretary to provide services under the pilot program in a health care region of the Department selected under subparagraph (A) shall cease on the date that is three years after the commencement of the provision of services under the pilot program in the health care region.''.

SEC. 108. IMPROVEMENT OF PROGRAM FOR PROVISION OF SPECIALIZED MENTAL HEALTH SERVICES TO VETERANS.

(a) INCREASE IN FUNDING.—Subsection (c) of section 116 of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1559; 38 U.S.C. 1712A note) is amended—

(1) in paragraph (1), by striking ''$15,000,000'' and inserting ''$25,000,000 in each of fiscal years 2004, 2005, and 2006'';

(2) in paragraph (2), by striking ''$15,000,000'' and inserting ''$25,000,000''; and

(3) in paragraph (3)—

(A) by inserting ''(A)'' after ''(3)''; and

(B) by adding at the end the following new subparagraph:

''(B) For purposes of this paragraph, in fiscal years 2004, 2005, and 2006, the fiscal year used to determine the baseline amount shall be fiscal year 2003.''.

(b) ALLOCATION OF FUNDS.—Subsection (d) of that section is amended—

(1) by striking ''The Secretary'' and inserting ''(1) In each of fiscal years 2004, 2005, and 2006, the Secretary''; and

(2) by adding at the end the following new paragraphs:

''(2) In allocating funds to facilities in a fiscal year under paragraph (1), the Secretary shall ensure that—

''(A) not less than $10,000,000 is allocated by direct grants to programs that are identified by the Mental Health Strategic Health Care Group and the Committee on Care of Severely Chronically Mentally Ill Veterans;

''(B) not less than $5,000,000 is allocated for programs on post-traumatic stress disorder; and

''(C) not less than $5,000,000 is allocated for programs on substance use disorder.

''(3) The Secretary shall provide that the funds to be allocated under this section during each of fiscal years 2004, 2005, and 2006 are funds for a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.''.

TITLE II—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Program Authorities

SEC. 201. INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS.

Section 8104(a)(3)(A) is amended by striking ''$4,000,000'' and inserting ''$7,000,000''.

SEC. 202. ENHANCEMENTS TO ENHANCED-USE LEASE AUTHORITY.

(a) NOTIFICATION OF PROPERTY TO BE LEASED.—Section 8163 is amended—

(1) in the first sentence of subsection (a)—

(A) by striking ''designate a property to be leased under an enhanced-use lease'' and inserting ''enter into an enhanced-use lease with respect to certain property''; and

(B) by striking ''before making the designation'' and inserting ''before entering into the lease'';

(2) in subsection (b), by striking ''of the proposed designation'' and inserting ''to the congressional veterans' affairs committees and to the public of the proposed lease''; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''designate the property involved'' and inserting ''enter into an enhanced-use lease of the property involved''; and

(ii) by striking ''to so designate the property'' and inserting ''to enter into such lease'';

(B) in paragraph (2), by striking ''90-day period'' and inserting ''45-day period'';

(C) in paragraph (3)—

(i) by striking ''general description'' in subparagraph (D) and inserting ''description of the provisions''; and

(ii) by adding at the end the following new subparagraph:

''(G) A summary of a cost-benefit analysis of the proposed lease.''; and

(D) by striking paragraph (4).

(b) DISPOSITION OF LEASED PROPERTY.—Section 8164 is amended—

(1) in subsection (a)—

(A) by striking ''by requesting the Administrator of General Services to dispose of the property pursuant to subsection (b)'' in the first sentence; and

(B) by striking the third sentence;

(2) in subsection (b)—

(A) by striking ''Secretary and the Administrator of General Services jointly determine'' and inserting ''Secretary determines''; and

(B) by striking ''Secretary and the Administrator consider'' and inserting ''Secretary considers''; and

(3) in subsection (c), by striking ''90 days'' and inserting ''45 days''.

(c) USE OF PROCEEDS.—Section 8165 is amended—

(1) in subsection (a)(2), by striking ''and remaining after any deduction from such funds under the laws referred to in subsection (c)'';

(2) in subsection (b), by adding at the end the following new sentence: ''The Secretary may use the proceeds from any enhanced-use lease to reimburse applicable appropriations of the Department for any expenses incurred in the development of additional enhanced-use leases.''; and

(3) by striking subsection (c).

(d) CLERICAL AMENDMENTS.—(1) The heading of section 8163 is amended to read as follows:

''§ 8163. Hearing and notice requirements regarding proposed leases''.

(2) The item relating to section 8163 in the table of sections at the beginning of chapter 81 is amended to read as follows:

''8163. Hearing and notice requirements regarding proposed leases.''.

SEC. 203. SIMPLIFICATION OF ANNUAL REPORT ON LONG-RANGE HEALTH PLANNING.

Section 8107(b) is amended by striking paragraphs (3) and (4).

Subtitle B—Project Authorizations

SEC. 211. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in an amount not to exceed the amount specified for that project:

(1) Construction of a long-term care facility in Lebanon, Pennsylvania, $14,500,000.

(2) Construction of a long-term care facility in Beckley, West Virginia, $20,000,000.

(3) Construction of a new bed tower to consolidate two inpatient sites of care in the city of Chicago at the West Side Division of the Department of Veterans Affairs health care system in Chicago, Illinois, in an amount not to exceed $98,500,000.

(4) Seismic corrections to strengthen Medical Center Building 1 of the Department of Veterans Affairs health care system in San Diego, California, in an amount not to exceed $48,600,000.

(5) A project for (A) renovation of all inpatient care wards at the West Haven, Connecticut, facility of the Department of Veterans Affairs health system in Connecticut to improve the environment of care and enhance safety, privacy, and accessibility, and (B) establishment of a consolidated medical research facility at that facility, in an amount not to exceed $50,000,000.

(6) Construction of a Department of Veterans Affairs-Department of the Navy joint venture comprehensive outpatient medical care facility to be built on the grounds of the Pensacola Naval Air Station, Pensacola, Florida, in an amount not to exceed $45,000,000.

SEC. 212. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

(1) For an outpatient clinic in Charlotte, North Carolina, in an amount not to exceed $3,000,000.

(2) For an outpatient clinic extension, Boston, Massachusetts, in an amount not to exceed $2,879,000.

SEC. 213. ADVANCE PLANNING AUTHORIZATIONS.

The Secretary of Veterans Affairs may carry out advance planning for a major medical facility project at each of the following locations, with such planning to be carried out in an amount not to exceed the amount specified for that location:

(1) Denver, Colorado, in an amount not to exceed $30,000,000, of which $26,000,000 shall be provided by the Secretary of Veterans Affairs and $4,000,000 shall be provided by the Secretary of Defense.

(2) Pittsburgh, Pennsylvania, in an amount not to exceed $9,000,000.

(3) Las Vegas, Nevada, in an amount not to exceed $25,000,000.

(4) Columbus, Ohio, in an amount not to exceed $9,000,000.

(5) East Central, Florida, in an amount not to exceed $17,500,000.

SEC. 214. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2004—

(1) for the Construction, Major Projects, account, a total of $363,100,000, of which—

(A) $276,600,000 is for the projects authorized in section 211; and

(B) $86,500,000 is for the advance planning authorized in section 213; and

(2) for the Medical Care account, $5,879,000 for the leases authorized in section 212.

(b) LIMITATION.—The projects authorized in section 211 may only be carried out using—

(1) funds appropriated for fiscal year 2004 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2004 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2004 for a category of activity not specific to a project.

Subtitle C—Capital Asset Realignment for Enhanced Services Initiative

SEC. 221. AUTHORIZATION OF MAJOR CONSTRUCTION PROJECTS IN CONNECTION WITH CAPITAL ASSET REALIGNMENT INITIATIVE.

(a) AUTHORITY TO CARRY OUT MAJOR CONSTRUCTION PROJECTS.—Subject to subsection (b), the Secretary of Veterans Affairs may carry out major construction projects as specified in the final report of the Capital Asset Realignment for Enhanced Services Commission and approved by the Secretary.

(b) LIMITATION.—The Secretary may not exercise the authority in subsection (a) until 45 days after the date of the submittal of the report required by subsection (c).

(c) REPORT ON PROPOSED MAJOR CONSTRUCTION PROJECTS.—(1) The Secretary shall submit to the Committees on Veterans' Affairs and the Committees on Appropriations of the Senate and House of Representatives not later than February 1, 2004, a report describing the major construction projects the Secretary proposes to carry out in connection with the Capital Asset Realignment for Enhanced Services initiative.

(2) The report shall list each proposed major construction project in order of priority, with such priority determined in the order as follows:

(A) The use of the facility to be constructed or altered as a replacement or enhancement facility necessitated by the loss, closure, or other divestment of major infrastructure or clinical space at a Department of Veterans Affairs medical facility currently in operation, as determined by the Secretary.

(B) The remedy of life and safety code deficiencies, including seismic, egress, and fire deficiencies at such facility.

(C) The use of such facility to provide health care services to a population that is determined under the Capital Asset Realignment for Enhanced Services initiative to be underserved or not currently served by such facility.

(D) The renovation or modernization of such facility, including the provision of barrier-free design, improvement of building

systems and utilities, or enhancement of clinical support services.

(E) The need for such facility to further an enhanced-use lease or sharing agreement.

(F) Any other factor that the Secretary considers to be of importance in providing care to eligible veterans.

(3) In developing the list of projects and according a priority to each project, the Secretary should consider the importance of allocating available resources equitably among the geographic service areas of the Department and take into account recent shifts in populations of veterans among those geographic service areas.

(d) SUNSET.—The Secretary may not enter into a contract to carry out major construction projects under the authority in subsection (a) after September 30, 2006.

SEC. 222. ADVANCE NOTIFICATION OF CAPITAL ASSET REALIGNMENT ACTIONS.

(a) REQUIREMENT FOR ADVANCE NOTIFICATION.—If the Secretary of Veterans Affairs approves a recommendation resulting from the Capital Asset Realignment for Enhanced Services initiative, then before taking any action resulting from that recommendation that would result in—

(1) a medical facility closure;

(2) an administrative reorganization described in subsection (c) of section 510 of title 38, United States Code; or

(3) a medical facility consolidation,

the Secretary shall submit to Congress a written notification of the intent to take such action.

(b) LIMITATION.—Upon submitting a notification under subsection (a), the Secretary may not take any action described in the notification until the later of—

(1) the end of the 60-day period beginning on the date on which the notification is received by Congress; or

(2) the end of a period of 30 days of continuous session of Congress beginning on the date on which the notification is received by Congress or, if either House of Congress is not in session on such date, the first day after such date on which both Houses of Congress are in session.

(c) CONTINUOUS SESSION OF CONGRESS.—For the purposes of subsection (b)—

(1) the continuity of a session of Congress is broken only by an adjournment of Congress sine die; and

(2) any day on which either House is not in session because of an adjournment of more than three days to a day certain is excluded in the computation of any period of time in which Congress is in continuous session.

(d) MEDICAL FACILITY CONSOLIDATION.—For the purposes of subsection (a), the term ''medical facility consolidation'' means an action that closes one or more medical facilities for the purpose of relocating those activities to another medical facility or facilities within the same geographic service area.

SEC. 223. SENSE OF CONGRESS AND REPORT ON ACCESS TO HEALTH CARE FOR VETERANS IN RURAL AREAS.

(a) SENSE OF CONGRESS.—Recognizing the difficulties that veterans residing in rural areas encounter in gaining access to health care in facilities of the Department of Veterans Affairs, it is the sense of Congress that the Secretary of Veterans Affairs should take steps to ensure that an appropriate mix of facilities and clinical staff is available for health care for veterans residing in rural areas.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the steps the Secretary is taking, and intends to take, to improve access to health care for veterans residing in rural areas.

Subtitle D—Plans for New Facilities

SEC. 231. PLANS FOR FACILITIES IN SPECIFIED AREAS.

(a) SOUTHERN NEW JERSEY.—(1) The Secretary of Veterans Affairs shall develop a plan for meeting the future hospital care needs of veterans who reside in southern New Jersey.

(2) For purposes of paragraph (1), the term ''southern New Jersey'' means the following counties of the State of New Jersey: Ocean, Burlington, Camden, Gloucester, Salem, Cumberland, Atlantic, and Cape May.

(b) FAR SOUTH TEXAS.—(1) The Secretary shall develop a plan for meeting the future hospital care needs of veterans who reside in far south Texas.

(2) For purposes of paragraph (1), the term ''far south Texas'' means the following counties of the State of Texas: Bee, Calhoun, Crockett, DeWitt, Dimmit, Goliad, Jackson, Victoria, Webb, Aransas, Duval, Jim Wells, Kleberg, Nueces, Refugio, San Patricio, Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Starr, Willacy, and Zapata.

(c) NORTH CENTRAL WASHINGTON.—(1) The Secretary shall develop a plan for meeting the future hospital care needs of veterans who reside in north central Washington.

(2) For purposes of paragraph (1), the term ''north central Washington'' means the following counties of the State of Washington: Chelan, Douglas, Ferry, Grant, Kittitas, and Okanogan.

(d) PENSACOLA AREA.—(1) The Secretary shall develop a plan for meeting the future hospital care needs of veterans who reside in the Pensacola area.

(2) For purposes of paragraph (1), the term ''Pensacola area'' means—

(A) the counties of Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Liberty, Gulf, and Franklin of the State of Florida; and

(B) the counties of Covington, Geneva, Houston, and Escambia of the State of Alabama.

(e) CONSIDERATION OF USE OF CERTAIN EXISTING AUTHORITIES.—In developing the plans under this section, the Secretary shall, at a minimum, consider options using the existing authorities of sections 8111 and 8153 of title 38, United States Code, to—

(1) establish a hospital staffed and managed by employees of the Department, either in private or public facilities, including Federal facilities; or

(2) enter into contracts with existing Federal facilities, private facilities, and private providers for that care.

(f) REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on each plan under this section not later than April 15, 2004.

SEC. 232. STUDY AND REPORT ON FEASIBILITY OF COORDINATION OF VETERANS HEALTH CARE SERVICES IN SOUTH CAROLINA WITH NEW UNIVERSITY MEDICAL CENTER.

(a) STUDY REQUIRED.—The Secretary of Veterans Affairs shall conduct a study to examine the feasibility of coordination by the Department of Veterans Affairs of its needs for inpatient hospital, medical care, and long-term care services for veterans with the pending construction of a new university medical center at the Medical University of South Carolina, Charleston, South Carolina.

(b) MATTERS TO BE INCLUDED IN STUDY.—(1) As part of the study under subsection (a), the Secretary shall consider the following:

(A) Integration with the Medical University of South Carolina of some or all of the services referred to in subsection (a) through contribution to the construction of that university's new medical facility or by becoming a tenant provider in that new facility.

(B) Construction by the Department of Veterans Affairs of a new independent inpatient or outpatient facility alongside or nearby the university's new facility.

(2) In carrying out paragraph (1), the Secretary shall consider the degree to which the Department and the university medical center would be able to share expensive technologies and scarce specialty services that would affect any such plans of the Secretary or the university.

(3) In carrying out the study, the Secretary shall especially consider the applicability of the authorities under section 8153 of title 38, United States Code (relating to sharing of health care resources between the Department and community provider organizations), to govern future arrangements and relationships between the Department and the Medical University of South Carolina.

(c) CONSULTATION WITH SECRETARY OF DEFENSE.—The Secretary of Veterans Affairs shall consult with the Secretary of Defense in carrying out the study under this section. Such consultation shall include consideration of establishing a Department of Veterans Affairs-Department of Defense joint health-care venture at the site referred to in subsection (a).

(d) REPORT.—Not later than April 15, 2004, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study. The report shall include the Secretary's recommendations with respect to coordination described in subsection (a), including recommendations with respect to each of the matters referred to in subsection (b).

Subtitle E—Designation of Facilities

SEC. 241. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, PRESCOTT, ARIZONA, AS THE BOB STUMP DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The Department of Veterans Affairs Medical Center located in Prescott, Arizona, shall after the date of the enactment of this Act be known and designated as the ''Bob Stump Department of Veterans Affairs Medical Center''. Any reference to such medical center in any law, regulation, map, document, or other paper of the United States shall be considered to be a reference to the Bob Stump Department of Veterans Affairs Medical Center.

SEC. 242. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITY, CHICAGO, ILLINOIS, AS THE JESSE BROWN DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The Department of Veterans Affairs health care facility located at 820 South Damen Avenue in Chicago, Illinois, shall after the date of the enactment of this Act be known and designated as the ''Jesse Brown Department of Veterans Affairs Medical Center''. Any reference to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Jesse Brown Department of Veterans Affairs Medical Center.

SEC. 243. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, HOUSTON, TEXAS, AS THE MICHAEL E. DEBAKEY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The Department of Veterans Affairs Medical Center in Houston, Texas, shall after the date of the enactment of this Act be known and designated as the ''Michael E. DeBakey Department of Veterans Affairs Medical Center''. Any reference to such facility in any

law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Michael E. DeBakey Department of Veterans Affairs Medical Center.

SEC. 244. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, SALT LAKE CITY, UTAH, AS THE GEORGE E. WAHLEN DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The Department of Veterans Affairs Medical Center in Salt Lake City, Utah, shall after the date of the enactment of this Act be known and designated as the ''George E. Wahlen Department of Veterans Affairs Medical Center''. Any references to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the George E. Wahlen Department of Veterans Affairs Medical Center.

SEC. 245. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, NEW LONDON, CONNECTICUT.

The Department of Veterans Affairs outpatient clinic located in New London, Connecticut, shall after the date of the enactment of this Act be known and designated as the ''John J. McGuirk Department of Veterans Affairs Outpatient Clinic''. Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the John J. McGuirk Department of Veterans Affairs Outpatient Clinic.

SEC. 246. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, HORSHAM, PENNSYLVANIA.

The Department of Veterans Affairs outpatient clinic located in Horsham, Pennsylvania, shall after the date of the enactment of this Act be known and designated as the ''Victor J. Saracini Department of Veterans Affairs Outpatient Clinic''. Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Victor J. Saracini Department of Veterans Affairs Outpatient Clinic.

TITLE III—PERSONNEL MATTERS

SEC. 301. MODIFICATION OF AUTHORITIES ON APPOINTMENT AND PROMOTION OF PERSONNEL IN THE VETERANS HEALTH ADMINISTRATION.

(a) POSITIONS TREATABLE AS HYBRID STATUS POSITIONS.—(1) Section 7401 is amended—

(A) by striking paragraph (2) and inserting the following new paragraph (2):

''(2) Scientific and professional personnel, such as microbiologists, chemists, and biostatisticians.''; and

(B) by striking paragraph (3) and inserting the following new paragraph (3):

''(3) Audiologists, speech pathologists, and audiologist-speech pathologists, biomedical engineers, certified or registered respiratory therapists, dietitians, licensed physical therapists, licensed practical or vocational nurses, medical instrument technicians, medical records administrators or specialists, medical records technicians, medical and dental technologists, nuclear medicine technologists, occupational therapists, occupational therapy assistants, kinesiotherapists, orthotist-prosthetists, pharmacists, pharmacy technicians, physical therapy assistants, prosthetic representatives, psychologists, diagnostic radiologic technicians, therapeutic radiologic technicians, and social workers.''.

(2) Personnel appointed to the Veterans Health Administration before the date of the enactment of this Act who are in an occupational category of employees specified in paragraph (3) of section 7401 of title 38, United States Code, by reason of the amendment made by paragraph (1)(B) of this subsection shall, as of such date, be deemed to have been appointed to the Administration under such paragraph (3).

(b) APPOINTMENTS AND PROMOTIONS.—Section 7403 of such title is amended—

(1) in subsection (f)(3)—

(A) by inserting ''reductions-in-force, the applicability of the principles of preference referred to in paragraph (2), rights of part-time employees,'' after ''adverse actions,'';

(B) by inserting '', whether appointed under this section or section 7405(a)(1)(B) of this title'' after ''such positions''; and

(C) by inserting a comma after ''status)''; and

(2) by adding at the end the following new subsection:

''(h)(1) If the Secretary uses the authority provided in subsection (c) for the promotion and advancement of an occupational category of employees described in section 7401(3) of this title, as authorized by subsection (f)(1)(B), the Secretary shall do so through one or more systems prescribed by the Secretary. Each such system shall be planned, developed, and implemented in collaboration with, and with the participation of, exclusive employee representatives of such occupational category of employees.

''(2)(A) Before prescribing a system of promotion and advancement of an occupational category of employees under paragraph (1), the Secretary shall provide to exclusive employee representatives of such occupational category of employees a written description of the proposed system.

''(B) Not later than 30 days after receipt of the description of a proposed system under subparagraph (A), exclusive employee representatives may submit to the Secretary the recommendations, if any, of such exclusive employee representatives with respect to the proposed system.

''(C) The Secretary shall give full and fair consideration to any recommendations received under subparagraph (B) in deciding whether and how to proceed with a proposed system.

''(3) The Secretary shall implement immediately any part of a system of promotion and advancement under paragraph (1) that is proposed under paragraph (2) for which the Secretary receives no recommendations from exclusive employee representatives under paragraph (2).

''(4) If the Secretary receives recommendations under paragraph (2) from exclusive employee representatives on any part of a proposed system of promotion and advancement under that paragraph, the Secretary shall determine whether or not to accept the recommendations, either in whole or in part. If the Secretary determines not to accept all or part of the recommendations, the Secretary shall—

''(A) notify the congressional veterans' affairs committees of the recommendations and of the portion of the recommendations that the Secretary has determined not to accept;

''(B) meet and confer with such exclusive employee representatives, for a period not less than 30 days, for purposes of attempting to reach an agreement on whether and how to proceed with the portion of the recommendations that the Secretary has determined not to accept;

''(C) at the election of the Secretary, or of a majority of such exclusive employee representatives who are participating in negotiations on such matter, employ the services of the Federal Mediation and Conciliation Service during the period referred to in subparagraph (B) for purposes of reaching such agreement; and

''(D) if the Secretary determines that activities under subparagraph (B), (C), or both are unsuccessful at reaching such agreement and determines (in the sole and unreviewable discretion of the Secretary) that further meeting and conferral under subparagraph (B), mediation under subparagraph (C), or both are unlikely to reach such agreement—

''(i) notify the congressional veterans' affairs committees of such determinations, identify for such committees the portions of the recommendations that the Secretary has determined not to accept, and provide such committees an explanation and justification for determining to implement the part of the system subject to such portions of the recommendations without regard to such portions of the recommendations; and

''(ii) commencing not earlier than 30 days after notice under clause (i), implement the part of the system subject to the recommendations that the Secretary has determined not to accept without regard to those recommendations.

''(5) If the Secretary and exclusive employee representatives reach an agreement under paragraph (4) providing for the resolution of a disagreement on one or more portions of the recommendations that the Secretary had determined not to accept under that paragraph, the Secretary shall immediately implement such resolution.

''(6) In implementing a system of promotion and advancement under this subsection, the Secretary shall—

''(A) develop and implement mechanisms to permit exclusive employee representatives to participate in the periodic review and evaluation of the system, including peer review, and in any further planning or development required with respect to the system as a result of such review and evaluation; and

''(B) provide exclusive employee representatives appropriate access to information to ensure that the participation of such exclusive employee representative in activities under subparagraph (A) is productive.

''(7)(A) The Secretary may from time to time modify a system of promotion and advancement under this subsection.

''(B) In modifying a system, the Secretary shall take into account any recommendations made by the exclusive employee representatives concerned.

''(C) In modifying a system, the Secretary shall comply with paragraphs (2) through (5) and shall treat any proposal for the modification of a system as a proposal for a system for purposes of such paragraphs.

''(D) The Secretary shall promptly submit to the congressional veterans' affairs committees a report on any modification of a system. Each report shall include—

''(i) an explanation and justification of the modification; and

''(ii) a description of any recommendations of exclusive employee representatives with respect to the modification and a statement whether or not the modification was revised in light of such recommendations.

''(8) In the case of employees who are not within a unit with respect to which a labor organization is accorded exclusive recognition, the Secretary may develop procedures for input from representatives under this subsection from any appropriate organization that represents a substantial percentage of such employees or, if none, in such other manner as the Secretary considers appropriate, consistent with the purposes of this subsection.

''(9) In this subsection, the term 'congressional veterans' affairs committees' means the Committees on Veterans' Affairs of the Senate and the House of Representatives.''.

(c) TEMPORARY, PART-TIME, AND WITHOUT COMPENSATION APPOINTMENTS.—Section 7405 of such title is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking subparagraphs (B) and (C) and inserting the following new subparagraphs:

''(B) Positions listed in section 7401(3) of this title.

''(C) Librarians.''; and

(B) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraph (B):

''(B) Positions listed in section 7401(3) of this title.''; and

(2) in subsection (c)(1), by striking ''section 7401(1)'' and inserting ''paragraphs (1) and (3) of section 7401''.

(d) AUTHORITY FOR ADDITIONAL PAY FOR CERTAIN HEALTH CARE PROFESSIONALS.—Section 7454(b)(1) of such title is amended by striking ''certified or registered'' and all that follows through ''occupational therapists,'' and inserting ''individuals in positions listed in section 7401(3) of this title,''.

SEC. 302. APPOINTMENT OF CHIROPRACTORS IN THE VETERANS HEALTH ADMINISTRATION.

(a) APPOINTMENTS.—Section 7401 is amended—

(1) in the matter preceding paragraph (1), by striking ''medical'' and inserting ''health''; and

(2) in paragraph (1), by inserting ''chiropractors,'' after ''podiatrists,''.

(b) QUALIFICATIONS OF APPOINTEES.—Section 7402(b) is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9) the following new paragraph (10):

''(10) CHIROPRACTOR.—To be eligible to be appointed to a chiropractor position, a person must—

''(A) hold the degree of doctor of chiropractic, or its equivalent, from a college of chiropractic approved by the Secretary; and

''(B) be licensed to practice chiropractic in a State.''.

(c) PERIOD OF APPOINTMENTS AND PROMOTIONS.—Section 7403(a)(2) is amended by adding at the end the following new subparagraph:

''(H) Chiropractors.''.

(d) GRADES AND PAY SCALES.—Section 7404(b)(1) is amended by striking the third center heading in the table and inserting the following:

''CLINICAL PODIATRIST, CHIROPRACTOR, AND OPTOMETRIST SCHEDULE''.

(e) MALPRACTICE AND NEGLIGENCE PROTECTION.—Section 7316(a) is amended—

(1) in paragraph (1), by striking ''medical'' each place it appears and inserting ''health''; and

(2) in paragraph (2)—

(A) by striking ''medical'' the first place it appears and inserting ''health''; and

(B) by inserting ''chiropractor,'' after ''podiatrist,''.

(f) TREATMENT AS SCARCE MEDICAL SPECIALISTS FOR CONTRACTING PURPOSES.—Section 7409(a) is amended by inserting ''chiropractors,'' in the second sentence after ''optometrists,''.

(g) COLLECTIVE BARGAINING EXEMPTION.—Section 7421(b) is amended by adding at the end the following new paragraph:

''(8) Chiropractors.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 180–day period beginning on the date of the enactment of this Act.

SEC. 303. ADDITIONAL PAY FOR SATURDAY TOURS OF DUTY FOR ADDITIONAL HEALTH CARE WORKERS IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7454(b) is amended by adding at the end the following new paragraph:

''(3) Employees appointed under section 7408 of this title shall be entitled to additional pay on the same basis as provided for nurses in section 7453(c) of this title.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall take effect with respect to the first pay period beginning on or after January 1, 2004.

SEC. 304. COVERAGE OF EMPLOYEES OF VETERANS' CANTEEN SERVICE UNDER ADDITIONAL EMPLOYMENT LAWS.

(a) COVERAGE.—Paragraph (5) of section 7802 is amended by inserting before the semicolon a period and the following: ''An employee appointed under this section may be considered for appointment to a Department position in the competitive service in the same manner that a Department employee in the competitive service is considered for transfer to such position. An employee of the Service who is appointed to a Department position in the competitive service under the authority of the preceding sentence may count toward the time-in-service requirement for a career appointment in such position any previous period of employment in the Service''.

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by striking the semicolon at the end of each of paragraphs (1) through (10) and inserting a period;

(2) by striking ''The Secretary '' and all that follows through ''(1) establish,'' and inserting ''(a) LOCATIONS FOR CANTEENS.—The Secretary shall establish,'';

(3) by redesignating paragraphs (2) through (11) as subsections (b) through (k), respectively, and by realigning those subsections (as so redesignated) so as to be flush to the left margin;

(4) in subsection (b) (as so redesignated), by inserting ''WAREHOUSES AND STORAGE DEPOTS.—The Secretary shall'' before ''establish'';

(5) in subsection (c) (as so redesignated), by inserting ''SPACE, BUILDINGS, AND STRUCTURES.—The Secretary shall'' before ''furnish'';

(6) in subsection (d) (as so redesignated), by inserting ''EQUIPMENT, SERVICES, AND UTILITIES.—The Secretary shall'' before ''transfer'';

(7) in subsection (e) (as so redesignated and as amended by subsection (a)), by inserting ''PERSONNEL.—The Secretary shall'' before ''employ'';

(8) in subsection (f) (as so redesignated), by inserting ''CONTRACTS AND AGREEMENTS.—The Secretary shall'' before ''make all'';

(9) in subsection (g) (as so redesignated), by inserting ''PRICES.—The Secretary shall'' before ''fix the'';

(10) in subsection (h) (as so redesignated), by inserting ''GIFTS AND DONATIONS.—The Secretary may'' before ''accept'';

(11) in subsection (i) (as so redesignated), by inserting ''RULES AND REGULATIONS.—The Secretary shall'' before ''make such'';

(12) in subsection (j) (as so redesignated), by inserting ''DELEGATION.—The Secretary may'' before ''delegate such''; and

(13) in subsection (k) (as so redesignated), by inserting ''AUTHORITY TO CASH CHECKS, ETC.—The Secretary may'' before ''authorize''.

TITLE IV—OTHER MATTERS

SEC. 401. OFFICE OF RESEARCH OVERSIGHT IN VETERANS HEALTH ADMINISTRATION.

(a) STATUTORY CHARTER.—(1) Chapter 73 is amended by inserting after section 7306 the following new section:

''§ 7307. Office of Research Oversight

''(a) REQUIREMENT FOR OFFICE.—(1) There is in the Veterans Health Administration an Office of Research Oversight (hereinafter in this section referred to as the 'Office'). The Office shall advise the Under Secretary for Health on matters of compliance and assurance in human subjects protections, research safety, and research impropriety and misconduct. The Office shall function independently of entities within the Veterans Health Administration with responsibility for the conduct of medical research programs.

''(2) The Office shall—

''(A) monitor, review, and investigate matters of medical research compliance and assurance in the Department with respect to human subjects protections; and

''(B) monitor, review, and investigate matters relating to the protection and safety of human subjects and Department employees participating in medical research in Department programs.

''(b) DIRECTOR.—(1) The head of the Office shall be a Director, who shall report directly to the Under Secretary for Health (without delegation).

''(2) Any person appointed as Director shall be—

''(A) an established expert in the field of medical research, administration of medical research programs, or similar fields; and

''(B) qualified to carry out the duties of the Office based on demonstrated experience and expertise.

''(c) FUNCTIONS.—(1) The Director shall report to the Under Secretary for Health on matters relating to protections of human subjects in medical research projects of the Department under any applicable Federal law and regulation, the safety of employees involved in Department medical research programs, and suspected misconduct and impropriety in such programs. In carrying out the preceding sentence, the Director shall consult with employees of the Veterans Health Administration who are responsible for the management and conduct of Department medical research programs.

''(2) The matters to be reported by the Director to the Under Secretary under paragraph (1) shall include allegations of research impropriety and misconduct by employees engaged in medical research programs of the Department.

''(3)(A) When the Director determines that such a recommendation is warranted, the Director may recommend to the Under Secretary that a Department research activity be terminated, suspended, or restricted, in whole or in part.

''(B) In a case in which the Director reasonably believes that activities of a medical research project of the Department place human subjects' lives or health at imminent risk, the Director shall direct that activities under that project be immediately suspended or, as appropriate and specified by the Director, be limited.

''(d) GENERAL FUNCTIONS.—(1) The Director shall conduct periodic inspections and reviews, as the Director determines appropriate, of medical research programs of the Department. Such inspections and reviews shall include review of required documented assurances.

''(2) The Director shall observe external accreditation activities conducted for accreditation of medical research programs conducted in facilities of the Department.

''(3) The Director shall investigate allegations of research impropriety and misconduct in medical research projects of the Department.

''(4) The Director shall submit to the Under Secretary for Health, the Secretary, and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on any suspected lapse, from whatever cause or causes, in protecting safety of human subjects and others, including employees, in medical research programs of the Department.

''(5) The Director shall carry out such other duties as the Under Secretary for Health may require.

''(e) SOURCE OF FUNDS.—Amounts for the activities of the Office, including its regional offices, shall be derived from amounts appropriated for the Veterans Health Administration for Medical Care.

''(f) ANNUAL REPORT.—Not later than March 15 each year, the Director shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Office during the preceding calendar year. Each such report shall include, with respect to that year, the following:

''(1) A summary of reviews of individual medical research programs of the Department completed by the Office.

''(2) Directives and other communications issued by the Office to field activities of the Department.

''(3) Results of any investigations undertaken by the Office during the reporting period consonant with the purposes of this section.

''(4) Other information that would be of interest to those committees in oversight of the Department medical research program.

''(g) MEDICAL RESEARCH.—For purposes of this section, the term 'medical research' means medical research described in section 7303(a)(2) of this title.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7306 the following new item:

''7307. Office of Research Oversight.''.

(b) CONFORMING AMENDMENT.—Section 7303 is amended by striking subsection (e).

SEC. 402. ENHANCEMENT OF AUTHORITIES RELATING TO NONPROFIT RESEARCH CORPORATIONS.

(a) COVERAGE OF PERSONNEL UNDER TORT CLAIMS LAWS.—(1) Subchapter IV of chapter 73 is amended by inserting after section 7364 the following new section:

''§ 7364A. Coverage of employees under certain Federal tort claims laws

''(a) An employee of a corporation established under this subchapter who is described by subsection (b) shall be considered an employee of the Government, or a medical care employee of the Veterans Health Administration, for purposes of the following provisions of law:

''(1) Section 1346(b) of title 28.

''(2) Chapter 171 of title 28.

''(3) Section 7316 of this title

''(b) An employee described in this subsection is an employee who—

''(1) has an appointment with the Department, whether with or without compensation;

''(2) is directly or indirectly involved or engaged in research or education and training that is approved in accordance with procedures established by the Under Secretary for Health for research or education and training; and

''(3) performs such duties under the supervision of Department personnel.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7364 the following new item:

''7364A. Coverage of employees under certain Federal tort claims laws.''.

(b) CLARIFICATION OF EXECUTIVE DIRECTOR'S ETHICS CERTIFICATION DUTIES.—Section 7366(c) is amended—

(1) by inserting ''(1)'' after ''(c)'';

(2) by striking ''any year—'' and all that follows through ''shall be subject'' and inserting ''any year shall be subject'';

(3) by striking ''functions; and'' and inserting ''functions.''; and

(4) by striking paragraph (2) and inserting the following:

''(2) Each corporation established under this subchapter shall each year submit to the Secretary a statement signed by the executive director of the corporation verifying that each director and employee has certified awareness of the laws and regulations referred to in paragraph (1) and of the consequences of violations of those laws and regulations in the same manner as Federal employees are required to so certify.''.

(c) FIVE-YEAR EXTENSION OF AUTHORITY TO ESTABLISH RESEARCH CORPORATIONS.—Section 7368 is amended by striking ''December 31, 2003'' and inserting ''December 31, 2008''.

SEC. 403. DEPARTMENT OF DEFENSE PARTICIPATION IN REVOLVING SUPPLY FUND PURCHASES.

(a) ENHANCEMENT OF DEPARTMENT OF DEFENSE PARTICIPATION.—Section 8121 is amended—

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

(2) by designating the last sentence of subsection (a) as subsection (c); and

(3) by inserting after paragraph (3) of subsection (a) the following new subsection (b):

''(b) The Secretary may authorize the Secretary of Defense to make purchases through the fund in the same manner as activities of the Department. When services, equipment, or supplies are furnished to the Secretary of Defense through the fund, the reimbursement required by paragraph (2) of subsection (a) shall be made from appropriations made to the Department of Defense, and when services or supplies are to be furnished to the Department of Defense, the fund may be credited, as provided in paragraph (3) of subsection (a), with advances from appropriations available to the Department of Defense.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to funds appropriated for a fiscal year after fiscal year 2003.

SEC. 404. FIVE-YEAR EXTENSION OF HOUSING ASSISTANCE FOR HOMELESS VETERANS.

Section 2041(c) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2008''.

SEC. 405. REPORT DATE CHANGES.

(a) SENIOR MANAGERS QUARTERLY REPORT.—Section 516(e)(1)(A) is amended by striking ''30 days'' and inserting ''45 days''.

(b) ANNUAL REPORT ON ASSISTANCE TO HOMELESS VETERANS.—Section 2065(a) is amended by striking ''April 15 of each year'' and inserting ''June 15 of each year''.

(c) ANNUAL REPORT OF COMMITTEE ON CARE OF SEVERELY CHRONICALLY MENTALLY ILL VETERANS.—Section 7321(d)(2) is amended by striking ''February 1, 1998, and February 1 of each of the six following years'' and inserting ''June 1 of each year through 2008''.

(d) ANNUAL REPORT ON SHARING OF HEALTH CARE RESOURCES.—Section 8153(g) is amended—

(1) by striking ''not more than 60 days after the end of each fiscal year'' and inserting ''not later than February 1 of each year''; and

(2) by inserting ''during the preceding fiscal year'' after ''under this section''.

(e) ANNUAL REPORT OF SPECIAL COMMITTEE ON PTSD.—Section 110(e)(2) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note) is amended by striking ''February 1 of each of the three following years'' and inserting ''May 1 of each year through 2008''.

SA 2204. Mr. THOMAS (for Mr. SPECTER) proposed an amendment to the bill S. 1156, to amend title 38, United States Code, to improve and enhance the provision of health care for veterans, to authorize major construction projects and other facilities matters for the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes; as follows:

Amend the title to read as follows: ''A bill to amend title 38, United States Code, to improve and enhance provision of health care for veterans, to authorize major construction projects and other facilities matters for the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes.''.

SA 2205. Mr. THOMAS (for Mr. SPECTER (for himself and Mr. GRAHAM of Florida)) proposed an amendment to the bill H.R. 2297, To amend title 38, United Stated Code, to improve benefits under laws administered by the Secretary of Veterans' Affairs, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans Benefits Act of 2003''.

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

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—SURVIVOR BENEFITS

Sec. 101. Retention of certain veterans survivor benefits for surviving spouses remarrying after age 57.
Sec. 102. Benefits for children with spina bifida of veterans of certain service in Korea.
Sec. 103. Alternative beneficiaries for National Service Life Insurance and United States Government Life Insurance.
Sec. 104. Payment of benefits accrued and unpaid at time of death.

TITLE II—BENEFITS FOR FORMER PRISONERS OF WAR AND FOR FILIPINO VETERANS

SUBTITLE A—FORMER PRISONERS OF WAR

Sec. 201. Presumptions of service-connection relating to diseases and disabilities of former prisoners of war.

SUBTITLE B—FILIPINO VETERANS

Sec. 211. Rate of payment of benefits for certain Filipino veterans and their survivors residing in the United States.
Sec. 212. Burial benefits for new Philippine Scouts residing in the United States.
Sec. 213. Extension of authority to maintain regional office in the Republic of the Philippines.

TITLE III—EDUCATION BENEFITS, EMPLOYMENT PROVISIONS, AND RELATED MATTERS

Sec. 301. Expansion of Montgomery GI Bill education benefits for certain self-employment training.
Sec. 302. Increase in rates of survivors' and dependents' educational assistance.
Sec. 303. Restoration of survivors' and dependents' education benefits of individuals being ordered to full-time National Guard duty.
Sec. 304. Rounding down of certain cost-of-living adjustments on educational assistance.

Sec. 305. Authorization for State approving agencies to approve certain entrepreneurship courses.
Sec. 306. Repeal of provisions relating to obsolete education loan program.
Sec. 307. Six-year extension of the Veterans' Advisory Committee on Education.
Sec. 308. Procurement program for small business concerns owned and controlled by service-disabled veterans.
Sec. 309. Outstationing of Transition Assistance Program personnel.

TITLE IV—HOUSING BENEFITS AND RELATED MATTERS

Sec. 401. Authorization to provide adapted housing assistance to certain disabled members of the Armed Forces who remain on active duty.
Sec. 402. Increase in amounts for certain adaptive benefits for disabled veterans.
Sec. 403. Permanent authority for housing loans for members of the Selected Reserve.
Sec. 404. Reinstatement of minimum requirements for sale of vendee loans.
Sec. 405. Adjustment to home loan fees.
Sec. 406. One-year extension of procedures on liquidation sales of defaulted home loans guaranteed by the Department of Veterans Affairs.

TITLE V—BURIAL BENEFITS

Sec. 501. Burial plot allowance.
Sec. 502. Eligibility of surviving spouses who remarry for burial in national cemeteries.
Sec. 503. Permanent authority for State cemetery grants program.

TITLE VI—EXPOSURE TO HAZARDOUS SUBSTANCES

Sec. 601. Radiation Dose Reconstruction Program of Department of Defense.
Sec. 602. Study on disposition of Air Force Health Study.
Sec. 603. Funding of Medical Follow-Up Agency of Institute of Medicine of National Academy of Sciences for epidemiological research on members of the Armed Forces and veterans.

TITLE VII—OTHER MATTERS

Sec. 701. Time limitations on receipt of claim information pursuant to requests of Department of Veterans Affairs.
Sec. 702. Clarification of applicability of prohibition on assignment of veterans benefits to agreements requiring payment of future receipt of benefits.
Sec. 703. Six-year extension of Advisory Committee on Minority Veterans.
Sec. 704. Temporary authority for performance of medical disabilities examinations by contract physicians.
Sec. 705. Forfeiture of benefits for subversive activities.
Sec. 706. Two-year extension of round-down requirement for compensation cost-of-living adjustments.
Sec. 707. Codification of requirement for expeditious treatment of cases on remand.
Sec. 708. Technical and clerical amendments.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—SURVIVOR BENEFITS

SEC. 101. RETENTION OF CERTAIN VETERANS SURVIVOR BENEFITS FOR SURVIVING SPOUSES REMARRYING AFTER AGE 57.

(a) EXCEPTION TO TERMINATION OF BENEFITS UPON REMARRIAGE.—Section 103(d)(2)(B) is amended by striking ''The remarriage after age 55'' and inserting ''The remarriage after age 57 of the surviving spouse of a veteran shall not bar the furnishing of benefits specified in paragraph (5) to such person as the surviving spouse of the veteran. Notwithstanding the previous sentence, the remarriage after age 55''.

(b) COORDINATION OF BENEFITS.—Section 1311 is amended by adding at the end the following new subsection:

''(e) In the case of an individual who is eligible for dependency and indemnity compensation under this section by reason of section 103(d)(2)(B) of this title who is also eligible for benefits under another provision of law by reason of such individual's status as the surviving spouse of a veteran, then, notwithstanding any other provision of law (other than section 5304(b)(3) of this title), no reduction in benefits under such other provision of law shall be made by reason of such individual's eligibility for benefits under this section.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 2004.

(d) RETROACTIVE BENEFITS PROHIBITED.—No benefit may be paid to any person by reason of the amendments made by subsections (a) and (b) for any period before the effective date specified in subsection (c).

(e) APPLICATION FOR BENEFITS.—In the case of an individual who but for having remarried would be eligible for benefits under title 38, United States Code, by reason of the amendment made by subsection (a) and whose remarriage was before the date of the enactment of this Act and after the individual had attained age 57, the individual shall be eligible for such benefits by reason of such amendment only if the individual submits an application for such benefits to the Secretary of Veterans Affairs not later than the end of the one-year period beginning on the date of the enactment of this Act.

(f) TECHNICAL CORRECTION.—Section 101(b) of the Veterans Benefits Act of 2002 (Public Law 107–330; 116 Stat. 2821; 38 U.S.C. 103 note) is amended by striking ''during the 1–year period'' and all that follows through ''(c)'' and inserting ''before the end of the one-year period beginning on the date of the enactment of the Veterans Benefits Act of 2003''.

SEC. 102. BENEFITS FOR CHILDREN WITH SPINA BIFIDA OF VETERANS OF CERTAIN SERVICE IN KOREA.

(a) IN GENERAL.—Chapter 18 is amended—

(1) by redesignating subchapter III, and sections 1821, 1822, 1823, and 1824, as subchapter IV, and sections 1831, 1832, 1833, and 1834, respectively; and

(2) by inserting after subchapter II the following new subchapter III:

''SUBCHAPTER III—CHILDREN OF CERTAIN KOREA SERVICE VETERANS BORN WITH SPINA BIFIDA

''§ 1821. Benefits for children of certain Korea service veterans born with spina bifida

''(a) BENEFITS AUTHORIZED.—The Secretary may provide to any child of a veteran of covered service in Korea who is suffering from spina bifida the health care, vocational training and rehabilitation, and monetary allowance required to be paid to a child of a Vietnam veteran who is suffering from spina bifida under subchapter I of this chapter as if such child of a veteran of covered service in Korea were a child of a Vietnam veteran who is suffering from spina bifida under such subchapter.

''(b) SPINA BIFIDA CONDITIONS COVERED.—This section applies with respect to all forms and manifestations of spina bifida, except spina bifida occulta.

''(c) VETERAN OF COVERED SERVICE IN KOREA.—For purposes of this section, a veteran of covered service in Korea is any individual, without regard to the characterization of that individual's service, who—

''(1) served in the active military, naval, or air service in or near the Korean demilitarized zone (DMZ), as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on September 1, 1967, and ending on August 31, 1971; and

''(2) is determined by the Secretary, in consultation with the Secretary of Defense, to have been exposed to a herbicide agent during such service in or near the Korean demilitarized zone.

''(d) HERBICIDE AGENT.—For purposes of this section, the term 'herbicide agent' means a chemical in a herbicide used in support of United States and allied military operations in or near the Korean demilitarized zone, as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on September 1, 1967, and ending on August 31, 1971.''.

(b) CHILD DEFINED.—Section 1831, as redesignated by subsection (a) of this section, is amended by striking paragraph (1) and inserting the following new paragraph (1):

''(1) The term 'child' means the following:

''(A) For purposes of subchapters I and II of this chapter, an individual, regardless of age or marital status, who—

''(i) is the natural child of a Vietnam veteran; and

''(ii) was conceived after the date on which that veteran first entered the Republic of Vietnam during the Vietnam era.

''(B) For purposes of subchapter III of this chapter, an individual, regardless of age or marital status, who—

''(i) is the natural child of a veteran of covered service in Korea (as determined for purposes of section 1821 of this title); and

''(ii) was conceived after the date on which that veteran first entered service described in subsection (c) of that section.''.

(c) NONDUPLICATION OF BENEFITS.—Subsection (a) of section 1834, as redesignated by subsection (a) of this section, is amended by adding at the end the following new sentence: ''In the case of a child eligible for benefits under subchapter I or II of this chapter who is also eligible for benefits under subchapter III of this chapter, a monetary allowance shall be paid under the subchapter of this chapter elected by the child.''.

(d) CONFORMING AMENDMENTS.—(1) Section 1811(1)(A) is amended by striking ''section 1821(1)'' and inserting ''section 1831(1)''.

(2) The heading for chapter 18 is amended to read as follows:

''CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND CERTAIN OTHER VETERANS''.

(e) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 18 is amended by striking the items relating to subchapter III and sections 1821, 1822, 1823, and 1824 and inserting the following new items:

''SUBCHAPTER III—CHILDREN OF CERTAIN KOREA SERVICE VETERANS BORN WITH SPINA BIFIDA

''1821. Benefits for children of certain Korea service veterans born with spina bifida.

''SUBCHAPTER IV—GENERAL PROVISIONS

''1831. Definitions.
''1832. Applicability of certain administrative provisions.
''1833. Treatment of receipt of monetary allowance and other benefits.
''1834. Nonduplication of benefits.''.

(2) The table of chapters at the beginning of title 38, United States Code, and at the beginning of part II, are each amended by striking the item relating to chapter 18 and inserting the following new item:

''18. Benefits for Children of Vietnam Veterans and Certain Other Veterans ..... 1802''.

SEC. 103. ALTERNATIVE BENEFICIARIES FOR NATIONAL SERVICE LIFE INSURANCE AND UNITED STATES GOVERNMENT LIFE INSURANCE.

(a) NATIONAL SERVICE LIFE INSURANCE.—Section 1917 is amended by adding at the end the following new subsection:

''(f)(1) Following the death of the insured and in a case not covered by subsection (d)—

''(A) if the first beneficiary otherwise entitled to payment of the insurance does not make a claim for such payment within two years after the death of the insured, payment may be made to another beneficiary designated by the insured, in the order of precedence as designated by the insured, as if the first beneficiary had predeceased the insured; and

''(B) if, within four years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary and the Secretary has not received any notice in writing that any such claim will be made, payment may (notwithstanding any other provision of law) be made to such person as may in the judgment of the Secretary be equitably entitled thereto.

''(2) Payment of insurance under paragraph (1) shall be a bar to recovery by any other person.''.

(b) UNITED STATES GOVERNMENT LIFE INSURANCE.—Section 1952 is amended by adding at the end the following new subsection:

''(c)(1) Following the death of the insured and in a case not covered by section 1950 of this title—

''(A) if the first beneficiary otherwise entitled to payment of the insurance does not make a claim for such payment within two years after the death of the insured, payment may be made to another beneficiary designated by the insured, in the order of precedence as designated by the insured, as if the first beneficiary had predeceased the insured; and

''(B) if, within four years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary and the Secretary has not received any notice in writing that any such claim will be made, payment may (notwithstanding any other provision of law) be made to such person as may in the judgment of the Secretary be equitably entitled thereto.

''(2) Payment of insurance under paragraph (1) shall be a bar to recovery by any other person.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

(d) TRANSITION PROVISION.—In the case of a person insured under subchapter I or II of chapter 19 of title 38, United States Code, who dies before the effective date of the amendments made by subsections (a) and (b), as specified by subsection (c), the two-year and four-year periods specified in subsection (f)(1) of section 1917 of title 38, United States Code, as added by subsection (a), and subsection (c)(1) of section 1952 of such title, as added by subsection (b), as applicable, shall for purposes of the applicable subsection be treated as being the two-year and four-year periods, respectively, beginning on the effective date of such amendments, as so specified.

SEC. 104. PAYMENT OF BENEFITS ACCRUED AND UNPAID AT TIME OF DEATH.

(a) REPEAL OF TWO-YEAR LIMITATION ON PAYMENT.—Section 5121(a) is amended by striking ''for a period not to exceed two years'' in the matter preceding paragraph (1).

(b) PAYMENT RECIPIENTS FOR BENEFICIARIES UNDER CHAPTER 18.—Such section is further amended—

(1) by striking ''and'' at the end of paragraph (4);

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

(3) by inserting after paragraph (4) the following new paragraph (5):

''(5) Upon the death of a child claiming benefits under chapter 18 of this title, to the surviving parents.''.

(c) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) in the matter preceding paragraph (1), by striking the comma after ''or decisions'';

(2) by striking the semicolon at the end of paragraphs (1), (2), (3), and (4), and at the end of subparagraphs (A) and (B) of paragraph (2), and inserting a period.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

TITLE II—BENEFITS FOR FORMER PRISONERS OF WAR AND FOR FILIPINO VETERANS

Subtitle A—Former Prisoners of War

SEC. 201. PRESUMPTIONS OF SERVICE-CONNECTION RELATING TO DISEASES AND DISABILITIES OF FORMER PRISONERS OF WAR.

Subsection (b) of section 1112 is amended to read as follows:

''(b)(1) For the purposes of section 1110 of this title and subject to the provisions of section 1113 of this title, in the case of a veteran who is a former prisoner of war—

''(A) a disease specified in paragraph (2) which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service; and

''(B) if the veteran was detained or interned as a prisoner of war for not less than thirty days, a disease specified in paragraph (3) which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

''(2) The diseases specified in this paragraph are the following:

''(A) Psychosis.

''(B) Any of the anxiety states.

''(C) Dysthymic disorder (or depressive neurosis).

''(D) Organic residuals of frostbite, if the Secretary determines that the veteran was detained or interned in climatic conditions consistent with the occurrence of frostbite.

''(E) Post-traumatic osteoarthritis.

''(3) The diseases specified in this paragraph are the following:

''(A) Avitaminosis.

''(B) Beriberi (including beriberi heart disease).

''(C) Chronic dysentery.

''(D) Helminthiasis.

''(E) Malnutrition (including optic atrophy associated with malnutrition).

''(F) Pellagra.

''(G) Any other nutritional deficiency.

''(H) Cirrhosis of the liver.

''(I) Peripheral neuropathy except where directly related to infectious causes.

''(J) Irritable bowel syndrome.

''(K) Peptic ulcer disease.''.

Subtitle B—Filipino Veterans

SEC. 211. RATE OF PAYMENT OF BENEFITS FOR CERTAIN FILIPINO VETERANS AND THEIR SURVIVORS RESIDING IN THE UNITED STATES.

(a) RATE OF PAYMENT.—Section 107 is amended—

(1) in the second sentence of subsection (b), by striking ''Payments'' and inserting ''Except as provided in subsection (c), payments''; and

(2) in subsection (c)—

(A) by inserting ''and subchapter II of chapter 13 (except section 1312(a)) of this title'' after ''chapter 11 of this title'';

(B) by striking ''in subsection (a)'' and inserting ''in subsection (a) or (b)''; and

(C) by striking ''of subsection (a)'' and inserting ''of the applicable subsection''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits paid for months beginning after the date of the enactment of this Act.

SEC. 212. BURIAL BENEFITS FOR NEW PHILIPPINE SCOUTS RESIDING IN THE UNITED STATES.

(a) BENEFIT ELIGIBILITY.—Section 107, as amended by section 211 of this Act, is amended—

(1) in subsection (b)(2)—

(A) by striking ''and'' and inserting a comma; and

(B) by inserting '', 23, and 24 (to the extent provided for in section 2402(8))'' after ''(except section 1312(a))'';

(2) in the second sentence of subsection (b), as so amended, by inserting ''or (d)'' after ''subsection (c)'';

(3) in subsection (d)(1), by inserting ''or (b), as otherwise applicable,'' after ''subsection (a)''; and

(4) in subsection (d)(2), by inserting ''or whose service is described in subsection (b) and who dies after the date of the enactment of the Veterans Benefits Act of 2003,'' after ''November 1, 2000,''.

(b) NATIONAL CEMETERY INTERMENT.—Section 2402(8) is amended by striking ''section 107(a)'' and inserting ''subsection (a) or (b) of section 107''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

SEC. 213. EXTENSION OF AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE REPUBLIC OF THE PHILIPPINES.

Section 315(b) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2009''.

TITLE III—EDUCATION BENEFITS, EMPLOYMENT PROVISIONS, AND RELATED MATTERS

SEC. 301. EXPANSION OF MONTGOMERY GI BILL EDUCATION BENEFITS FOR CERTAIN SELF-EMPLOYMENT TRAINING.

(a) DEFINITION OF TRAINING ESTABLISHMENT.—Section 3452(e) is amended by striking ''means any'' and all that follows and inserting ''means any of the following:

''(1) An establishment providing apprentice or other on-job training, including those under the supervision of a college or university or any State department of education.

''(2) An establishment providing self-employment on-job training consisting of full-

time training for a period of less than six months that is needed or accepted for purposes of obtaining licensure to engage in a self-employment occupation or required for ownership and operation of a franchise that is the objective of the training.

''(3) A State board of vocational education.

''(4) A Federal or State apprenticeship registration agency.

''(5) A joint apprenticeship committee established pursuant to the Act of August 16, 1937, popularly known as the 'National Apprenticeship Act' (29 U.S.C. 50 et seq.).

''(6) An agency of the Federal Government authorized to supervise such training.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is six months after the date of the enactment of this Act and shall apply to self-employment on-job training approved and pursued on or after that date.

SEC. 302. INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3532 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''at the monthly rate of'' and all that follows and inserting ''at the monthly rate of $788 for full-time, $592 for three-quarter-time, or $394 for half-time pursuit.''; and

(B) in paragraph (2), by striking ''at the rate of'' and all that follows and inserting ''at the rate of the lesser of—

''(A) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay; or

''(B) $788 per month for a full-time course.'';

(2) in subsection (b), by striking ''$670'' and inserting ''$788''; and

(3) in subsection (c)(2), by striking ''shall be'' and all that follows and inserting ''shall be $636 for full-time, $477 for three-quarter-time, or $319 for half-time pursuit.''.

(b) CORRESPONDENCE COURSES.—Section 3534(b) is amended by striking ''$670'' and inserting ''$788''.

(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) is amended—

(1) by striking ''$670'' and inserting ''$788''; and

(2) by striking ''$210'' each place it appears and inserting ''$247''.

(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) is amended by striking ''shall be $488 for the first six months'' and all that follows and inserting ''shall be $574 for the first six months, $429 for the second six months, $285 for the third six months, and $144 for the fourth and any succeeding six-month period of training.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, and shall apply with respect to educational assistance allowances payable under chapter 35 and section 3687(b)(2) of title 38, United States Code, for months beginning on or after that date.

SEC. 303. RESTORATION OF SURVIVORS' AND DEPENDENTS' EDUCATION BENEFITS OF INDIVIDUALS BEING ORDERED TO FULL-TIME NATIONAL GUARD DUTY.

(a) DELIMITING DATE.—Section 3512(h) is amended by inserting ''or is involuntarily ordered to full-time National Guard duty under section 502(f) of title 32,'' after ''title 10,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 11, 2001.

SEC. 304. ROUNDING DOWN OF CERTAIN COST-OF-LIVING ADJUSTMENTS ON EDUCATIONAL ASSISTANCE.

(a) BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.—Section 3015(h) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting ''(1)'' after ''(h)'';

(3) by striking ''(rounded to the nearest dollar)'';

(4) in subparagraph (B), as so redesignated, by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(5) by adding at the end the following new paragraph:

''(2) Any increase under paragraph (1) in a rate with respect to a fiscal year after fiscal year 2004 and before fiscal year 2014 shall be rounded down to the next lower whole dollar amount. Any such increase with respect to a fiscal year after fiscal year 2013 shall be rounded to the nearest whole dollar amount.''.

(b) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3564 is amended—

(1) by inserting ''(a)'' before ''With'';

(2) by striking ''(rounded to the nearest dollar)''; and

(3) by adding at the end the following new subsection:

''(b) Any increase under subsection (a) in a rate with respect to a fiscal year after fiscal year 2004 and before fiscal year 2014 shall be rounded down to the next lower whole dollar amount. Any such increase with respect to a fiscal year after fiscal year 2013 shall be rounded to the nearest whole dollar amount.''.

SEC. 305. AUTHORIZATION FOR STATE APPROVING AGENCIES TO APPROVE CERTAIN ENTREPRENEURSHIP COURSES.

(a) APPROVAL OF ENTREPRENEURSHIP COURSES.—Section 3675 is amended by adding at the end the following new subsection:

''(c)(1) A State approving agency may approve the entrepreneurship courses offered by a qualified provider of entrepreneurship courses.

''(2) For purposes of this subsection, the term 'entrepreneurship course' means a nondegree, non-credit course of business education that enables or assists a person to start or enhance a small business concern (as defined pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a))).

''(3) Subsection (a) and paragraphs (1) and (2) of subsection (b) shall not apply to—

''(A) an entrepreneurship course offered by a qualified provider of entrepreneurship courses; and

''(B) a qualified provider of entrepreneurship courses by reason of such provider offering one or more entrepreneurship courses.''.

(b) BUSINESS OWNERS NOT TREATED AS ALREADY QUALIFIED.—Section 3471 is amended by inserting before the last sentence the following: ''The Secretary shall not treat a person as already qualified for the objective of a program of education offered by a qualified provider of entrepreneurship courses solely because such person is the owner or operator of a business.''.

(c) INCLUSION OF ENTREPRENEURSHIP COURSES IN DEFINITION OF PROGRAM OF EDUCATION.—Subsection (b) of section 3452 is amended by adding at the end the following: ''Such term also includes any course, or combination of courses, offered by a qualified provider of entrepreneurship courses.''.

(d) INCLUSION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES IN DEFINITION OF EDUCATIONAL INSTITUTION.—Subsection (c) of section 3452 is amended by adding at the end the following: ''Such term also includes any qualified provider of entrepreneurship courses.''.

(e) DEFINITION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES.—Section 3452 is further amended by adding at the end the following new subsection:

''(h) The term 'qualified provider of entrepreneurship courses' means any of the following entities insofar as such entity offers, sponsors, or cosponsors an entrepreneurship course (as defined in section 3675(c)(2) of this title):

''(1) Any small business development center described in section 21 of the Small Business Act (15 U.S.C. 648).

''(2) The National Veterans Business Development Corporation (established under section 33 of the Small Business Act (15 U.S.C. 657c)).''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to courses approved by State approving agencies after the date of the enactment of this Act.

SEC. 306. REPEAL OF PROVISIONS RELATING TO OBSOLETE EDUCATION LOAN PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of Veterans Affairs may not make a loan under subchapter III of chapter 36 of title 38, United States Code, after the date of the enactment of this Act.

(b) DISCHARGE OF LIABILITIES.—Effective as of the date of the transfer of funds under subsection (c)—

(1) any liability on an education loan under subchapter III of chapter 36 of title 38, United States Code, that is outstanding as of such date shall be deemed discharged; and

(2) the right of the United States to recover an overpayment declared under section 3698(e)(1) of such title that is outstanding as of such date shall be deemed waived.

(c) TERMINATION OF LOAN FUND.—(1) Effective as of the day before the date of the repeal under this section of subchapter III of chapter 36 of title 38, United States Code, all monies in the revolving fund of the Treasury known as the ''Department of Veterans Affairs Education Loan Fund'' shall be transferred to the Department of Veterans Affairs Readjustment Benefits Account, and the revolving fund shall be closed.

(2) Any monies transferred to the Department of Veterans Affairs Readjustment Benefits Account under paragraph (1) shall be merged with amounts in that account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in that account.

(d) USE OF ENTITLEMENT TO VETERANS EDUCATIONAL ASSISTANCE FOR EDUCATION LOAN PROGRAM.—Section 3462(a) is amended by striking paragraph (2).

(e) REPEAL OF EDUCATION LOAN PROGRAM.—Subchapter III of chapter 36 is repealed.

(f) CONFORMING AMENDMENTS.—(1) Section 3485(e)(1) is amended by striking ''(other than an education loan under subchapter III)''.

(2) Section 3512 is amended by striking subsection (f).

(g) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 36 is amended by striking the items relating to subchapter III and sections 3698 and 3699.

(h) EFFECTIVE DATES.—(1) The amendments made by subsection (d) shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (e), (f), and (g) shall take effect 90 days after the date of the enactment of this Act.

SEC. 307. SIX-YEAR EXTENSION OF THE VETERANS' ADVISORY COMMITTEE ON EDUCATION.

(a) MEMBERSHIP.—Subsection (a) of section 3692 is amended in the second sentence by inserting '', to the maximum extent practicable,'' after ''The committee shall also''.

(b) EXTENSION.—Subsection (c) of that section is amended by striking ''December 31, 2003'' and inserting ''December 31, 2009''.

(c) TECHNICAL AMENDMENTS.—That section is further amended—

(1) in subsections (a) and (b), by striking ''chapter 106'' each place it appears and inserting ''chapter 1606''; and

(2) in subsection (b), by striking ''chapter 30'' and inserting ''chapters 30''.

SEC. 308. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

''(a) SOLE SOURCE CONTRACTS.—In accordance with this section, a contracting officer may award a sole source contract to any small business concern owned and controlled by service-disabled veterans if—

''(1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity;

''(2) the anticipated award price of the contract (including options) will not exceed—

''(A) $5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

''(B) $3,000,000, in the case of any other contract opportunity; and

''(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

''(b) RESTRICTED COMPETITION.—In accordance with this section, a contracting officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.

''(c) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—A procurement may not be made from a source on the basis of a preference provided under subsection (a) or (b) if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

''(d) ENFORCEMENT; PENALTIES.—Rules similar to the rules of paragraphs (5) and (6) of section 8(m) shall apply for purposes of this section.

''(e) CONTRACTING OFFICER.—For purposes of this section, the term 'contracting officer' has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).''.

SEC. 309. OUTSTATIONING OF TRANSITION ASSISTANCE PROGRAM PERSONNEL.

(a) IN GENERAL.—(1) Chapter 41 is amended by adding at the end the following new section:

''§ 4113. Outstationing of Transition Assistance Program personnel

''(a) STATIONING OF TAP PERSONNEL AT OVERSEAS MILITARY INSTALLATIONS.—(1) The Secretary—

''(A) shall station employees of the Veterans' Employment and Training Service, or contractors under subsection (c), at each veterans assistance office described in paragraph (2); and

''(B) may station such employees or contractors at such other military installations outside the United States as the Secretary, after consultation with the Secretary of Defense, determines to be appropriate or desirable to carry out the purposes of this chapter.

''(2) Veterans assistance offices referred to in paragraph (1)(A) are those offices that are established by the Secretary of Veterans Affairs on military installations pursuant to the second sentence of section 7723(a) of this title.

''(b) FUNCTIONS.—Employees (or contractors) stationed at military installations pursuant to subsection (a) shall provide, in person, counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, and other related information and services to members of the Armed Forces who are being separated from active duty, and the spouses of such members, under the Transition Assistance Program and Disabled Transition Assistance Program established in section 1144 of title 10.

''(c) AUTHORITY TO CONTRACT WITH PRIVATE ENTITIES.—The Secretary, consistent with section 1144 of title 10, may enter into contracts with public or private entities to provide, in person, some or all of the counseling, assistance, information and services under the Transition Assistance Program required under subsection (a).''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''4113. Outstationing of Transition Assistance Program personnel.''.

(b) DEADLINE FOR IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Labor shall implement section 4113 of title 38, United States Code, as added by subsection (a), and shall have employees of the Veterans' Employment and Training Service, or contractors, to carry out that section at the military installations involved by such date.

(c) ADDITIONAL AMENDMENT.—(1) The second sentence of section 7723(a) is amended by inserting ''and taking into account recommendations, if any, of the Secretary of Labor'' after ''Secretary of Defense''

(2) The amendment made by paragraph (1) shall apply with respect to offices established after the date of the enactment of this Act.

TITLE IV—HOUSING BENEFITS AND RELATED MATTERS

SEC. 401. AUTHORIZATION TO PROVIDE ADAPTED HOUSING ASSISTANCE TO CERTAIN DISABLED MEMBERS OF THE ARMED FORCES WHO REMAIN ON ACTIVE DUTY.

Section 2101 is amended by adding at the end the following new subsection:

''(c)(1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suffering from a disability described in paragraph (1), (2), or (3) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of the second sentence of that subsection.

''(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (1) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (2) of that subsection.''.

SEC. 402. INCREASE IN AMOUNTS FOR CERTAIN ADAPTIVE BENEFITS FOR DISABLED VETERANS.

(a) INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.—Section 2102 is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking ''$48,000'' and inserting ''$50,000''; and

(2) in subsection (b)(2), by striking ''$9,250'' and inserting ''$10,000''.

(b) INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.—Section 3902(a) is amended by striking ''$9,000'' and inserting ''$11,000''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to assistance furnished on or after the date of the enactment of this Act.

SEC. 403. PERMANENT AUTHORITY FOR HOUSING LOANS FOR MEMBERS OF THE SELECTED RESERVE.

Section 3702(a)(2)(E) is amended by striking ''For the period'' and all that follows through ''each'' and inserting ''Each''.

SEC. 404. REINSTATEMENT OF MINIMUM REQUIREMENTS FOR SALE OF VENDEE LOANS.

(a) REINSTATEMENT.—Subsection (a) of section 3733 is amended by adding at the end the following new paragraph:

''(7) During the period that begins on the date of the enactment of the Veterans' Benefits Act of 2003 and ends on September 30, 2013, the Secretary shall carry out the provisions of this subsection as if—

''(A) the references in the first sentence of paragraph (1) to '65 percent' and 'may be financed' were references to '85 percent' and 'shall be financed', respectively;

''(B) the second sentence of paragraph (1) were repealed; and

''(C) the reference in paragraph (2) to 'September 30, 1990,' were a reference to 'September 30, 2013,'.''.

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking ''of this subsection'' after—

(A) ''paragraph (1)'' in subsections (a)(4)(A), (a)(5), (a)(6), and (c)(2); and

(B) ''paragraph (5)'' in subsection (a)(4)(B)(i); and

(2) by striking ''of this paragraph'' each place it appears in subsection (a)(4).

SEC. 405. ADJUSTMENT TO HOME LOAN FEES.

Effective January 1, 2004, paragraph (2) of section 3729(b) is amended to read as follows:

''(2) The loan fee table referred to in paragraph (1) is as follows:

''LOAN FEE TABLE

Type of loan	Active duty veteran	Reservist	Other obligor
(A)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed before January 1, 2004)	2.00	2.75	NA
(A)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after January 1, 2004, and before October 1, 2004)	2.20	2.40	NA
(A)(iii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2004, and before October 1, 2011)	2.15	2.40	NA
(A)(iv) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2011)	1.40	1.65	NA
(B)(i) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed before January 1, 2004)	3.00	3.00	NA
(B)(ii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after January 1, 2004, and before October 1, 2011)	3.30	3.30	NA
(B)(iii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2011 and before October 1, 2013)	2.15	2.15	NA
(B)(iv) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2013)	1.25	1.25	NA
(C)(i) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed before October 1, 2011)	1.50	1.75	NA
(C)(ii) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed on or after October 1, 2011)	0.75	1.00	NA
(D)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed before October 1, 2011)	1.25	1.50	NA
(D)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed on or after October 1, 2011)	0.50	0.75	NA
(E) Interest rate reduction refinancing loan	0.50	0.50	NA
(F) Direct loan under section 3711	1.00	1.00	NA
(G) Manufactured home loan under section 3712 (other than an interest rate reduction refinancing loan)	1.00	1.00	NA
(H) Loan to Native American veteran under section 3762 (other than an interest rate reduction refinancing loan)	1.25	1.25	NA
(I) Loan assumption under section 3714	0.50	0.50	0.50
(J) Loan under section 3733(a)	2.25	2.25	2.25''.

SEC. 406. ONE-YEAR EXTENSION OF PROCEDURES ON LIQUIDATION SALES OF DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) is amended by striking ''October 1, 2011'' and inserting ''October 1, 2012''.

TITLE V—BURIAL BENEFITS

SEC. 501. BURIAL PLOT ALLOWANCE.

(a) IN GENERAL.—Section 2303(b) is amended—

(1) in the matter preceding paragraph (1), by striking ''a burial allowance under such section 2302, or under such subsection, who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or who is a veteran of any war'' and inserting ''burial in a national cemetery under section 2402 of this title''; and

(2) in paragraph (2), by striking ''(other than a veteran whose eligibility for benefits under this subsection is based on being a veteran of any war)'' and inserting ''is eligible for a burial allowance under section 2302 of this title or under subsection (a) of this section, or was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, and such veteran''.

(b) CONFORMING AMENDMENT.—Section 2307 is amended in the last sentence by striking ''and (b)'' and inserting ''and (b)(2)''.

SEC. 502. ELIGIBILITY OF SURVIVING SPOUSES WHO REMARRY FOR BURIAL IN NATIONAL CEMETERIES.

(a) ELIGIBILITY.—Section 2402(5) is amended by striking ''(which for purposes of this chapter includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)'' and inserting ''(which for purposes of this chapter includes a surviving spouse who had a subsequent remarriage)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to deaths occurring on or after January 1, 2000.

SEC. 503. PERMANENT AUTHORITY FOR STATE CEMETERY GRANTS PROGRAM.

(a) PERMANENT AUTHORITY.—Subsection (a) of section 2408 is amended—

(1) by striking ''(1)''; and

(2) by striking paragraph (2).

(b) CONFORMING AMENDMENT.—Subsection (e) of such section is amended by striking ''Sums appropriated under subsection (a) of this section'' and inserting ''Amounts appropriated to carry out this section''.

(c) TECHNICAL AMENDMENT TO REPEAL OBSOLETE PROVISION.—Subsection (d)(1) of such section is amended by striking ''on or after November 21, 1997,''.

TITLE VI—EXPOSURE TO HAZARDOUS SUBSTANCES

SEC. 601. RADIATION DOSE RECONSTRUCTION PROGRAM OF DEPARTMENT OF DEFENSE.

(a) REVIEW OF MISSION, PROCEDURES, AND ADMINISTRATION.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall jointly conduct a review of the mission, procedures, and administration of the Radiation Dose Reconstruction Program of the Department of Defense.

(2) In conducting the review under paragraph (1), the Secretaries shall—

(A) determine whether any additional actions are required to ensure that the quality assurance and quality control mechanisms of the Radiation Dose Reconstruction Program are adequate and sufficient for purposes of the program; and

(B) determine the actions that are required to ensure that the mechanisms of the Radiation Dose Reconstruction Program for communication and interaction with veterans are adequate and sufficient for purposes of the program, including mechanisms to permit veterans to review the assumptions utilized in their dose reconstructions.

(3) Not later than 90 days after the date of the enactment of this Act, the Secretaries shall jointly submit to Congress a report on the review under paragraph (1). The report shall set forth—

(A) the results of the review;

(B) a plan for any actions determined to be required under paragraph (2); and

(C) such other recommendations for the improvement of the mission, procedures, and administration of the Radiation Dose Reconstruction Program as the Secretaries jointly consider appropriate.

(b) ON-GOING REVIEW AND OVERSIGHT.—The Secretaries shall jointly take appropriate actions to ensure the on-going independent review and oversight of the Radiation Dose Reconstruction Program, including the establishment of the advisory board required by subsection (c).

(c) ADVISORY BOARD.—(1) In taking actions under subsection (b), the Secretaries shall jointly appoint an advisory board to provide review and oversight of the Radiation Dose Reconstruction Program.

(2) The advisory board under paragraph (1) shall be composed of the following:

(A) At least one expert in historical dose reconstruction of the type conducted under the Radiation Dose Reconstruction Program.

(B) At least one expert in radiation health matters.

(C) At least one expert in risk communications matters.

(D) A representative of the Department of Veterans Affairs.

(E) A representative of the Defense Threat Reduction Agency.

(F) At least three veterans, including at least one veteran who is a member of an atomic veterans group.

(3) The advisory board under paragraph (1) shall—

(A) conduct periodic, random audits of dose reconstructions under the Radiation Dose Reconstruction Program and of decisions by the Department of Veterans Affairs on claims for service connection of radiogenic diseases;

(B) assist the Department of Veterans Affairs and the Defense Threat Reduction Agency in communicating to veterans information on the mission, procedures, and evidentiary requirements of the Radiation Dose Reconstruction Program; and

(C) carry out such other activities with respect to the review and oversight of the Radiation Dose Reconstruction Program as the Secretaries shall jointly specify.

(4) The advisory board under paragraph (1) may make such recommendations on modifications in the mission or procedures of the Radiation Dose Reconstruction Program as the advisory board considers appropriate as a result of the audits conducted under paragraph (3)(A).

SEC. 602. STUDY ON DISPOSITION OF AIR FORCE HEALTH STUDY.

(a) STUDY REQUIRED.—The Secretary of Veterans Affairs shall, in accordance with this section, carry out a study to determine the appropriate disposition of the Air Force Health Study, an epidemiologic study of Air Force personnel who were responsible for conducting aerial spray missions of herbicides during the Vietnam era.

(b) STUDY THROUGH NATIONAL ACADEMY OF SCIENCES.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, to carry out the study required by subsection (a).

(c) ELEMENTS.—Under the study under subsection (a), the National Academy of Sciences, or other appropriate scientific organization, shall address the following:

(1) The scientific merit of retaining and maintaining the medical records, other study data, and laboratory specimens collected in the course of the Air Force Health Study after the currently-scheduled termination date of the study in 2006.

(2) Whether or not any obstacles exist to retaining and maintaining the medical records, other study data, and laboratory specimens referred to in paragraph (1), including privacy concerns.

(3) The advisability of providing independent oversight of the medical records, other study data, and laboratory specimens referred to in paragraph (1), and of any further study of such records, data, and specimens, and, if so, the mechanism for providing such oversight.

(4) The advisability of extending the Air Force Health Study, including the potential value and relevance of extending the study, the potential cost of extending the study, and the Federal or non-Federal entity best suited to continue the study if extended.

(5) The advisability of making the laboratory specimens of the Air Force Health Study available for independent research, including the potential value and relevance of such research, and the potential cost of such research.

(d) REPORT.—Not later than 120 days after entering into an agreement under subsection (b), the National Academy of Sciences, or other appropriate scientific organization, shall submit to the Secretary and Congress a report on the results of the study under subsection (a). The report shall include the results of the study, including the matters addressed under subsection (c), and such other recommendations as the Academy, or other appropriate scientific organization, considers appropriate as a result of the study.

SEC. 603. FUNDING OF MEDICAL FOLLOW-UP AGENCY OF INSTITUTE OF MEDICINE OF NATIONAL ACADEMY OF SCIENCES FOR EPIDEMIOLOGICAL RESEARCH ON MEMBERS OF THE ARMED FORCES AND VETERANS.

(a) FUNDING.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall each make available to the National Academy of Sciences in each of fiscal years 2004 through 2013 the amount of $250,000 for the Medical Follow-Up Agency of the Institute of Medicine of the Academy for purposes of epidemiological research on members of the Armed Forces and veterans.

(2) The Secretary of Veterans Affairs shall make available amounts under paragraph (1) for a fiscal year from amounts available for the Department of Veterans Affairs for that fiscal year.

(3) The Secretary of Defense shall make available amounts under paragraph (1) for a fiscal year from amounts available for the Department of Defense for that fiscal year.

(b) USE OF FUNDS.—The Medical Follow-Up Agency shall use funds made available under subsection (a) for epidemiological research on members of the Armed Forces and veterans.

(c) SUPPLEMENT NOT SUPPLANT.—Amounts made available to the Medical Follow-Up Agency under this section for a fiscal year for the purposes referred to in subsection (b) are in addition to any other amount made available to the Agency for that fiscal year for those purposes.

TITLE VII—OTHER MATTERS

SEC. 701. TIME LIMITATIONS ON RECEIPT OF CLAIM INFORMATION PURSUANT TO REQUESTS OF DEPARTMENT OF VETERANS AFFAIRS.

(a) INFORMATION TO COMPLETE CLAIMS APPLICATIONS.—Section 5102 is amended by adding at the end the following new subsection:

''(c) TIME LIMITATION.—(1) If information that a claimant and the claimant's representative, if any, are notified under subsection (b) is necessary to complete an application is not received by the Secretary within one year from the date such notice is sent, no benefit may be paid or furnished by reason of the claimant's application.

''(2) This subsection shall not apply to any application or claim for Government life insurance benefits.''.

(b) CONSTRUCTION OF LIMITATION ON INFORMATION TO SUBSTANTIATE CLAIMS.—Section 5103(b) is amended—

(1) in paragraph (1), by striking ''if such'' and all that follows through ''application'' and inserting ''such information or evidence must be received by the Secretary within one year from the date such notice is sent''; and

(2) by adding at the end the following new paragraph:

''(3) Nothing in paragraph (1) shall be construed to prohibit the Secretary from making a decision on a claim before the expiration of the period referred to in that subsection.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted on November 9, 2000, immediately after the enactment of the Veterans Claims Assistance Act of 2000 (Public Law 106–475; 114 Stat. 2096).

(d) PROCEDURES FOR READJUDICATION OF CERTAIN CLAIMS.—(1) The Secretary of Veterans Affairs shall readjudicate a claim of a qualified claimant if the request for such readjudication is received not later than the end of the one-year period that begins on the date of the enactment of this Act.

(2) For purposes of this subsection, a claimant is qualified within the meaning of paragraph (1) if the claimant—

(A) received notice under section 5103(a) of title 38, United States Code, requesting information or evidence to substantiate a claim;

(B) did not submit such information or evidence within a year after the date such notice was sent;

(C) did not file a timely appeal to the Board of Veterans' Appeals or the United States Court of Appeals for Veterans Claims; and

(D) submits such information or evidence during the one-year period referred to in paragraph (1).

(3) If the decision of the Secretary on a readjudication under this subsection is in favor of the qualified claimant, the award of the grant shall take effect as if the prior decision by the Secretary on the claim had not been made.

(4) Nothing in this subsection shall be construed to establish a duty on the part of the Secretary to identify or readjudicate any claim that—

(A) is not submitted during the one-year period referred to in paragraph (1); or

(B) has been the subject of a timely appeal to the Board of Veterans' Appeals or the United States Court of Appeals for Veterans Claims.

(e) CONSTRUCTION ON PROVIDING RENOTIFICATION.—Nothing in this section, or the amendments made by this section, shall be construed to require the Secretary of Veterans Affairs—

(1) to provide notice under section 5103(a) of such title with respect to a claim insofar as the Secretary has previously provided such notice; or

(2) to provide for a special notice with respect to this section and the amendments made by this section.

SEC. 702. CLARIFICATION OF APPLICABILITY OF PROHIBITION ON ASSIGNMENT OF VETERANS BENEFITS TO AGREEMENTS REQUIRING PAYMENT OF FUTURE RECEIPT OF BENEFITS.

Section 5301(a) is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by designating the last sentence as paragraph (2); and

(3) by adding at the end the following new paragraph:

''(3)(A) This paragraph is intended to clarify that, in any case where a beneficiary entitled to compensation, pension, or dependency and indemnity compensation enters into an agreement with another person under which agreement such other person acquires for consideration the right to receive such benefit by payment of such compensation, pension, or dependency and indemnity compensation, as the case may be, except as provided in subparagraph (B), and including deposit into a joint account from which such other person may make withdrawals, or otherwise, such agreement shall be deemed to be an assignment and is prohibited.

''(B) Notwithstanding subparagraph (A), nothing in this paragraph is intended to prohibit a loan involving a beneficiary under the terms of which the beneficiary may use the benefit to repay such other person as long as each of the periodic payments made to repay such other person is separately and voluntarily executed by the beneficiary or is made by preauthorized electronic funds transfer pursuant to the Electronic Funds Transfers Act (15 U.S.C. 1693 et seq.).

''(C) Any agreement or arrangement for collateral for security for an agreement that

is prohibited under subparagraph (A) is also prohibited and is void from its inception.''.

SEC. 703. SIX-YEAR EXTENSION OF ADVISORY COMMITTEE ON MINORITY VETERANS.

Section 544(e) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2009''.

SEC. 704. TEMPORARY AUTHORITY FOR PERFORMANCE OF MEDICAL DISABILITIES EXAMINATIONS BY CONTRACT PHYSICIANS.

(a) AUTHORITY.—Using appropriated funds, other than funds available for compensation and pension, the Secretary of Veterans Affairs may provide for the conduct of examinations with respect to the medical disabilities of applicants for benefits under laws administered by the Secretary by persons other than Department of Veterans Affairs employees. The authority under this section is in addition to the authority provided in section 504(b) of the Veterans' Benefits Improvement Act of 1996 (Public Law 104–275; 38 U.S.C. 5101 note).

(b) PERFORMANCE BY CONTRACT.—Examinations under the authority provided in subsection (a) shall be conducted pursuant to contracts entered into and administered by the Under Secretary for Benefits.

(c) EXPIRATION.—The authority in subsection (a) shall expire on December 31, 2009. No examination may be carried out under the authority provided in that subsection after that date.

(d) REPORT.—Not later than four years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the use of the authority provided in subsection (a). The Secretary shall include in the report an assessment of the effect of examinations under that authority on the cost, timeliness, and thoroughness of examinations with respect to the medical disabilities of applicants for benefits under laws administered by the Secretary.

SEC. 705. FORFEITURE OF BENEFITS FOR SUBVERSIVE ACTIVITIES.

(a) ADDITION OF CERTAIN OFFENSES.—Paragraph (2) of section 6105(b) is amended—

(1) by inserting ''175, 229,'' after ''sections''; and

(2) by inserting ''831, 1091, 2332a, 2332b,'' after ''798,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to claims filed after the date of the enactment of this Act.

SEC. 706. TWO-YEAR EXTENSION OF ROUND-DOWN REQUIREMENT FOR COMPENSATION COST-OF-LIVING ADJUSTMENTS.

Sections 1104(a) and 1303(a) are each amended by striking ''2011'' and inserting ''2013''.

SEC. 707. CODIFICATION OF REQUIREMENT FOR EXPEDITIOUS TREATMENT OF CASES ON REMAND.

(a) CASES REMANDED BY BOARD OF VETERANS' APPEALS.—(1) Chapter 51 is amended by adding at the end of subchapter I the following new section:

''§ 5109B. Expedited treatment of remanded claims

''The Secretary shall take such actions as may be necessary to provide for the expeditious treatment by the appropriate regional office of the Veterans Benefits Administration of any claim that is remanded to a regional office of the Veterans Benefits Administration by the Board of Veterans' Appeals.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5109A the following new item:

''5109B. Expedited treatment of remanded claims.''.

(b) CASES REMANDED BY COURT OF APPEALS FOR VETERANS CLAIMS.—(1) Chapter 71 is amended by adding at the end the following new section:

''§ 7112. Expedited treatment of remanded claims

''The Secretary shall take such actions as may be necessary to provide for the expeditious treatment by the Board of any claim that is remanded to the Secretary by the Court of Appeals for Veterans Claims.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''7112. Expedited treatment of remanded claims.''.

(c) REPEAL OF SOURCE SECTION.—Section 302 of the Veterans' Benefits Improvement Act of 1994 (Public Law 103–446; 108 Stat. 4658; 38 U.S.C. 5101 note) is repealed.

SEC. 708. TECHNICAL AND CLERICAL AMENDMENTS.

(a) MISCELLANEOUS AMENDMENTS.—(1) Section 103(d) is amended—

(A) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by striking ''this subsection'' and inserting ''paragraph (2)(A) or (3)''; and

(ii) in subparagraph (A), by striking ''paragraph (2)'' and inserting ''paragraph (2)(A)''; and

(B) in paragraph (5), by striking ''Paragraphs (2)'' and inserting ''Paragraphs (2)(A)''.

(2) Section 1729A is amended—

(A) in subsection (b), by striking ''after June 30, 1997,'' in the matter preceding paragraph (1);

(B) in subsection (c), by striking paragraph (3);

(C) by striking subsection (e); and

(D) by redesignating subsection (f) as subsection (e).

(3) Section 1804(c)(2) is amended by striking ''subsection'' and inserting ''section''.

(4) Section 1974(a)(5) is amended by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security''.

(b) AMENDMENTS RELATING TO THE JOBS FOR VETERANS ACT.—(1)(A) Subsection (c)(2)(B)(ii) of section 4102A is amended by striking ''October 1, 2002'' and inserting ''October 1, 2003''.

(B) The amendment made by subparagraph (A) shall take effect as if included in the enactment of section 4(a) of the Jobs for Veterans Act (Public Law 107–288; 116 Stat. 2038).

(2) Subsection (f)(1) of section 4102A is amended by striking ''6 months after the date of the enactment of this section,'' and inserting ''May 7, 2003,''.

(c) AMENDMENTS RELATING TO THE ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY.—(1) Section 1322 is amended—

(A) in subsection (a), by striking ''Secretary of Health and Human Services'' and all that follows through the period and inserting ''Commissioner of Social Security, and shall be certified by the Commissioner to the Secretary upon request of the Secretary.''; and

(B) in subsection (b)—

(i) by striking ''Secretary of Health and Human Services'' in the first sentence and inserting ''Commissioner of Social Security'';

(ii) by striking ''the two Secretaries'' and inserting ''the Secretary and the Commissioner''; and

(iii) by striking ''Secretary of Health and Human Services'' in the second sentence and inserting ''Commissioner''.

(2) Section 5101(a) is amended by striking ''Secretary of Health and Human Services'' and inserting ''Commissioner of Social Security''.

(3) Section 5317 is amended by striking ''Secretary of Health and Human Services'' in subsections (a), (b), and (g) and inserting ''Commissioner of Social Security''.

(4)(A) Section 5318 is amended—

(i) in subsection (a), by striking ''Department of Health and Human Services'' and inserting ''Social Security Administration''; and

(ii) in subsection (b)—

(I) by striking ''Department of Health and Human Services'' and inserting ''Social Security Administration'';

(II) by striking ''Secretary of Health and Human Services'' the first place it appears and inserting ''Commissioner of Social Security'';

(III) by striking ''Secretary of Health and Human Services'' the second place it appears and inserting ''Commissioner''; and

(IV) by striking ''such Secretaries'' and inserting ''the Secretary and the Commissioner''.

(B)(i) The heading of such section is amended to read as follows:

''§ 5318. Review of Social Security Administration death information''.

(ii) The item relating to that section in the table of sections at the beginning at chapter 53 is amended to read as follows:

''5318. Review of Social Security Administration death information.''.

SA 2206. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 671, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 3 and 4, insert the following:

SEC. 1421. TEMPORARY DUTY REDUCTIONS FOR CERTAIN COTTON SHIRTING FABRIC.

(a) CERTAIN COTTON SHIRTING FABRICS.—

(1) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

''	9902.52.08	Woven fabrics of cotton, all the foregoing certified by the importer as suitable for use in making men's and boys' shirts and as imported by or for the benefit of a manufacturer of men's and boys' shirts, subject to the quantity limitations contained in general note 18 of this subchapter (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203)).	Free	No change	No change	On or before 12/31/2005

9902.52.09	Woven fabrics of cotton, all the foregoing certified by the importer as containing 100 percent pima cotton grown in the United States, as suitable for use in making men's and boys' shirts, and as imported by or for the benefit of a manufacturer of men's and boys' shirts (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203)).	Free	No change	No change	On or before 12/31/2005	''.

(2) DEFINITIONS AND LIMITATION ON QUANTITY OF IMPORTS.—The U.S. Notes to chapter 99 are amended by adding at the end the following:

''17. For purposes of subheadings 9902.52.08 and 9902.52.09, the term 'making' means cutting and sewing in the United States, and the term 'manufacturer' means a person or entity that cuts and sews in the United States.

''18. The aggregate quantity of cotton fabrics entered under subheading 9902.52.08 from January 1 to December 31 of each year, inclusive, by or on behalf of each manufacturer of men's and boys' shirts shall be limited to 85 percent of the total square meter equivalents of all imported cotton woven fabric used by such manufacturer in cutting and sewing men's and boys' cotton shirts in the United States and purchased by such manufacturer during calendar year 2000.''.

(b) DETERMINATION OF TARIFF-RATE QUOTAS.—

(1) AUTHORITY TO ISSUE LICENSES AND LICENSE USE.—To implement the limitation on the quantity of imports of cotton woven fabrics under subheading 9902.52.08 of the Harmonized Tariff Schedule of the United States, as required by U.S. Note 18 to subchapter II of chapter 99 of such Schedule, for the entry, or withdrawal from warehouse for consumption, the Secretary of Commerce shall issue licenses designating eligible manufacturers and the annual quantity restrictions under each such license. A licensee may assign the authority (in whole or in part) to import fabric under subheading 9902.52.08 of such Schedule.

(2) LICENSES UNDER U.S. NOTE 18.—For purposes of U.S. Note 18 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States, as added by subsection (a)(2), a license shall be issued within 60 days of an application containing a notarized affidavit from an officer of the manufacturer that the manufacturer is eligible to receive a license and stating the quantity of imported cotton woven fabric purchased during calendar year 2000 for use in the cutting and sewing men's and boys' shirts in the United States.

(3) AFFIDAVITS.—For purposes of an affidavit described in this subsection, the date of purchase shall be—

(A) the invoice date if the manufacturer is not the importer of record; and

(B) the date of entry if the manufacturer is the importer of record.

On page 263, between lines 11 and 12, insert the following:

SEC. 2007. COTTON TRUST FUND.

(a) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the ''Pima Cotton Trust Fund'', consisting of $32,000,000 transferred to the Pima Cotton Trust Fund from funds in the general fund of the Treasury.

(b) GRANTS.—

(1) GENERAL PURPOSE.—From amounts in the Pima Cotton Trust Fund, the Secretary of Commerce is authorized to provide grants to spinners of United States grown pima cotton, manufacturers of men's and boys' cotton shirting, and a nationally recognized association that promotes the use of pima cotton grown in the United States, to assist such spinners and manufacturers in maximizing United States employment in the production of textile or apparel products and to increase the promotion of the use of United States grown pima cotton respectively.

(2) TIMING FOR GRANT AWARDS.—The Secretary of the Treasury shall, not later than 90 days after the date of enactment of this section, establish guidelines for the application and awarding of the grants described in paragraph (1), and shall award such grants to qualified applicants not later than 180 days after the date of enactment of this section. Each grant awarded under this section shall be distributed to the qualified applicant in 2 equal annual installments.

(3) DISTRIBUTION OF FUNDS.—Of the amounts in the Pima Cotton Trust Fund—

(A) $8,000,000 shall be made available to a nationally recognized association established for the promotion of pima cotton grown in the United States for the use in textile and apparel goods;

(B) $8,000,000 shall be made available to yarn spinners of pima cotton grown in the United States, and shall be allocated to each spinner based on the percentage of the spinner's production of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), from pima cotton grown in the United States in single and plied form during calendar year 2002 (as evidenced by an affidavit provided by the spinner), compared to the production of such yarns for all spinners who qualify under this subparagraph; and

(C) $16,000,000 shall be made available to manufacturers who cut and sew cotton shirts in the United States and that certify that they used imported cotton fabric during the period January 1, 1998, through July 1, 2003, and shall be allocated to each manufacturer on the bases of the dollar value (excluding duty, shipping, and related costs) of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased by the manufacturer during calendar year 2002 (as evidenced by an affidavit from the manufacturer) used in the manufacturing of men's and boys' cotton shirts, compared to the dollar value (excluding duty, shipping, and related costs) of such fabric for all manufacturers who qualify under this subparagraph.

(4) AFFIDAVIT OF SHIRTING MANUFACTURERS.—For purposes of paragraph (3)(D), an officer of the manufacturer of men's and boys' shirts shall provide a notarized affidavit affirming—

(A) that the manufacturer used imported cotton fabric during the period January 1, 1998, through July 1, 2003, to cut and sew men's and boys' woven cotton shirts in the United States;

(B) the dollar value of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased during calendar year 2002;

(C) that the manufacturer maintains invoices along with other supporting documentation (such as price lists and other technical descriptions of the fabric qualities) showing the dollar value of such fabric purchased, the date of purchase, and evidencing the fabric as woven cotton fabric of 80s or higher count and 2-ply in warp; and

(D) that the fabric was suitable for use in the manufacturing of men's and boys' cotton shirts.

(5) DATE OF PURCHASE.—For purposes of the affidavit required by paragraph (4), the date of purchase shall be the invoice date, and the dollar value shall be determined excluding duty, shipping, and related costs.

(6) AFFIDAVIT OF YARN SPINNERS.—For purposes of paragraph (3)(B), an officer of a company that produces ringspun yarns shall provide a notarized affidavit affirming—

(A) that the manufacturer used pima cotton grown in the United States during the period January 1, 2002, through December 31, 2002, to produce ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during 2002;

(B) the quantity, measured in pounds, of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002; and

(C) that the manufacturer maintains supporting documentation showing the quantity of such yarns produced, and evidencing the yarns as ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002.

(7) NO APPEAL.—Any grant awarded by the Secretary under this section shall be final and not subject to appeal or protest.

(c) AUTHORIZATION.—There are authorized to be appropriated, and are appropriated out of the amounts in the general fund of the Treasury not otherwise appropriated, such sums as are necessary to carry out the provisions of this section, including funds necessary for the administration and oversight of the grants provided for in this section.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, November 19, 2003, at 9 a.m., in open and possibly closed session, to receive testimony on current Army issues.

COMMITTEE ON ARMED SERVICES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, November 19, 2003, at 2:30 p.m., in executive session to discuss pending military nominations.

COMMITTEE ON FINANCE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Wednesday, November 19, 2003; to consider nomination of Arnold I. Havens, to be General Counsel for the Department of the Treasury.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, November 19, 2003, at 9:30 a.m., for a hearing titled ''Agroterrorism: The Threat to America's Breadbasket.''

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor,

and Pensions be authorized to meet in Executive Session during the session of the Senate on Wednesday, November 19, 2003. The following agenda will be considered:

S___, Mammography Quality Standards Reauthorization Act of 2003

S___, Medical Device Technical Corrections Act of 2003

S. 741, Minor Use and Minor Species Animal Health Act of 2003 and Food Allergen Labeling and Consumer Protection Act of 2003 (manager's amendment to be filed)

S. 573, Organ Donation and Recovery Improvement Act

Presidential Nominations

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

COMMITTEE ON THE JUDICIARY

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, November 19, 2003, at 2:30 a.m., on ''Judicial Nominations,'' in the Dirksen Senate Office Building Room 226.

Witness List:

Panel I: Senators.

Panel II: Williams James Haynes II to be United States Circuit Judge for the Fourth Circuit; Louis Guirola, Jr. to be United States District Judge for the Southern District of Mississippi; Virginia E. Hopkins to be United States District Judge for the Northern District of Alabama; and Kenneth M. Karas to be United States District Judge for the Southern District of New York.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 19, 2003 at 2 p.m. to hold closed Conference on the Fiscal Year 04 Intelligence Authorization.

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

PRIVILEGES OF THE FLOOR

Mr. WYDEN. Mr. President, I ask unanimous consent a legislative fellow in my office, Kevin Vranes, be granted the privilege of the floor during the duration of consideration of the conference report on the Energy bill.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that Dr. Jonathan Epstein, a legislative fellow in Senator BINGAMAN's office, be given floor privileges during the pendency of H.R. 6, the Energy Policy Act of 2003 conference report and any votes thereupon.

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

Mr. AKAKA. Mr. President, I ask unanimous consent that a fellow in my office, Ms. Barbara Peichel, be granted floor privileges for the duration of the consideration of the Energy bill.

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

Mr. INHOFE. I ask unanimous consent Matthew Griles be granted the privilege of the floor during the pendency of this debate.

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

Mrs. CLINTON. Mr. President, I ask unanimous consent that the privilege of the floor be granted to the following fellows in my staff: Robyn Golden and William Rom.

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

PRESIDENTIAL MEDAL OF FREEDOM TO POPE JOHN PAUL II

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 313, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 313) to urge the President, on behalf of the United States, to present the Presidential Medal of Freedom to His Holiness, Pope John Paul II, in recognition of his significant, enduring, and historic contributions to the causes of freedom, human dignity, and peace and to commemorate the Silver Jubilee of His Holiness' inauguration of his ministry as Bishop of Rome and Supreme Pastor of the Catholic Church.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 313) was agreed to.

The preamble was agreed to.

TEMPORARY EXTENSIONS OF THE PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 1895, introduced earlier today by Senator SNOWE.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1895) a bill to temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958 through March 15, 2004, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Ms. SNOWE. Mr. President, I rise today to support passage of the Small Business Administration Continuation Act of 2003. This bill provides a short-term extension of the Small Business Administration and all of its programs. In particular, it ensures the continuation of the SBA's 504 loan program, Small Business Investment Company program, and other activities currently conducted by the SBA, which must be extended before Congress adjourns this year. I am pleased to be joined by Senator KERRY, the ranking member of the Committee on Small Business and Entrepreneurship, in supporting this bill.

On September 26, 2003, the Senate unanimously approved the Small Business Administration 50th Anniversary Reauthorization Act of 2003, S. 1375, which I introduced as the chair of the Committee on Small Business. That bill provides for the 3-year reauthorization of the SBA and its small business programs, including the 504 loan program and the SBIC program.

The reauthorization bill will continue the SBA's role in assisting American small business to thrive and grow, through the agency's lending, entrepreneurial development, and government contracting programs and services. Most importantly, it will enable the agency to help small businesses continue creating new jobs for our economy. According to the SBA, for the years covered by the reauthorization bill, an estimated 3.34 million jobs will be created or retained as a result of the reauthorization programs.

While the Small Business Administration 50th Anniversary Reauthorization Act provides for the continuation of these programs, the other body has been delayed in its consideration of legislation to reauthorize the agency. The SBA's programs that rely on appropriations will be continued once the Commerce, Justice, State and the Judiciary appropriations legislation for Fiscal Year 2004 is enacted. However, several of the SBA's programs and activities, like the 504 loan and SBIC programs, do not rely on appropriations. As a result, they are in jeopardy of shutting down without the bill before us today, and that's a result America's small businesses simply cannot afford.

I am confident that we can enact legislation to reauthorize the SBA once the other body has completed work on its version of the bill. In the interim, we must ensure that the SBA can continue to offer the entire range of its programs to our nation's small businesses, which are the driving force behind our current economic recovery. With small businesses comprising 99.7 percent of all businesses in the United States, employing 57 percent of the total private-sector workforce, and accounting for approximately 40 percent of the Gross Domestic Product, they deserve nothing less!

The 504 loan program, one of the agency's flagship lending programs, allows small businesses to obtain long-term, fixed-rate financing to purchase

land, buildings, or equipment. In the past four fiscal years, the SBA has provided guarantees for more than 20,000 loans through the 504 Loan Program, for a total of approximately $8.6 billion, and these loans have allowed small businesses to create or retain more than 445,000 jobs.

The SBIC Program utilizes private venture capital, with matching Federal funds, to provide financing to small businesses, many of which have found it difficult to obtain financing from traditional venture capital firms, both because of the businesses' small size and because of difficult economic trends. Since the start of Fiscal Year 1999, small business investment companies supported by the SBA have made more than 15,800 investments in small businesses, with a total value of $16.9 billion. This critical long-term or ''patient'' capital for small businesses has led to the creation and retention of approximately 481,000 jobs during this period.

Both of these programs are critical to our efforts to provide necessary capital to small businesses so that those businesses can provide the jobs and the growth to improve the Nation's economy. In addition, both of these programs rely on fees charged to the program participants, rather than on Federal appropriations, to fund their operation. Because neither program requires any Federal funds, the SBA needs legislative authorization to collect the fees that operate the programs and ensure that they function at a zero subsidy rate. Currently, the authorization for these fees has been temporarily extended under the present continuing resolution.

With the close of the First Session of the 108th Congress rapidly approaching, we must act now to ensure that the SBA and its programs are continued. The bill before us achieves that goal by extending the authorization for the agency and its programs through March 15, 2004. That will provide ample time for the other body to pass its legislation, for us to reconcile the differences, and for the president to sign a long-term reauthorization bill for the SBA.

This legislation is absolutely necessary for America's small businesses. I urge my colleagues to support this bill and thereby ensure that the SBA, and in particular the 504 loan and SBIC programs, will continue to serve small businesses and enable small businesses to obtain the financing they need, as they contribute so greatly to the revitalization of our national economy.

In summary, the Small Business Administration Continuation Act of 2003 is a straight extension of the authorization for the Small Business Administration, SBA, and its programs at their FY 2003 levels through March 15, 2003. Currently, the SBA and its programs are operating under the provisions of the Continuing Resolution. The bill also increases the fee authorization for the Small Business Investment Company, SBIC, program so that it can continue operating at a zero subsidy rate for 2004. The SBIC fee level was increased in the last Continuing Resolution and that increase is merely continued in this bill to avoid statutory interpretation problems.

While the Senate has passed a 3-year reauthorization of the SBA, S. 1375, the House has not completed work on its reauthorization bill. In order to provide time for the House to act and the bills to be reconciled, this bill extends the SBA's authorization on a short-term basis so the agency can continue providing its critical lending, entrepreneurial development, and government contracting programs to the Nation's small businesses.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, today, as the ranking Democrat of the Committee on Small Business and Entrepreneurship, I join the committee's chair, Senator OLYMPIA SNOWE, in introducing a bill to extend for 4 months—through March 15, 2004—the authority to operate the Small Business Administration's programs. It is our hope that it can be expeditiously considered by the Senate.

Enacting this bill before Congress adjourns for the holidays is critical in order to continue making accessible to small businesses the many needed resources, from long-term loans to technical and contracting assistance, of the SBA. Among those that would be in jeopardy of closing are the agency's loans for growing businesses through what's more commonly referred to as the 504 loan program, certain established Women's Business Centers, the contracting program to assist minority-owned small businesses, the program to provide surety bonds to small contractors through so-called ''preferred sureties'' and one of the agency's venture capital programs.

The agency's 504 program is more important than ever to our small businesses and the economy. The need could not be clearer, with demand for loans up 25 percent in both the number of loans made and the total dollar amount in loans made. As the year came to a close, these loans pumped more than $3 billion into our local economies through thousands of small businesses. Remarkably, making these loans available to small businesses costs the taxpayers nothing because the borrowers, lenders and certified development companies cover costs of the program through fees. While it requires no appropriations to guarantee these loans, continuation of the program depends upon the ability of the lenders to charge fees, which must be specifically permitted by Congress. This program is extremely successful and should absolutely continue. I believe I speak for many when I say that the Congress wants the lending community to continue devoting resources to 504 loans, keeping this affordable financing available to small businesses. We fully intend to provide authorization for 3 years when the SBA's comprehensive reauthorization bill is enacted in early 2004.

I feel just as strongly about the importance of continuing the SBA's venture capital programs. Specifically, we need to make clear that the amount of fees that can be charged to participating securities venture capital firms is increased from 1.38 percent to 1.46 percent. Venture capital has been very scarce over the past few years, and this program has been responsible for more than 50 percent of the number of deals made in this country. In spite of the industry's rough times, the committee is supportive of the Small Business Investment Company programs and wants to see more successes like Staples and Callaway golf lead the way in their industries and create jobs.

Extending the Women's Business Center Sustainability pilot program—which is made permanent in both the House and Senate SBA reauthorization bills—is tremendously important to the 86,000 women business owners across the Nation who use the entrepreneurial development assistance each year. Without the continuation of the agency's authority to operate pilot programs, it is possible that the Small Business Administration could misinterpret Congress's strong support for this pilot and discontinue funding 55 centers in over 40 states, closing over half of the most experienced and active women's business centers. In 1999, when I authored the Women's Business Center Sustainability pilot program, it was my intention to continue the most productive and well-equipped women's business centers, knowing that demand for such services was rapidly growing. Today, with women-owned businesses opening at one-and-a-half times the rate of all privately held firms, the need for women's business centers is even greater. Until Congress makes permanent the Women's Business Center Sustainability Pilot program, as intended in already passed legislation, an extension of authority is vital—not only to the centers themselves, but to the women's business community and to the 18 million workers employed by women-owned businesses around the country.

We also need to ensure the continuation of the agency's contracting assistance. One type of assistance in particular is the Small and Disadvantaged Businesses, SDB, Certification program. It was created to assist small businesses through government contracting, access to capital, management and technical assistance, and export assistance. The program was originally implemented to help Federal agencies reach a 5 percent goal of utilization of these essential businesses incurred to address discrimination and under-utilization of certain firms in Federal contracting.

The positive implications of this program have grown beyond the expectations of even the authors of the original legislation. By supporting these socially and economically disadvantaged businesses, the Federal Government has helped these entrepreneurs revitalize neighborhoods, create jobs, and encourages real, measurable economic growth. The program has shown to be a resounding success, however, a great deal of work still needs to be done. Moreover, the Federal Government has failed to meet the 23 percent government-wide goal for small business utilization in Federal procurement. Agencies have continually failed to meet the goals for socially and economically disadvantaged, women owned businesses, service disabled veteran owned, and HUBZone firms, all of which contribute to the overall 23 percent goal. Part of the problem faced by small businesses participating in these programs and by those attempting to enforce small business utilization goals is the perception that these goals are intended to be a maximum set-aside for small firms. They are not. They are minimum thresholds. The continuation of the SDB program throughout the government will help Federal agencies continue to utilize these small businesses and continue to foster business development and in much needed sectors of the economy.

I would like to make clear that this bill is not intended to interfere with any program, pilot program or authority that has a longer authorization, like the Small Business Innovation and Small Business Technology Transfer programs. If there are any doubts about our intentions, the bill is structured to keep all programs, pilots and initiatives operating that could have expired between September 30, 2003, and March 15, 2003, and to keep them operating as on September 30.

I commend our committee, and the leadership of our chair, Senator SNOWE, for deliberating and passing our comprehensive reauthorization bill in July and look forward to working with our colleagues in the House to pass a final bill in early 2004.●

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

The bill (S. 1895) was read the third time and passed, as follows:

S. 1895

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

SECTION 1. EXTENSION OF PROGRAM AUTHORITY.

(a) IN GENERAL.—Any program, authority, or provision, including any pilot program, authorized under the Small Business Act (15 U.S.C. 631 et seq.) or the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) as of September 30, 2003, that is scheduled to expire on or after September 30, 2003 and before March 15, 2004, shall remain authorized through March 15, 2004, under the same terms and conditions in effect on September 30, 2003.

(b) EXCEPTION.—Notwithstanding subsection (a), section 303(g)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)(2)) is amended by striking ''1.38 percent'' and inserting ''1.46 percent''.

THE 50TH ANNIVERSARY OF THE MUTUAL DEFENSE TREATY BETWEEN THE UNITED STATES AND THE REPUBLIC OF KOREA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 379, S. Res. 256.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 256) observing the 50th anniversary of the Mutual Defense Treaty between the United States and the Republic of Korea, affirming the deep cooperation and friendship between the people of the United States and the people of the Republic of Korea, and thanking the Republic of Korea for its contributions to the global war on terrorism and to the stabilization and reconstruction of Afghanistan and Iraq.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, all with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The resolution (S. Res. 256) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 256

Whereas October 1, 2003, marked the 50th anniversary of the signing of the Mutual Defense Treaty between the United States of America and the Republic of Korea, signed at Washington October 1, 1953, and entered into force November 17, 1954 (hereinafter referred to as the ''Mutual Defense Treaty'');

Whereas the United States and the Republic of Korea have formed a bond through the common struggle against communist aggression;

Whereas more than 34,000 Americans lost their lives fighting in the Korean War, and approximately 37,000 men and women of the United States Armed Forces are still deployed on the Korean peninsula, enduring separation from their families and other hardships in the defense of freedom;

Whereas the Mutual Defense Treaty has been instrumental in securing peace on the Korean peninsula and providing an environment in which the Republic of Korea has become an economically vibrant, free, democratic society;

Whereas the foundation of the Mutual Defense Treaty rests not only on a common adversary, but more importantly on a shared interest in, and commitment to, peace, democracy, and freedom on the Korean peninsula, in Asia, and throughout the world;

Whereas the United States and the Republic of Korea are working closely together to find a diplomatic solution to the threat posed by North Korea's pursuit of nuclear weapons and the export by North Korea of ballistic missiles;

Whereas the Republic of Korea is making valuable contributions to the global war on terrorism, including the contribution of logistics support for international forces operating in Afghanistan;

Whereas the Republic of Korea has pledged $260,000,000 and has already sent 700 military engineers and medical personnel to assist in the United States-led effort to stabilize and reconstruct Iraq; and

Whereas South Korea President Roh Moo-hyun pledged on October 18, 2003, to dispatch additional troops to work alongside United States and coalition forces in Iraq: Now, therefore, be it

Resolved, That the Senate—

(1) observes the 50th anniversary of the Mutual Defense Treaty between the United States of America and the Republic of Korea, signed at Washington October 1, 1953, and entered into force November 17, 1954;

(2) reaffirms the deep cooperation and friendship between the people of the United States and the people of the Republic of Korea; and

(3) thanks the Republic of Korea for its contributions to the global war on terrorism and to the stabilization and reconstruction of Afghanistan and Iraq.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 321.

NOMINATION DISCHARGED

Further, I ask consent that the Foreign Relations Committee be discharged from further consideration of the following nomination and the Senate proceed en bloc to its consideration: PN1019–2, Robert Goldberg.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Bruce E. Burda, 0432

FOREIGN SERVICE

Robert Goldberg

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR TOMORROW

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. Thursday, November 20. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and that the Senate then resume consideration of the conference report to accompany H.R. 6, the Energy Policy Act of 2003.

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

Mr. REID. Mr. President, we worked for several hours this afternoon on the conference on the omnibus. Significant progress was made. The DC title was closed. The VA-HUD title was closed. The Commerce-State-Justice is one open item. But that should be resolved quickly tomorrow, which leaves Agriculture and Labor-HHS.

I think that is what we have left. I think progress was made. Another couple of hours tomorrow and we should be able to finish that. That would bring that very important bill to the floor. At this stage, it appears that Senators STEVENS and BYRD have done an outstanding job, having just dealt with those appropriations bills and not extraneous materials, as some talked about doing.

I think this is something that, in a relatively short period of time, if things continue like this in conference, should not take a lot of floor time.

Mr. FRIST. Mr. President, just to add to the comments of the distinguished assistant minority leader, the Medicare conference, I believe, will be held tomorrow, and most probably tomorrow morning, although I am not sure if a final announcement or determination of the time has been made. It will be made a little later tonight.

Substantial progress has been made on that conference as well. There are a few numbers coming in from CBO over the course of tonight. Once they are back, that conference will be held.

What our colleagues have just heard is that, on the omnibus, substantial progress has been made. And on what we are addressing on the floor—energy—real progress is being made. Also, in terms of Medicare prescription drugs, real progress is being made. People are collaborating. Everybody understands that we will be here probably each day, every day until we finish the Senate's business. After a long day today, we have made real progress.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of the Energy conference report. A number of Senators did come and participate in the debate today on the Energy conference report, and the Senate will continue that debate into tomorrow's session.

I remind my colleagues that a cloture motion was filed on the conference report during today's session, and that cloture vote will occur Friday morning.

Mr. REID. Mr. President, today we had a very orderly debate in the Senate. We alternated back and forth, unless there wasn't someone on the other side, Democrat or Republican. Senator FEINSTEIN is one who waited around all day to speak. Because of her being part of the conference, she was not able to speak. I wonder if, following Senator DOMENICI, who wishes to speak at 9:30, we can have Senator FEINSTEIN recognized. I alert people that she wishes to speak for up to an hour.

I ask unanimous consent that Senator DOMENICI be recognized at 9:30 for whatever time he may consume and that Senator FEINSTEIN then be recognized for up to 1 hour.

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

Mr. FRIST. Mr. President, I recognize how well things have gone today, and although I haven't talked with Senator DOMENICI, I assume that will be fine for him. Obviously, I did not object. I suspect we will handle the day just that way—going back and forth making sure there is an appropriate amount of time on both sides.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:56 p.m., adjourned until Thursday, November 20, 2003, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate November 19, 2003:

DEPARTMENT OF THE TREASURY

J. RUSSELL GEORGE, OF VIRGINIA, TO BE INSPECTOR GENERAL FOR TAX ADMINISTRATION, DEPARTMENT OF THE TREASURY, VICE DAVID C. WILLIAMS.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 19, 2003:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. BRUCE E. BURDA

FOREIGN SERVICE NOMINATION OF ROBERT GOLDBERG.