The House met at 9 a.m. The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: Lord our God, grant Your servants patience and perseverance. Patience calms the soul within. Perseverance reaches beyond oneself to accomplish the task at hand. Humbled by our own frailty and sometimes overwhelmed by the expectations laid upon us, we need Your mighty assistance. Unsure which comes first, perseverance or patience, touch each Member of this House personally that all may contribute to the ways of freedom and the work of justice. May virtue flourish here that all may see that by helping others to persevere we find the strength and purpose to persevere ourselves; for we are Your servants, both now and forever. Amen.

THE JOURNAL
The SPEAKER. The Chair has examined the Journal of the last day’s proceedings and announces to the House his approval thereof. Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE
The SPEAKER. Will the gentleman from Georgia (Mr. GINGREY) come forward and lead the House in the Pledge of Allegiance. Mr. GINGREY led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER
The SPEAKER. The Chair will entertain five 1-minute speeches on each side.

ST. URSULA BULLDOGS WIN OHIO STATE VOLLEYBALL CHAMPIONSHIP

NOTICE
If the 108th Congress, 1st Session, adjourns sine die on or before November 23, 2003, a final issue of the Congressional Record for the 108th Congress, 1st Session, will be published on Monday, December 15, 2003, in order to permit Members to revise and extend their remarks. All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–410A of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 12, 2003. The final issue will be dated Monday, December 15, 2003, and will be delivered on Tuesday, December 16, 2003.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators’ statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at “Record@Sec.Senate.gov”.

Members of the House of Representatives’ statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerkhouse.house.gov/forms. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–60 of the Capitol.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Office of Congressional Publishing Services, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

ROBERT W. NEY, Chairman.
Mr. CHABOT. Mr. Speaker, this morning I would like to recognize the achievement of an exceptional group of young women in my Cincinnati congressional district, the St. Ursula Bulldogs volleyball team.

St. Ursula is a member of the Ursuline Academy, another outstanding Cincinnati school, for Ohio’s State volleyball championship. St. Ursula emerged victorious, capping off an undefeated season. With 29 wins and zero losses, St. Ursula was also declared national champion.

The victory marked St. Ursula’s eighth State volleyball title, making it the only Ohio school to accomplish this feat in history.

Mr. Speaker, these are two excellent schools academically as well as in sports. They have faced each other three straight years for the State title. They are examples of what can be accomplished with hard work, perseverance, and teamwork.

It gives me great pleasure, especially since my niece, Maria, is a student at St. Ursula, to acknowledge in the achievement of these exceptional young women and their coaches, St. Ursula’s Julie Perry and Ursuline’s Amie Meyer.

Congratulations.

CONGRESS COULD DO BETTER FOR SENIORS

Mr. DeFazio. Mr. Speaker, today the House will take up an incredibly complicated $400 billion bill which authorizes to provide seniors something they need help buying pharmaceuticals. We could do this more simply and more cost effectively. We could have the government negotiate lower drug prices on behalf of seniors as they do for the Veterans Administration, a minimum of a 24 percent reduction for veterans’ drugs and actually an average of about 50 percent.

There is a bigger group of Medicare people. We could do better. It would not cost anything.

We could also allow the free re-importation of FDA-approved, U.S.-certified, U.S.-manufactured drugs from Canada and other countries. Many seniors in my district are doing that now, saving an average of 50 percent. But, Mr. Speaker, this bill is going to prohibit the re-importation. This bill is going to prohibit the government from negotiating lower prices for pharmaceuticals, all to protect the profits of the pharmaceutical industry at a time when many seniors cannot afford the drugs they need to maintain their health.

PRESIDENT BUSH’S SPEECH IN LONDON

Mr. Wilson of South Carolina. Mr. Speaker, this week President George W. Bush gave an inspiring speech at Whitehall in London, visiting the Royal Family and Prime Minister Tony Blair. The President stated clearly that the United States is committed to winning the war on terrorism.

In one of the most important moments of the speech, President Bush explains why we cannot forget September 11th and the innocent thousands that were killed that day. The President said, “The hope that danger has passed is comforting, it is understandable, and it is false. The attacks that followed on Bali, Jakarta, Casablanca, Bombay, Mombassa, Najaf, Jerusalem, Riyadh, Baghdad and Istanbul were not dreams. They’re part of the global campaign by terrorist networks to intimidate and demoralize those who stand with freedom.”

The President is absolutely correct and I encourage all Americans to remember the act of war brought upon our Nation just 2 years ago. I have confidence that our military will win the global war on terror and I commend the dozens of coalition countries that have joined us in this fight for freedom.

Mr. Speaker, in conclusion, may God bless our troops.

BUSINESS WILL NOT ALLOW GOVERNMENT TO OPERATE LIKE A BUSINESS

Mr. George Miller of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. SHUSTER. Mr. Speaker, very often when we go out and hold town hall meetings, people stand up in the town hall and say: Congressman, why do you not run the government more like a business?

The answer is when we try to run the government like a business, business won’t let us.

If one is a Wal-Mart, they negotiate their pharmaceutical prices. They negotiate the prices of goods sold in their store.

In one is a COSTCO, they negotiate pharmaceutical prices and people go to COSTCO to buy their pharmaceuticals.

If the government wants to negotiate the prices as the largest purchaser of pharmaceuticals in the world, we will not be allowed to because the Republican bill prohibits the Secretary of Health and Human Services from negotiating a better price for America’s seniors and American families.

We cannot run the Congress like a business when the businesses are all lobbying to keep a monopoly, to keep high prices, to keep people from going to Canada and getting FDA-approved drugs. That is what suppliers do. People go where there are lower prices.

They can search the world over for the globalized economy for lower prices. But American seniors who need lifesaving drugs cannot search the world over for lower prices like the businesses can, because business will not let government run the government like a business.

JOBS AND GROWTH PACKAGE REAPING BENEFITS FOR WORKING FAMILIES

Mr. Shuster. Mr. Speaker, I rise today in support of the rural package provided for in the House-Senate Medicare agreement. The package corrects existing inequities for rural and small town hospitals and providers by equalizing the disproportionate reimbursement payments they have been experiencing in the past.

Rural hospitals’ base payment rate will be permanently extended by 1.6 percent to match the urban hospital payment rate and the amount of disproportionate share payments will be more than doubled to 12 percent of total Medicare inpatient payments.

The bill additionally pays cost plus 1 percent to the Critical Access Hospitals to ensure that they can improve access and services.

And that, Mr. Speaker, is exactly the purpose of the rural package: To provide immediate help to rural area and small city hospitals so that they can provide sustained access and quality services to their patients.

Our seniors deserve nothing less than that, and I urge my colleagues to vote in favor of our Nation’s rural hospitals. Pass the Medicare conference report.
later today. These building blocks will continue to provide substantial stimulus over the coming months.

Most importantly, we must remember that America’s strength comes from its workers, its small business owners, and the families dedicated to a better way of life. As a Congress, we must continue to assist our working men and women by removing the obstacles so they can capture the American dream.

NEVER NEVER LAND OF CORPORATE WELFARE

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

Mr. EMANUEL. Mr. Speaker, my colleagues on the other side of the aisle always talk about being the protectors of the free market system and believes if the free market would operate without government hindrance, business would be fine and society would be fine.

This week this House passed an energy bill that gave $20 billion of taxpayer money to companies to do drilling for oil, do their basic services, when they should be doing that on their own without taxpayer subsidies.

Now, we are about to pass a prescription drug bill that pays HMOs $80 billion to provide health insurance.

Do we have the bastions of capitalism? We used to have “end welfare as we know it.” This is a new form of welfare. These are businesses who have come to rely on the government subsidies as the only way to operate their businesses. I think that today, rather than being the culture of the protectors of capitalism and the principles of capitalism, the Republican Party has become the bastions of the culture of welfare and we need to end welfare as it is being abused in our society.

Lately, the way we have seen our government turn into literally a culture of welfare for corporate and special interests, I am beginning to think that we have been caught captive in the Never Never Land. It is not Michael Jackson, it is us who have been caught here in Never Land. It is not Michael Jackson, it is us who have been caught captive in the Never Land. It is not Michael Jackson, it is us who have been caught captive in the Never Land. It is not Michael Jackson, it is us who have been caught captive in the Never Land.

Mr. Speaker, I urge my colleagues to support the Adoption Information Act.

FIRST DO NO HARM

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

Mrs. CHRISTENSEN. Mr. Speaker, I want to respond to one of my physician colleagues who was on the floor last evening and speak to others who think that they and we ought to support the conference report on Medicare reform.

One of the most important tenets of the oath we take as physicians is that we must do no harm. This is to guide us in our practice and our interactions with both our patients and society.

The Medicare bill that will be before us today will do much harm by threatening to take away retiree prescription drug coverage. By refusing to provide wraparound coverage for poor seniors and disabled on Medicare, it will exclude many poor, disabled, and elderly by means testing, and most of all it will begin to destroy this important program which so many depend on and need.

Mr. Speaker, if this bill were to pass tomorrow, it would not help one senior today. We do it right and fulfill the promise we made to provide a comprehensive plan. Physicians, do not allow our profession to be used to pass a bad bill or hurt our patients.

I urge physicians to call their representatives and tell them to vote “no.” I urge my colleagues to vote “no.”

Whether physician or Member of Congress, above all we must do no harm.

ADOPTION INFORMATION ACT

(Mrs. J O ANN DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. J O ANN DAVIS of Virginia. Mr. Speaker, this Saturday, November 22, numerous organizations will join together in celebration of National Adoption Day to recognize the many blessings afforded by adoption. In honor of this day, I would like to draw attention to a bill that I introduced this year that seeks to raise awareness of adoption, the Adoption Information Act, H.R. 1229.

Essentially, the Adoption Information Act would require all federally funded clinics to provide a detailed pamphlet of adoption referral information to all people seeking family planning services. All too often, women seeking pregnancy counseling do not receive all the information necessary to make an informed decision. Information on what adoption is and referral for adoption services are rarely discussed at all, and when they are that information is often inaccurate and incomplete.

H.R. 1229 aims to ensure that women are empowered with the accurate and complete information they need to make informed decisions.

Mr. Speaker, I urge my colleagues to support the Adoption Information Act.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 456 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 456
Resolved, That it shall be in order at any time on the legislative day of Friday, November 21, 2003, for the Speaker to entertain motions that the House suspend the rules. The Speaker or his designee shall consult with the Minority Leader or her designee on the designation of an hour for consideration pursuant to this resolution.

H21PT1

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

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

Mr. Speaker, this rule provides for suspensions that will be in order at any time on the legislative day of Friday, November 21, 2003. It also provides that the Speaker or his designee will consult with the minority leader or her designee on any suspension considered under this rule.

Mr. Speaker, as I noted yesterday, the Republican leadership of this House has set out on an aggressive legislative plan for this week on behalf of the American people. The goal of this plan is to bring our Nation’s outdated energy policy into the 21st century through comprehensive legislation that promotes conservation, reduces America’s growing dependence on foreign oil, and creates new jobs and cleaner skies.

Today we will consider legislation to make sure that America uses best practices technology and procedures to prevent tragic wildfires, like the ones that California just suffered through, from raging on our Nation’s forests. This important bipartisan legislation takes a healthy step forward in providing a better approach to addressing the problems that have to date prevented the proper management of forest health on private forest lands.

This bill creates new programs to detect and suppress dangerous forest pests. It also creates two new programs which help family forest owners to manage their forests, protect watersheds, and help to protect wildlife on private lands. Both of these programs use a nonregulatory, incentive-based approach to promote conservation, rather than a top-down, one-size-fits-all regulatory approach.

For the balance of the week, we are slated to consider legislation to, among other things:

Number one, to authorize spending levels for the intelligence activities we need to win the war.

Number two, to reform Medicare to make sure that more of our seniors have the prescription drug coverage that they need while giving them much more and more choices for their health.
care coverage, and also to allow all Americans to begin planning for their health needs through savings accounts that can be purchased, can grow, and can be used on a tax-free basis.

Number three, and to provide for a uniform and national credit reporting system that ensures that consumers are protected from identity theft while giving them access to the fast and reliable credit that makes our economy the envy of the world.

I understand that Members on either side of the aisle may have different views about how to address each of these issues that I have talked about, but we will have an opportunity to hear a great deal of debate from both sides over the next few days on each one of these issues, and so many other things. However, a great deal of the legislation that the Republican House leadership has also scheduled on behalf of all Americans has broad support from both the majority and the minority, and people are attempting to make sure that this important work is finished by the end of this legislative week as well, so we are here today to pass a rule to provide for the consideration of those bills.

Mr. Speaker, this balanced rule provides the minority with the ability to consult with the Speaker on any suspension that is offered, ensuring that their input and views are duly considered before any legislation considered under this rule is brought to the floor. Mr. Speaker, I encourage my colleagues on both sides of the aisle to support this uncontroversial and balanced rule which passed yesterday by a voice vote.

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

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Texas for yielding me 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I have no objection to this rule which would allow for this House to consider suspension bills today. We are not going to ask for a vote. There is no controversy over this and there is no reason to debate this. But I do want to just take a couple of minutes to alert my colleagues to something that I think is quite serious, and that is the fact that we probably some time today will consider the so-called Medicare prescription drug bill.

Mr. Speaker, I yield a 30-minute time period, if I understand correctly, was filed at about 1:20 a.m. this morning and under House rules, Mr. Speaker, all Members of this House, Democrats and Republicans, are supposed to have 3 days, 3 days to review any conference report so they can actually read what is in it so that they will know what, in fact, that they are voting on. It is obvious, as has been the case so many times over and over, that the Republican majority is choosing to ignore the wishes of this House and it is particularly disturbing that they have chosen to do so once again with regard to a bill that I think is so very important.

This is a bill, in my opinion, that is going to end Medicare as we know it. It is going to privatize Medicare and is not going to provide our senior citizens with the prescription drug benefits that they expect. But yet we are rushing this bill through with little consideration and with almost no opportunity for Members to know what is in it.

Mr. Speaker, let me read today the lead paragraph in an editorial that appeared in today's Washington Post. "Before we say anything else about the Medicare bill that the House-Senate conference committee approved yesterday, it is important to point out that the process by which this bill was created hardly reflects well on our political culture. This is an extremely expensive, 1,100-page bill that will have a profound effect on the nation's fiscal and physical health and although it was not on the Senate floor as late as this afternoon after several months of a largely secret conference, last night House leaders were planning to bring it up for a vote tomorrow. If they do, most Members will have no real idea of what they would be voting on." Now, my colleagues on the other side will say, gee, we are coming up to Thanksgiving and we all need to go home and we need to get everything done before Thanksgiving. Well, most Americans have a couple of days off at Thanksgiving and then they go back to work the following week. There is no reason why this House cannot go to work the following week and do the people's business.

One of the problems with not being able to read bills before they come to the floor is that oftentimes days later, weeks later, sometimes months later we find out that there are little special interest provisions that are hidden in these bills that are very expensive, that help one particular special interest, but do great harm to the American people.

Mr. Speaker, I do not want anyone to have an excuse to do not know what is in this bill. And there are people on the other side of the aisle who also had requested early on that we have at least 3 days to review this important piece of legislation. I think it is unfortunate that we are moving today on a very important piece of legislation, a bill, as I said before, that in my mind undermines one of the most important and successful social programs in the history of this country, and is being pushed to the floor without giving Members or their staff the opportunity to read the bill or to go home and check with their constituents.

In case my colleagues forgot, constituents are the people who elect us. We are supposed to be serving constituents who have elected us to this high office, and I think we are doing a great disservice to those by allowing this Medicare bill to come to the floor without at least respecting the rules.

Mr. Speaker, let me finally say if my Republican colleagues want to continue to waive these rules and not report rules, why do they not just repeal all the rules? There is no sense to have rules of this House if they are not going to follow them.

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

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

Mr. Speaker, the gentleman from Massachusetts (Mr. MCGOVERN) is exactly correct. We are going to this morning, in about 35 minutes, walk upstairs here in the Capitol. We are going to go to the Committee on Rules. Our chairman from California (DAVID DREIER), will open up the meeting where we will be open for debate and I am sure controversy. But most of all, it will be part of the process that has been something that the Committee on Rules in this House has done for a long time, and that is follow through with the process to make sure that people at 10 o'clock Eastern time in Washington, D.C., and Members of Congress have a chance to walk upstairs and to talk about the bill and to present their ideas and to talk about what this conference report is all about.

Obviously, this conference report is debatable. It is nonamendable. It will be an up-or-down vote. This is part of a process that has taken place where Members of this great body, with our colleagues on the other side of the Capitol, the Senate, got together, worked through problems. But I think that if we were trying to wait until today, as my colleague from Massachusetts would suggest, to find out what people want back home, I think we have made a terrible mistake. I think Members on this side of the aisle have already gone home and listened to people. That is what this is about, to be a body that represents people. And, of course, our colleagues on the other side of the aisle said there is no way that we could do that. We just would never pull that off.

Well, Mr. Speaker, today it looks like we have. And I would like to describe a little of what we pulled off. We will hear the details at 10 o'clock upstairs, but those details essentially include competition in the area of health care. This competition that we are talking about, which will be debated up in the Committee on Rules, is about allowing millions of people who may not be in Medicare yet, to begin saving for their future. We are going to have something that is called health savings accounts that were previously known as MSAs. These health savings accounts are going to allow the people who save on a pre-tax basis, and then save this money on a tax-free basis and then spend it in health care on a tax-free basis.
Why is this important? This is important because over the lifetime of a person and their family they will be able to prepare with this money for what their needs are going to be for health care. Why is that important? That is important to our Nation because a consumer that has money in their pockets can make wiser decisions, rather than showing up in a system like Medicare where many times they cannot even find where their doctor accepts Medicare.

This will change health care for this country as we continue on a moving-forward basis. It empowers people. We think it is the right thing. We think that is what people are asking for back home.

Mr. Speaker, on the prescription drug angle, no question in my mind, the Washington Post is probably right. Oh, my gosh, this is an expensive bill. But, I can assure them and the American public that what we are all about is about process and doing the right thing.

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

Mr. McGovern. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I appreciate the gentleman from Texas' comments, but he missed the whole point of what I was trying to say. On substance, we will debate that later.

This bill is a lousy bill. It privatizes Medicare. It does not provide our seniors with a prescription drug benefit that they may believe they are going to get, and that they expect and desire. This is a lousy bill.

But what I was talking about was the process. We will talk about the substance later. This process stinks, and the best way to wrap it up is that you and I, the majority continually ignore the rules of this House or waive the rules of this House.

The rules are that when you file a conference report, you are supposed to have 3 days to review it. This was filed, this important historical legislation that you talk about, was filed at 1:20 a.m. in the morning. All right, I do not know whether you read the whole thing, but I am going to tell you, most Members on both sides did not.

Let me read you a letter that was sent to the gentleman from Illinois (Speaker Hastert); to the gentleman from Texas (Mr. Delay), the majority leader; and to the majority whip, the gentleman from Missouri (Mr. Blunt). Dear gentleman: We write to request that if the conferences on the Medicare Prescription Drug and Modernization Act of 2003 report to the House, Rules provide for the consideration of the conference report.

The general public will evaluate not only what Congress does regarding Medicare and prescription drugs, but the way in which it does it. A bill proposing such substantive changes to our Medicare system and costing an estimated $400 billion over the next decade deserves the careful and thoughtful consideration of all Members.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. George Miller).

Mr. Speaker, I thank the gentleman for yielding me time. I think he makes a very important point.

We thought we had an agreement. In fact, we had the word of the Speaker of the House that there would be a 3-day layover period for this legislation so Members and interested parties could read this legislation to discover exactly what is in it.

The Republicans make a great deal out of the fact that this bill will provide for competition. We know it will not provide for price competition on pharmaceuticals, because it specifically prohibits price competition. It does not let the Secretary of Health and Human Services negotiate lower prices, lower costs, for senior citizens in the Medicare program.

But, interestingly enough, Mr. Speaker, and maybe every Member of Congress will want to read the bill very closely. This is the one plan on the other side that says what we do here is we promote competition. We are going to put in place private health plans that are going to compete with Medicare, and people are going to get better services, more services, at a lower cost.
senior citizens, but the Republicans are saying this competition is a great idea.

Well, I want to tell my Republican friends in the House who have not read the bill, pick up the Wall Street Journal today. See what your Senators have done in the great bill for competition. It is so good, it is so good, that Senator Gordon Smith of Oregon, Senator Kyl of Arizona, Senator Specter, and there is one other Senator whose name I cannot pick out of the story here, have decided it is so good, they have excluded an area in their States from the competition.

They say, "Oh, no, you are not going to do this in my area. You are not going to do this with my senior citizens." The Senators apparently are a little closer to the process here, and they have read the bill. They said, "You know, we had one of these demonstrations a number of years ago, and it blew up in our face, both in terms of cost and in terms of services to the senior citizens.

So, Senators, you know how they make their deals over there; we cannot do this over here because of the Committee on Rules, they got in there in the last minute and said, "Exclude my area in Arizona, exclude my area in Oregon. I am not having any of this competition for my senior citizens. I just those lucky-ducksies over there in the House that have one of these competition plans lands on their congressional districts. Then we will see how it goes."

That is why you want to read the bill. That is why you want to be able to have a 3-day layover period to protect the rights of every Member of this House and the constituents and the people that they represent in their congressional districts.

But the arrogance of this leadership, the arrogance of the Speaker, the arrogance of the Committee on Rules just constantly says, that democracy means very little to them; the rights of each and every Member mean very little to them. They now have the power, the Republicans have the power, and, with that power, slowly has come arrogance. And they have decided that there is no reason for debate; there is no reason for us to be able to try to tell the American people what is in this bill before we vote on it so maybe they can participate.

At the same time we run the Congress like machines, due to procedures now being in place on this Committee on Rules, we have a right to read the bill. We have a right to read this bill. So I guess it is historic in the fact that once again we are going to trample on the rights of Members of both parties.

I should say to the gentleman from Texas, it is not just Democrats that are complaining about the need to read the bill. I just cited to him a letter that was signed by 41 of some of the most conservative Republicans in this House who said, we should read the bill. One of the reasons why, I suspect, is if you read the Washington Post today, there is a headline, "Drug Makers Protect Their Turf." I will insert this article in the Record.

From the Washington Post, Nov. 21, 2003

No industry in negotiations over the $400 billion Medicare prescription drug bill headed to the House floor today outpaced the pharmaceutical lobby in securing a favorable program design and defeating proposals most likely to cut into its profits, according to analysts in and out of the industry.

If the legislation passes as Republican leaders predict, it will generate millions of new customers who currently lack drug coverage. And at the same time, drug-manufacturing lobbyists overcame efforts to legalize the importation of lower-cost medicines from Canada and Europe and instead inserted language that explicitly prohibits the federal government from negotiating prices on behalf of Medicare recipients.

"It couldn't be clearer there is going to be a positive effect overall," said Dan Mendelson, president of Health Strategies Consultancy, which bills itself as a think tank and consulting firm. "The volume will simply go up. There will be a lot of people who didn't have coverage before who will have it now and a lot of people getting an upgrade in terms of coverage."

But Democrats and consumer advocates complain that the Republican-crafted compromise does little to contain soaring drug
costs. They say that by handing the Medi-
care drug program’s administration to pri-
vate insurers, Congress missed a chance to
exert pressure on pharmaceutical companies
to reduce prices.

But Republicans and some industry ana-
lysts say that adopting a drug-purchasing
mechanism similar to those in corporate health
insurers’ PBMs is the best way to extract dis-
counts from drugmakers.

If Medicare negotiated on behalf of its 40
million beneficiaries, it would have a
$p=37.7$ million in lobbying in the first six
weeks and would cut into future research and de-
velopment. Since the 2000 election cycle, the industry has contributed $600 million in political donations and spent $37.7 million in lobbying in the first six
months of this year.

The lobbying continued in earnest this
week with a television and print advertising
campaign urging passage of the bill. In one
series of witty commercials sponsored by the
campaign urging passage of the bill. In one
week with a television and print advertising

The great unknown is what sort of prices
they are the greatest supporters of the

The congressman was aware of all these little
details, and he said he would not vote for
the bill because they were driven there by
the businesses he represents.

The House approved the provision, 243 to 186.

Mr. Speaker, I yield 4 minutes to the
Mr. Speaker, it talks about all the
benefit that my constituents can get
improved Medicare, elderly citizens look into the camera and
demand: “When ya gonna get it done?”

Mr. Speaker, 14,345 days. That is how
long it has been since Medicare was en-
acted, the most important social pro-
gram in the history of the United States.

Mr. Speaker, yield 4 minutes to the
gentleman from Oregon (Mr. DeFazio).
Mr. DeFazio. Mr. Speaker, I thank the
gentleman for yielding me time.

Medicare has been a tremendous ben-
efit to our seniors. It was opposed by the
Republicans, it was opposed by the
AMA, it was opposed by the nursing homes and all of them. Now, of course,
they are the greatest supporters of the
program because of the reimbursement and the business it provides.

But now we are about to make the most
important changes in the 13,435-
day history of Medicare, and we cannot
have 1 day. We are not to be allowed 1
day to read a 791-page bill, which, to
the best of my knowledge, and the gen-
tleman who would like to actually have a
printed copy in their hand to be able to
flip back and forth easily and under-
stand what this bill really does. But we
are not going to have printed copies, or
perhaps we will at some point when the
debate begins. But even with speed
reading, that is going to be tough.

So a 791-page, unbelievably com-
plicated bill making extraordinary
changes in a program which we have
beyond a 1-year lens, and there will be
24 hours, or even, as the rules would pro-
vide, 72 hours to read it. What would be
the harm in voting on Monday? Let it
sit over the weekend. Let everybody
have a chance to read it. I would be
happy to stay overnight and work through
the weekend, get through the other work
and vote on this bill on
Monday.

The gentleman talks about competi-
tion in the marketplace. This is a bi-
rare bazaar of a marketplace, because
this is more like a souk, where there
are all these back-room deals, and you
do not know what is going on.

Competition? Why, it has subsidies for
FDA-approved, U.S.-manufac-
tured drugs from Canada or any of the
other developed industrial nations who
bargain on behalf of their citizens and
get huge price reductions. So Ameri-
cans are going to have the door
terbated when your re-
newable comes up. That is what is
going to happen to seniors in these
private plans.

Then we have protectionism. The
party of free trade, free trade over
here, the Republicans are trading our
jobs to China and all these other
places, this bill is protectionist. It is
not going to allow Americans to re-
place their manufactured drugs from Canada or any of the
other developed industrial nations who
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newable comes up. That is what is
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private plans.
my constituents will be less than they can get today by buying from Canada, and we are going to slam that door with this bill. So they are not going to have that opportunity any more. They are going to be forced to buy drugs at higher prices, even with the so-called coverage under this bill. That is price fixing.

So we have a bill that has protectionism, price fixing, subsidies for the HMOs, the insurance industry is exempt from antitrust laws, and the gentleman says somehow this is the marketplace of competition.

What a bizarre view of a true, free and competitive marketplace. We could more simply allow these Medicare constituents to have a negotiated price for the reduction of their drugs, as we do for VA, but the industry is opposed to that because there would be too much market force, too much market clout on the part of the government in those negotiations and allow the continued safe reimportation of drugs from Canada.

And there is a big red herring here. The administration says FDA-approved, manufactured drugs reimported from Canada are not safe, they cannot guarantee their safety, except we know that the drug custody chain in the United States of America is much more compromised than in Canada.

Canada first negotiates about a 50 percent reduction in prices, licenses the importers, licenses everybody, and tracks all the people who touch the drugs. The pharmaceutical companies dump huge amounts of drugs into an unregulated secondary market that is licensed by the States, into these phony closed-door pharmacies, and organized crime is involved in getting counterfeit drugs into the system here in the United States.

There is a huge breach of the integrity and safety of the system here in the United States, which there is no concern about because the industry is making money. It is saying that we have other drugs but we are going to say, oh, those Canadian drugs, they are not safe. They are safer, in all probability. There have been no instances proven in Canada, unlike the United States, of organized crime getting counterfeit drugs into the system.

Mr. Speaker, we could do something simpler and cheaper if we defeat this bill.

Mr. SESSIONS. Mr. Speaker, I have the honor and privilege to yield 4 minutes to the gentleman from Florida (Mr. FOLEY), a young man who serves on the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I thank the gentleman for yielding the rule to the floor and for yielding me time.

Mr. Speaker, there is a commercial on these days that has a catch line, and it says, "What is in your wallet?" Well, I ask Members of Congress to ask themselves that very question, what is in your wallet?

I will tell you what is in mine. It is a card that I get as a Member of Congress. It says BlueCross BlueShield Federal Employee Program. It is a PPO. It has a prescription drug benefit attached to it, a $35 copayment. Certain attributes of this plan work for Members of this Congress.

In my congressional district I have the fifth largest Medicare-eligible population of 435 Members of this body, the fifth largest Medicare-eligible population. When I go home to my town hall meetings, they say, "I want what you have. I want choice. I want opportunity." Introg, they do not say, "I want it all, and I want it free." They want fairness, because they want the system to continue.

The hangarues on this floor the last couple days are amazing. We have heard repeatedly, speaker after speaker, "We haven't seen this bill; we haven't read this bill." But we have spent hours of time talking about what is bad about what is in this bill, so either they have not seen the bill, or they are just going to see what must be in the final work product.

For 4 years I have been on this committee, and I have met over on the Chamber with the respected Senator Boxer, Gramm, Senator Rangel at that time, Senator Chuck Robb and a number of Members of the Senate as we tried to work out an opportunity to find a prescription drug plan that would suit the test of time and be financially equivalent, if you will.

In our bill there is a wellness provision which allows us to do diagnostic testing for cardiovascular disease, allows us to test for diabetes, before the onset of these diseases. There is, in fact, a drug discount card that will be offered to those lower-income individuals who need assistance. That drug discount card will have, much like an ATM, $600 of purchasing power so they will have an opportunity to buy the vital drugs they need.

Many people on the other side of the aisle decided politically to sign the AARP pledge. If you read the pledge, it says all Medicare beneficiaries will have access to a stable prescription drug benefit on a voluntary basis. Not forced, not coerced, not mandatory. Affordable prices will be the rule, not the exception. We are trying to do that.

To those who suggest just reimport from drugs from Canada, let me ask the basic question: read the articles in the Florida newspapers where there have been numerous arrests because of counterfeit drugs coming from Canada. Reasonable premiums, deductibles and copayments. Those are in the bill. Prescription coverage will leave no individual with extraordinary out-of-pocket costs. There is a catastrophic provision written into this legislation. Reduction in soaring drug costs will keep the program affordable. Extra help for low-income individuals. Help for those communities that represent with their hospitals, their ambulances, their doctors. We talk about a number of things in the bill that I think provide relief for every American. Increased fees, if you will, for physicians, increased index for the hospital what we call the market basket.

So if you look at the Medicare bill, yes, there may be problems for some. Here is the one, which up last week, described as the "gold standard" of senior lobbying organizations, has decided to take this first step with us. Will this be a perfect vehicle? No. No legislation I have ever worked on in the press says the press has ever been. We have had to come back, work it, amend it, and deal with some of the consequences. And if we fail to make this critical step and pass this rule and pass this legislation, we will have surrendered our ability to bring seniors a necessary improvement to the Medicare health delivery system that they so vitally need.

So I urge my colleagues, support the rule and support the underlying legislation. Let us do for seniors what the President Franklin Delano Roosevelt tried to do to enhance their safety and security.

Mr. MCGOVERN. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, the President stood in the well and said he wanted the senior citizens to have a drug benefit like Members of Congress have with this card. Under our prescription drug benefit, the government pays 80 percent, we pay 20 percent. Under this bill, of the first $5,000, the seniors pay 80 percent and the plan pays 20 percent.

You guys have reversed the figures on the senior citizens. Out of the first $5,000, the seniors pay $4,200. Out of our first $5,000, the government pays 80 percent. Somewhere between the President's speech there and this bill, you lost 80 percent of the benefits for seniors.

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

Mr. Speaker, there was a statement that was made that I think we just need to set the record straight on, and that is that this bill does not talk about reimportation from Canada, where Congress makes a decision on that issue. We allow the FDA to make that decision. It is up to Congress that makes that decision.

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

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

Mr. Speaker, let me just say to the gentleman from Texas, he knows very well what is going on here. The administration already decided they are not going to allow citizens to be able to get their drugs from Canada, even though they are cheaper. They already made their decision.

What we have in this bill basically is to protect the status quo, which means...
our senior citizens get gouged and gouged and gouged and gouged.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida (Mr. Hastings), my colleague on the Committee on Rules.

Mr. Hastings of Florida. Mr. Speaker, I thank my good friend from Massachusetts for yielding me time.

Mr. Speaker, it is very difficult to not get involved in the discussion that is ongoing. There is a great need for us to correct a few things, and hope that I can without exuding the passion that I normally bring to debate.

I would borrow from an article in today’s New York Times written by Paul Krugman where he says, “Let’s step back a minute. This is a bill with huge implications for the future of Medicare. It is also, at best, highly controversial. One might therefore have expected an advocacy group for retired Americans to take its time in responding, to make sure that major groups of retirees won’t actually be hurt, and to poll its members to be sure that they are well informed about what the bill contains and do not object to it. Instead, AARP executives have thrown their support behind an effort to frame the bill through before Thanksgiving. And, no, it is not urgent to get the bill passed so retirees can get immediate relief. The plan won’t kick in until 2006 in any case, so no harm will be done if the legislation takes some time to consider.”

What we have asked for here is 3 days. That is a part of the Rules of this House of Representatives, and every Member of this body, particularly those of us on the Committee on Rules, know that to be true. Despite my Democratic colleagues’ best efforts to make this an inclusive and comprehensive process, one that addresses the real concerns of all of America’s seniors and disabled, we were shut out from negotiation. We were shut out in J une, and we are shut out now.

What we have before us, plain and simple, is an eversion of Medicare: This bill was filed at 1:30 a.m. this morning. There is an axiom that says, “He who makes the rules, rules.” All of us in the minority know that the majority rules. We should, however, in this great country be exemplars of fairness, lest we be perceived as fools making rules. If we cannot be fair, who can? Is this process wrong, and it is just that simple. It is not a question about Medicare or anything, if we did this on the next bill, the forest measure, if we did it on yesterday’s bill. This is the first time in the whole of this year that we have brought a bill in the daylight, and my colleagues know that.

What we are doing here is critically important. I, for one, do not want to go back to my district that joins the district of the gentleman from Florida (Mr. Foley), where both of us have as high as 34 percent seniors, and tell them that I sure did read this information that is in this bill. Never mind about castigating anybody, the fact of the matter is most Members of this body, all of them on this side, have not read the present contents of the bill.

Yes, there were hearings; yes, there were 3 days to talk through the years. I came here along with many of you 11 years ago. We were talking about prescription drugs then. I read my clippings. I was saying, “I am going up there and try to get you prescription drugs. The Democrats were in the majority, and I did not get it. The Republicans have been in the majority, and we have not gotten it. And what we are getting ready to get is have this country in turmoil because we are not protecting all of our seniors.

Mr. Sessions. Mr. Speaker, I yield myself such time as I may consume. The Committee on Rules begins testimony in 5 minutes. We came down to the floor this morning to make sure that we were going to have the ability to have a same-day rule. I am satisfied that we have broken into a lot of other things to talk about this morning.

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

Mr. McGovern. Mr. Speaker, I yield myself the balance of my time.

Let me just conclude by saying that on the substance of the bill that we are talking about, the Medicare prescription drug bill, there is a fundamental disagreement between me and some of my friends on the other side of the aisle because to me protecting Medicare is nonnegotiable. I think we are going down a very dangerous road here with this bill.

But what my frustration is at this particular moment is that we are going down that road when most Members of this House have no idea exactly what is happening. We have little bits and pieces and some of what we are finding out, quite frankly, I think most Americans do not like, little special interest deals for pharmaceutical companies, for HMOs, a not-so-generous prescription drug benefit for senior citizens, something that does not kick in for another 2 years. I think the American people and the Members of this Congress deserve having all of us go into this with our eyes wide open.

I read to you before, I say to my colleagues from Florida (Mr. Foley) and was given permission to revise and extend my remarks.)

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report accompanying H.R. 1904, the Healthy Forests Restoration Act of 2003. Mr. Hastings of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 457 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 457

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report accompanying the bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands at a program of protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes. The conference report shall be considered as read.

Mr. Hastings of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my good friend and namesake, the gentleman from Florida (Mr. Hastings), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Hastings of Washington asked and was given permission to revise and extend his remarks.)

Mr. Hastings of Washington. Mr. Speaker, House Resolution 457 is a rule
Mr. DEFAZIO. I thank the gentleman from Oregon (Mr. WALDEN), and the gentleman from California (Mr. GEORGE MILLER). We sat down and began some very difficult negotiations. Unfortunately, last year the clock ran out on us. We had an election year, so we did not get the bill done. But now here we are hopefully at the point of adopting the bill in the House and the Senate and seeing it signed into law. This is not exactly the bill I would have written, but it is what we negotiated last year, but I believe it is a bill that can get the job done. Most importantly, it authorizes $760 million. I think we could even authorize and do more money than that on an annual basis. We must continue to build up of fuels in the forests, but if we can get that money actually spent, it will provide for a lot of jobs. It will provide for tremendous protection for communities and resources.

The bill authorizes $760 million annually for fire prevention, suppression and management activities, a significant increase over current allocations.

Mr. Speaker, the conferees have done an excellent job of protecting the House position on this legislation, which passed the House by a large margin back in May 2003. The conferees should be commended for moving to complete the work on this important legislation before Congress adjourns and we in turn should pass it without further delay.

Accordingly, Mr. Speaker, I urge my colleagues to support both the rule and the underlying conference report.

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank my good friend and namesake, the gentleman from Washington (Mr. HASTINGS), for yielding me the time.

Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO). I thank the gentleman for yielded me this time.

Mr. DEFAZIO. I thank the gentleman from Oregon (Mr. WALDEN). We held a hearing in the Committee on Resources during that fire about the issue of the fuels in the forests. At that hearing, I listened to a few of the witnesses, I really did not ask any questions, I gave a pretty impassioned speech about how I was tired of the fact that we all kind of went to our political corners on this issue when a real solution was warranted. Surprisingly after the hearing I was approached by a number of Members that people would be surprised could sit down in a room and work together. So, I did not do but notably the gentleman from Colorado (Mr. McINNIS) came forward and said to me, I really agreed with a lot of what you said and I would like to try and work something out, as did the gentleman from Arizona (Mr. GOLDBLATT), the gentleman from Oregon (Mr. WALDEN), and the gentleman from California (Mr. GEORGE MILLER). We sat down and began some very difficult negotiations. Unfortunately, last year the clock ran out on us. We had an election year, so we did not get the bill done. But now here we are hopefully at the point of adopting the bill in the House and the Senate and seeing it signed into law. This is not exactly the bill I would have written, but it is what we negotiated last year, but I believe it is a bill that can get the job done. Most importantly, it authorizes $760 million. I think we could even authorize and do more money than that on an annual basis. We must continue to build up of fuels in the forests, but if we can get that money actually spent, it will provide for a lot of jobs. It will provide for tremendous protection for communities and resources.

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

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 4 minutes to the distinguished gentlemen from Virginia (Mr. GOLDBLATT), chairman of the Committee on Agriculture, and Mr. GOLDBLATT. Mr. Speaker, I thank the gentleman from Washington for yielding me this time and for bringing this rule to the floor and I thank the Committee on Rules for very expeditiously moving this process. I know I left the Committee on Rules last night it was close to 9:30 and they were still going on to other legislative business. So often the members of the Committee on Rules have to do things like this and we owe them credit for that that we are so very near the end of this session of Congress. So it is critically important given what happened in California just a few weeks ago and what is going to happen again next year that we pass this legislation promptly so we can begin the process. It is going to take a long time.

The gentleman from Oregon is correct. There are not enough resources nor are there enough acres being addressed in this legislation, but nonetheless this is a very important first step and this is the first major piece of legislation related to forestry to be passed out of a House-Senate conference committee in more than 20 years. This is a very important development. We have a tremendous opportunity today, and when the Senate acts to send to the President a good bill that will give us the first step in this process.

It has been a fair process that has involved everybody in it. Over 2 weeks ago, we came to the floor to appoint conferees. The ranking Democrat on the House Committee on Agriculture who has worked with us every step of the way, and I might add that I believe 19 of the 24 House Democrats on the Committee on Agriculture voted for the original House-passed legislation, very strong bipartisan support in crafting this legislation. He made a motion to instruct conferees calling for that process. After the open conference to report back a bill a week ago. Unfortunately, the other body did not respond in that fashion and did not appoint their conferees until yesterday
morning. Nonetheless, in the meantime there was a tremendous amount of bi-partisan and bicameral discussions going on about how to move the House and the Senate closer together on these pieces of legislation and we achieved that. This is why I decided to do this in the short period of time after the Senate appointed conferees the opportunity for an open conference. Members were given the opportunity to offer amendments, there was clearly a tremendous amount of consensus on both sides of the Capitol and in both parties on the need to move forward with this and we had a very expeditious conference.

Nonetheless, I think we kept the commitment made by the House on the motion of the ranking member, the gentleman from Texas, to have an open conference and to move as expeditiously as the process allowed us to do. This bill is going to allow us to take major steps to let the Forest Service do the things that are necessary to protect our national forests. This will also allow us to make absolutely certain that we have a process that is open and fair to everybody who is concerned about our national forests from any perspective. We are accelerating the process, and when I say that what needs to be done to protect our forests take place, they can take place promptly, but we are not excluding the public in any way from this process. They will have the opportunity from start to finish, to come up, make your case, you made it or you did not. We have got to come up with those plans that we did not use to protect our forests take place, they can take place promptly, but we are not excluding the public in any way from this process. They will have the opportunity from start to finish, to come up, make your case, you made it or you did not. We have got to come up with those plans that we did not use to protect our forests.

Mr. Speaker, I urge my colleagues to support this rule and the underlying bill. Mr. HASTINGS of Florida, Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California (Mr. GEORGE MILLER), my good friend. Mr. GEORGE MILLER of California. Mr. Speaker, I, too, want to join in this in the spirit of bi-partisan cooperation and cooperation in this legislation. As the gentleman from Oregon (Mr. DEFAZIO) noted, we started some 2 years ago with the gentleman from Colorado (Mr. McINNIS) and others talking about what would be possible. The gentleman from Oregon (Mr. WALDEN) and we came up with what we thought was possible, we did not make it, went back this year and we have had a process. And we passed a bill out of the House, a bill that I did not agree with in its entirety by any means, but then the Senate was also able to pass legislation. And as a result of those negotiations, which I wish had been a little bit more difficult, the matter is as a result of those negotiations, we now have this, we will have this bill before us later today. And I want to thank the Committee on Rules for providing us this opportunity.

Mr. Speaker, I yield to my colleague from Oregon (Mr. DEFAZIO) as well for their yeoman's effort on this legislation. He pointed out, the important part of this bill, what Senator FEINSTEIN was able to do was get an authorized amount of money in here, because if we just do it on goods for services, we will either have to cut down all the trees to save them in order to get enough money to carry out the project, or we will not be able to treat those areas, as we saw in southern California, of negligible timber value but high risk to the communities.

And so we need to have an appropriation to follow this authorization so we can treat those areas of high intensity, of great potential of catastrophic fires, that potential to engulf communities. We have got to go there with some federal money and some goods for services. And I think that is a balance that makes sense.

I spend several weeks a year back-packing in the high country and the forests and parks of this country. You do not have to walk very long in the forest to see the need for treatment. If you love the big old trees, as the gentleman from Oregon (Mr. DEFAZIO) again pointed out, you have got to understand that we had to ladder up to build up in these forests. And the big ponderosas, the big sugar pines are at risk because of the understory, the undergrowth that is there that will take the flames right into the crowns. And, of course, one in five or six years, with any wind they move so fast that we cannot deal with them.

So, Mr. Speaker, I would like to say that I think this is a product that the House should vote for. Members on both sides of this aisle support this. It is very, very important to so many of our communities and very important to the stewardship of our natural resources.

Mr. HASTINGS of Washington, Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. WALDEN), an individual that has had a great deal of impact on this legislation.

Mr. WALDEN of Oregon. Mr. Speaker, I want to thank my colleague from Washington, with whom I have worked closely on this and other legislation to improve the great Northwest and certainly improve and protect America's forests. I want to thank the chairman of the Committee on Agriculture, the gentleman from Virginia (Mr. GOODLATTE), and the gentleman from California (Mr. POBRO), the chairman of the Committee on Resources, and certainly my friend and colleague, the gentleman from Colorado (Mr. MCINNIS), for their yeoman's effort on this legislation; my friend, the gentleman from California (Mr. GEORGE MILLER), and the gentleman from Oregon (Mr. DEFAZIO) as well for their work; and certainly the President of the United States, who on not one, but two occasions has driven home the point that the Northwest to drive home the point that we had to pass legislation that embodies the principles contained in H.R. 1015—
policy that will be out there is one of let it burn, because that is what is happening today in America's forests. Because we have taken natural fire out of the equation and taken human management out of the equation, these forests have completely over-stocked. So it is like any other fire, it is about the fuel load. And the fuel load is such that when fire starts today, unlike 100 years ago, when it starts today, it burns catastrophically.

We witnessed the Biscuit Fire in southern Oregon a year ago. We witnessed it in the B&B fire this summer in my district. We witnessed it in California. We can see it all across America's great forests and rangelands that when there is too much fuel, the fire is nearly uncontrollable and certainly catastrophic.

Let us talk about the human consequences, because we saw it especially this year in California, but we have seen it before. Last year 23 firefighters lost their lives, and the American taxpayer spent $1.5 billion containing this year in California, but we have lost their lives, and the American taxpayer spent $1.5 billion containing these fires.

This shows you a scene that, unfortunately, is one that has been seen far too often: a home that has been destroyed by a fire. This photo shows you what happens to fish habitat. This was in my district in eastern Oregon, a fire that took place in 1999. This is a stream that used to be part of the spring Chinook salmon habitat. You can see it is nothing but a mudflow here. There is no buffer. These are all dead trees. It looks like a moonscape or a Mars-scape. This was in the Wallowa Whitman National Forest. This is what you get when you cannot control forest fires.

This, on the other hand, is an example of how a fire that has been treated was a talking about treating forests. This is an area where President Bush accompanied me and Senator SMOOT, Senator Wyden, up to the Squires Peak fire in 2002. And you can see where the land had been treated, there are good healthy trees left behind. There is a fire burning here, but it has fallen to the ground, because that is what happens when you treat in these areas. The fire drops to the ground, and our firefighters are able to control and contain it. The damage is not that significant. In fact, it can be very positive in terms of when a fire burns over unmanaged, untreated.

But just on the other side of this hill where the same people who fought the fire have been doing the thinning work, it was completely obvious because they had not thinned there yet. Where they had not thinned, the fire had burned in the canopy, it had been at the top. It had been catastrophic and extraordinarily destructive.

Finally, let me make this point. By streamlining this process we are going to be able to manage these forests and do this kind of work sooner, so we do not end up with that kind of devastation I showed you earlier. But we also, as a policy, as a Congress, need to take a look at what happens after a catastrophic fire. How can we get in and restore America's great conifer forests instead of letting them become brush? How do we get in and protect the habitat that remains after a fire and improve it so our fish runs can come back? That is a debate we will have to have in the future.

Today, though, I am delighted that we are at this point with a comprehensive, bipartisan, bicameral plan that will move us an enormous generation forward to protect and preserve America's forests. It is a final product, not a compromise. And it is not catastrophic.

Mr. HASTINGS of Florida. Mr. Speaker, I would like to thank the gentleman from Oregon (Mr. WALDEN) and the gentleman from Virginia (Mr. GOODLATTE) and the ranking members. I know that they have done a serious and yeoeperson's job in bringing us this far, which, while I thank them, I still have reservations, and I know the gentleman from Oregon (Mr. WALDEN) and the gentleman from Colorado (Mr. MCINNIS) and I have talked about. But that does not mean that they did not work hard.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE), my good friend.

Mr. INSLEE. Mr. Speaker, unfortunately, actually the way this package was developed was a continuation of the sad deterioration of an effort to actually reach consensus in this body. And the reason I say that is the way this package was put together is some folks went into a closed room and worked sooner so we do not end up with that kind of devastation I showed you earlier. But we also, as a policy, as a Congress, need to take a look at what happens after a catastrophic fire.

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And that is what happened here, and it had not thinned, the fire had been at the top. It had been catastrophic and extraordinarily destructive.

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Mr. HASTINGS of Florida. Mr. Speaker, I would like to thank the gentleman from Oregon (Mr. WALDEN) and the gentleman from Virginia (Mr. GOODLATTE) and the ranking members. I know that they have done a serious and yeoeperson's job in bringing us this far, which, while I thank them, I still have reservations, and I know the gentleman from Oregon (Mr. WALDEN) and the gentleman from Colorado (Mr. MCINNIS) and I have talked about. But that does not mean that they did not work hard.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE), my good friend.

Mr. INSLEE. Mr. Speaker, unfortunately, actually the way this final package was developed was a continuation of the sad deterioration of an effort to actually reach consensus in this body. And the reason I say that is the way this package was put together is some folks went into a closed room and worked sooner so we do not end up with that kind of devastation I showed you earlier. But we also, as a policy, as a Congress, need to take a look at what happens after a catastrophic fire. How can we get in and restore America's great conifer forests instead of letting them become brush? How do we get in and protect the habitat that remains after a fire and improve it so our fish runs can come back? That is a debate we will have to have in the future.

Today, though, I am delighted that we are at this point with a comprehensive, bipartisan, bicameral plan that will move us an enormous generation forward to protect and preserve America's forests. It is a final product, not a compromise. And it is not catastrophic.
comes to speaking about environmental issues. While the gentleman from Washington (Mr. INSLEE), for example, is very tough on environmental issues, the fact is I can negotiate with the gentleman from California (Mr. GEORGE MILLER), or I can negotiate with the gentleman from Oregon (Mr. DEFAZIO), and that is exactly why the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from Oregon (Mr. WALDEN) and the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from California (Mr. POMBO), that is exactly why that group of people came together to work out a compromise with the Senate to come up with a bill that is good for all of us.

So what we are seeing today is not opposition to the content of the bill by the gentleman from Washington (Mr. INSLEE). What we are seeing with all due respect to the gentleman from Washington (Mr. INSLEE) is your friend Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. I thank again my good friend from Washington (Mr. HASTINGS) for having yielded me time.

As the gentleman previously mentioned, this is a typical rule for a conference report and I will not oppose it. I will, however, oppose the underlying conference report, not because my good friend said it would not have to production. I needed to have a meeting that would come out with a product that could pass both the Senate and the House and accomplish something out there with our forests, and that is exactly what this bill does. That is exactly why we should pass this rule and that is exactly why I expect this bill in both the Senate and the House, the Senate and the House, to pass with bipartisan; that is, Republican and Democratic, support.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. I thank again my good friend from Washington (Mr. HASTINGS) for having yielded me time.

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Mr. Speaker, at a time when more than half of the United States is experiencing some form of drought and dryness, it is critical for Congress to consider legislation that is proactive in defending and responding to the adverse effects of wildfires. And I spoke last night with the gentleman from Oregon (Mr. WALDEN) and the gentleman from Virginia (Mr. GOODLATTE) and my friends in the Committee on Rules about the fact that drought is an attendant feature that must deal with our concerns about forest fires. It is equally critical for Congress to consider legislation that helps combat and mitigate the effects of the recurring events that often result in an excessive and prolonged fire season. In fact, my colleague on the other side of the aisle, the gentleman from Montana (Mr. RUBENZER) and I have introduced a bill that does just that. H.R. 2781, the National Drought Preparedness Act, moves our country away from an ad hoc response-oriented approach and towards a more proactive mitigation-based approach. Our bill, preparedness states and local communities with the resources and tools to develop drought preparedness plans and think about the ramifications of drought before we find ourselves in one. We are now faced with a vote clearly indicative of the concerns raised by President Roosevelt nearly one century ago. Whether we answer the challenge made by the late President or allow his legacy to fail victim to an influential timber lobby is a decision that Members will live with today. I realize we do not oppose removing excess vegetation that increases the risk and facilitates the spread of wildfires. I certainly do not take issue with the report’s efforts to address insect manifestations in forests. It is, in fact, crucial that Congress address these two issues.

What I do take issue with, however, is why the wildfires just stop there. Instead, it uses the report to further its agenda under the blanket of healthy forests. Cutting down national forests and limiting public participation and administrative reviews does not get us any closer to stopping the spread of wildfires, and it certainly does not make our forests any healthier.

Teddy Roosevelt once noted, “Forests are the lungs of our land, purifying the air and giving fresh strength to our people.” He continued, “A nation that destroys its soils destroys itself.”

Mr. Speaker, we must not allow the late President Roosevelt’s warning to be realized by the 108th Congress. I urge my colleagues to support the rule and oppose the underlying report.

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

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

Mr. Speaker, the bill that this rule allows to be taken up is a very significant piece of legislation, and I just want to make one point that I do not think has been made in the debate on this rule regarding this underlying legislation, and that is that this legislation is geared towards what we call multiple use areas within our national system, our national forests and our BLM lands. Multiple use by definition means it should be open for recreation, commercial activity, and so forth. But, unfortunately, with policies that have been enacted de facto in the past 10 or 15 years, in fact, we have closed up these multiple use areas.

This legislation addresses these problems that have built up for a time and in a result has built up to unhealthy forests and unhealthy BLM lands. So it is a significant first start, an extremely significant first start.

With that, Mr. Speaker, I urge my colleagues to support the rule and support the underlying legislation.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken later today.
HIGHLANDS CONSERVATION ACT

Mr. CALVERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1964) to establish the Highlands Stewardship Area in the States of Connecticut, New Jersey, New York, and Pennsylvania, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1964

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

SECTION 1. TITLE.

This Act may be cited as the “Highlands Conservation Act”.

SECTION 2. FINDINGS.

Congress finds the following—

(1) The Highlands region is a physiographic province that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(2) The Highlands region is an environmentally unique area that—

(A) provides clean drinking water to over 15,000,000 people in metropolitan areas in the States of New Jersey and Pennsylvania;

(B) provides critical wildlife habitat, including habitat for 247 threatened and endangered species;

(C) maintains an historic connection to early Native American culture, colonial settlement, the American Revolution, and the Civil War;

(D) contains recreational resources for 14 million visitors annually;

(E) provides other significant ecological, natural, tourism, recreational, educational, and economic benefits; and

(F) provides homeownership opportunities and access to affordable housing that is safe, clean, and healthy.

(3) An estimated 1 in 12 citizens of the United States live within a 2-hour drive of the Highlands region.

(4) More than 1,400,000 residents live in the Highlands region.

(5) The Highlands region forms a greenbelt adjacent to the Philadelphia-New York City-Hartford urban corridor that offers the opportunity to preserve water, forest and agricultural resources, wildlife habitat, recreational areas, and historic sites, while encouraging sustainable economic growth and development in a physically and environmentally sound manner.

(6) Continued population growth and land use patterns in the Highlands region—

(A) reduce the availability and quality of water;

(B) reduce air quality;

(C) fragment the forests;

(D) destroy critical migration corridors and forest habitat; and

(E) result in the loss of recreational opportunities and scenic, historic, and cultural resources.

(7) The water, forest, wildlife, recreational, agricultural, and cultural resources of the Highlands region, in combination with the proximity of the Highlands region to the largest metropolitan areas in the United States, make the Highlands region nationally significant.

(8) The national significance of the Highlands region has been documented in—

(A) the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990;

(B) the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service;

(C) the bi-State Skylands Greenway Task Force Report; and

(D) the New Jersey State Development and Re-Development Plan;

(E) the New York State Open Space Conservation Plan;

(F) the Connecticut Green Plan: Open Space Acquisition FY 2001-2006;

(G) the open space plans of the State of Pennsylvania; and

(H) other open space conservation plans for States in the Highlands region.

(9) The Highlands region includes or is adjacent to numerous parcels of land owned by the Federal Government or federally designated areas that prohibit, conserve, or restore resources of the Highlands region, including—

(A) the Walkill River National Wildlife Refuge;

(B) the Shawanagunk Grasslands National Wildlife Refuge;

(C) the Morristown National Historical Park;

(D) the Delaware and Lehigh Canal Corridor;

(E) the Hudson River Valley National Heritage Area;

(F) the Delaware River Basin;

(G) the Delaware Water Gap National Recreation Area;

(H) the Upper Delaware Scenic and Recreational River;

(I) the Appalachian National Scenic Trail;

(J) the United States Military Academy at West Point, New York;

(K) the Highlands National Millenium Trail;

(L) the Great Swamp National Wildlife Refuge;

(M) the proposed Crossroads of the Revolution National Heritage Area;

(N) the proposed Musconetcong National Scenic and Recreational River in New Jersey; and

(O) the Farmington River Wild and Scenic Area in Connecticut.

(10) It is in the interest of the United States to protect, conserve, and restore the resources of the Highlands region for the residents of, and visitors to, the Highlands region.

(11) The States of Connecticut, New Jersey, New York, and Pennsylvania, and units of local government in the Highlands region have the primary responsibility for protecting, conserving, preserving, restoring, and promoting the resources of the Highlands region.

(12) Because of the longstanding Federal practice of assisting States in creating, protecting, conserving, and restoring areas of significant natural and cultural importance, and the national significance of the Highlands region, the Federal Government should, in partnership with the States and units of local government in the Highlands region, protect, restore, and enhance the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands region.

SECTION 3. PURPOSES.

The purposes of this Act are as follows:

(1) To recognize the importance of the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands, and the national significance of the Highlands region to the United States.

(2) To authorize the Secretary of the Interior to work in partnership with the Secretary of Agriculture of the Interior, the United States may seek specific performance of the conditions of financial assistance in accordance with paragraph (3) in Federal court and shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(A) the total amount of the financial assistance provided for the project; or

(B) the amount by which the financial assistance increased the value of the land or interest in land; and

(3) To continue the ongoing Forest Service programs in the Highlands region to assist the Highlands States, local units of government and private forest and farm landowners in the conservation of lands and natural resources in the Highlands region.

SECTION 4. DEFINITIONS.

In this Act:

(HIGHLANDS REGION.—The term “Highlands region” means the physiographic province, defined by the Reading Prong and ecologically similar adjacent upland areas, that encompasses more than 2,000,000 acres extending from northeastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

A) Important Areas portion of the Forest Service study.
established under this Act.

technical assistance or any other programs es-

sponsible. The Federal share of the cost of carrying out a land conservation partnership project under this section shall not exceed 50 percent of the total cost of the land conservation partnership project.

The Chair recognizes the gentleman from California (Mr. CALVERT).

GENERAL LEAVE

Mr. CALVERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1964.

The SPEAKER pro tempore. The SPEAKER pro tempore, pursuant to the rule, the gentleman from California (Mr. CALVERT) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. CALVERT).

SEC. 6. FOREST SERVICE AND USDA PROGRAMS IN THE HIGHLANDS REGION.

(a) In General.—In order to meet the land re-

ource goals of, and the scientific and conserva-

tion challenges identified in, the study, update, and any future study that the Forest Service may undertake on the Highlands region, the Sec- 

retary of Agriculture, acting through the Chief of the Forest Service and in consultation with the Chief of the National Resources Conserva-

tion Service, shall assist the Highland States, local units of government, and private forest and farm landowners in the con-

servation of lands and natural resources in the Highlands region.

(b) Duties.—The Forest Service shall—

(1) consult with the Highland States, 

undertake other studies and research as

appropriate in the Highlands region consistent with the purposes of this Act;

(2) communicate the findings of the study and 

update and maintain a public dialogue regarding 

implementation of the study and update;

and

(3) assist the Highland States, local units of 

government, individual landowners, and private 
organizations in identifying and using Forest 
Service and other technical and financial assist-

ance programs of the Department of Agri-

culture.

(c) Authorization of Appropriations.—

There is authorized to be appropriated to the Secretary of Agriculture to carry out this section $1,000,000 for each of the fiscal years 2005 through 2014.

SEC. 7. PRIVATE PROPERTY PROTECTION AND LACK OF REGULATORY EFFECT.

(a) Access to Private Property.—Nothing in this Act shall be construed to—

(1) require any private property owner to per-

mit public access (including Federal, State, or 

local government access) to such private prop-

erty; and

(2) modify any provision of Federal, State, or local law with regard to public access to use of private lands.

(b) Liability.—Nothing in this Act shall be con-

structed to create any liability, or to have any 
effect on any liability under any other law, of 

any person with respect to any persons injured on such private property.

(c) Recognition of Authority to Control Land Use.—Nothing in this Act shall be con-

structed to modify any authority of Federal, State, or local governments to regulate land use.

(d) Participation of Private Property Owners.—Nothing in this Act shall be con-

structed to require the owner of any private prop-

erty located in the Highlands region to partici-

pate in the land conservation, financial, or technical assistance of any other programs es-

established under this Act.

(e) Purchase of Lands or Interests in Lands From Willing Sellers Only.—Funds 

appropriated under this Act shall be used to 
purchase lands or interests in lands only from 

willing sellers.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. CALVERT) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. CALVERT).

Mr. CALVERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1964.

The SPEAKER pro tempore. The SPEAKER pro tempore, pursuant to the rule, the gentleman from California (Mr. CALVERT) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. CALVERT).

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

Mr. Speaker, H.R. 1964, introduced by my good friend, the gentleman from New Jersey (Mr. FRELINGHUYSEN) and amended by the Committee on Resources, would authorize the Secretary of the Interior and the Secretary of Agriculture to provide financial assist-

ance to States to preserve and protect high priority conservation lands in the Highlands region. This geographic re-

gion comprises over 2 million acres of land stretching from western Con-

necticut across the Lower Hudson River Valley and northern New Jersey into northeastern Pennsylvania.

Mr. Speaker, not only has the U.S. Forest Service documented the na-

tional significance of the Highlands area in two extensive studies in 1990 and 2002, but the President in his 2004 budget recognized the New York-New Jersey Highlands forest area as one of nine priority forests areas in the coun-

try that are threatened.

H.R. 1964, as amended, is supported by the administration and the majority and minority of the committee. I urge adoption of this bill.

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

Mrs. CHRISTENSEN. Mr. Speaker, I ask and given permission to revise and extend her remarks.)

Mr. Speaker, we fully support the goals of H.R. 1964. The purpose of this legislation is to facilitate conservation and preservation, ideals we fight for in this Congress and across the nation.

However, we must point out that the scope of H.R. 1964 is truly stunning. This legislation will create a new Federal conservation program covering 2 million acres and 1.4 million people in 4 States. The boundaries of this newly created area are only generally defined in the bill, and there are no references to a map to allow property owners to know if their property is included or not.

Further, the goals of this new conservation program are sweeping. The bill states that the Federal Government should work with States, units of local government and private property owners to “protect, restore and preserve the water, forest, agricultural, wildlife, recreational and cultural resources” contained in this new Federal area. It is difficult to imagine a broader conservation mandate.

Given the ongoing and severe under-

funding of the land and water conserva-

tion funds, we continue to have con-

cerns regarding the impact of this new $100 million effort may have on other worthy conservation programs funded with LWCF dollars. However, we will support H.R. 1964 at this time.

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

Mr. CALVERT. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the ranking member for her assistance and recog-

nize the gentleman from New York (Mr. ENGEL), who is going to speak later, as well as the gentlewoman New York (Mrs. KELLY) and the gentleman from Pennsylvania (Mr. GERLACH) and other Members of Congress that are sponsoring this bill.

Mr. Speaker, the Highlands is one of the last open treasures in the most densely populated area of the United States. In New Jersey alone, my home State, it includes more than a million acres of forests, farms, streams, wet-

lands, lakes, reservoirs and historic sites. We need to preserve these assets.

The Highlands Conservation Act rep-

resents a major commitment to protect the region. While respecting property rights, this bill complements ongoing State, private and local partners-

ships that are actively working to protect open space. Our bill does not ask the Federal Government to become the landowner or steward to these lands; rather, the people of New Jersey, New York, Connecticut and Pennsylvania would retain ownership and responsibility for caretaking of these lands. Indeed, the government will not be taking any land. Participants would all be willing sellers.

Mr. Speaker, the President recog-

nized the national significance of the Highlands in his 2004 budget message in January and designated the Highlands as one of nine national priorities areas threatened by development.

These lands, as the gentleman from California (Mr. CALVERT) has said, have been identified by the U.S. Forest Service in virtually all other Federal, State and local entities as critical lands in need of preservation.
This bill represents an opportunity for the Federal Government to work with the State government and local groups to preserve the Highlands. It is a unique opportunity, an historic opportunity, and it is a symbolic opportunity that the Federal Government to work with so many partners.

This legislation also represents a landmark commitment of the Federal Government to the Highlands. It is a genuine partnership. It is important to preserving open space. I am proud to support the legislation to have so many partners in that regard.

Mrs. CHRISTENSEN. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. Engel).

Mr. Engel. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I rise in strong support of H.R. 1964, the Highland Stewardship Act. I am proud to be an original cosponsor of this bill. I pledged that I would do everything in my power to pass this bill, and I have pledged that this bill is on the floor today.

I want to start by thanking the Committee on Resources chairman, the gentleman from California (Mr. Pombo), the gentleman from West Virginia (Mr. Rahall), the subcommittee ranking member, and the gentleman from California (Mr. Radanovich), the subcommittee chairman, and the gentleman from the Virgin Islands (Mrs. Christensen), the subcommittee ranking member, for their assistance and support.

More importantly, I want to commend the sponsor of this legislation the gentleman from New Jersey (Mr. Frelighuysen). It is because of his vigorous and stalwart support of this bill and his active participation in moving it forward that we are here today. It has been a pleasure to work with him, and this is a very, very important bill not only for his district and my district, but for many, many districts and many, many States in the Northeast.

I represent Rockland County. We have a pristine area there which is very, very important, and we need to protect this area. We very often talk about suburban sprawl and development, which is unwanted and which would mar this pristine land. This bill gives us the opportunity to balance that. That is what is so important.

The Highlands in my district encompass a total area of 15.1 million acres from the lower Hudson River Valley in New York to the Delaware River in New Jersey. Within this area are some spectacular things to see and do, and, of course, many people, 14 million people, live within the Highlands area.

The Highlands adjoins a metropolitan area, the New York metropolitan area, with a population of more than 20 million people. More than 11 million people rely on the Highlands’ drinking water which serves at least half of New York City’s water needs. More than 14 million people visit the Highlands each year for recreational opportunities. Over 240 species of birds, mammals, amphibians and reptiles depend on Highlands habitat, and more than 160 historical and cultural sites have been identified in the region.

Where once apple farms and bun-galows dotted the landscape, we now have homes built with County and local land use planning.

I have to give all due credit to my colleagues critical wildlife. This bill represents an opportunity for the American people.

Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. Saxton) and the gentleman from New Jersey (Mr. Frelighuysen) did on this is a very, very positive step for the future. I know that they are going to do great things with this. I know that this land is extremely important to them. So I look forward to working with them in future and making sure that these lands are protected, at the same time that small property owners are protected.

I thank them for all of the great work that they did, and I urge my colleagues to support this legislation.

Mrs. Christensen. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. Pascrell), my good friend and classmate.

Mr. Pascrell. Mr. Speaker, I rise in very strong support of H.R. 1964, the Highlands Conservation Act.

I want to congratulate the chairmen and ranking members for getting this to the floor, but I want to pay particular attention, and I know he does not like this but I will do it anyway, to the gentleman from New Jersey (Mr. Frelighuysen). This has been a continuation, Mr. Speaker, of his work in the New Jersey State Legislature, not to balance anything, but to secure and preserve lands not only in New Jersey, but to set a model for this Nation and the United States, and I think he has done that, and he has done it in a most professional way.

I am proud to work with my colleagues across the aisle for years to preserve and protect this magnificent sweep of the Appalachian ridges, stretching for 15.1 million acres across New Jersey and New York.

The Highlands are an essential source of drinking water, we have heard that already, clean air, and wildlife habitat, and recreational opportunities for nearly 25 million people located right in the backyard of our Nation’s most densely populated region. The irony is staring us right in the face.

The Highlands region has been in grave danger throughout the last decade. The region lost 5,200 acres a year to intensive development of strip malls and office campuses. Development also threatens the water supply for millions of residents in New Jersey and endan-gers critical wildlife.

I will tell my colleagues, on any legislation like this in the future that we choose to move through the Committee on Resources, we will use this bill as a template, as a way to get things done in a bipartisan way in trying to move forward on the basis of a Federal partnership in protecting lands that are environmentally sensitive and that are important, but at the same time protecting the property rights of those individual owners, which is something that is extremely important to me.

So I just want to come down here and tell my colleagues I strongly support this legislation. I think that the work that the gentleman from New Jersey (Mr. SAXTON) and the gentleman from New Jersey (Mr. FRELINGHUYSEN) did on this a very, very positive step for the future. I know that they are going to do great things with this. I know that this land is extremely important to them. So I look forward to working with them in future and making sure that these lands are protected, at the same time that small property owners are protected.

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The Highlands region has been in grave danger throughout the last decade. The region lost 5,200 acres a year to intensive development of strip malls and office campuses. Development also threatens the water supply for millions of residents in New Jersey and endan-gers critical wildlife.
In land right next to my district, millions of residents enjoy the drinking water and the recreational resources of the Ramapo Mountains, the Wyanokie Highlands and the Pequannock Watershed. This bill will provide dollars in land preservation assistance to protect this core of wilderness in our region.

The Highlands Conservation Act should be a model for future land preservation efforts. We have debated land preservation on this very floor, and yes, we need to have a sensible approach to it and respect, as the gentleman from California pointed out, property rights.

This legislation encourages a strong partnership between the Federal, State and local communities, and the gentleman from New Jersey, my colleague in the State legislature, this has been the center of his work on preservation, and it is fitting it is fitting on this floor that we salute his efforts, particularly at a time when things can get downright contentious here.

The bipartisan efforts we have made to create innovative legislation that preserves critical land while respecting the rights of property owners should set a standard for this House. Advocates for this bill worked tirelessly with environmentalists and private industry to create a worthy compromise that does a service to the legislative process.

So preservation of the Highlands will benefit all Americans. Indeed, the Highlands is not just a New Jersey resource. As in any other parts in this country, it is a national treasure.

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

Again, I want to point out that this bill eliminated the Office of Highlands Stewardship and the accompanied regulatory process. It reduced the authorization level from $25 million annually to $3 million annually over 10 years. It focused conservation efforts only on those resources most important. This bill clarified that the bill would not establish a wholly new programmatic category of land use, and, finally, it assured landowners in the Highlands region that private property rights will be protected by including safeguards for those landowners potentially at risk.

Mr. Speaker, this is a good piece of legislation. It has been developed over a long period of time.

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

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

As stated, we did have some concerns about the expense of the bill and the funding for it, given the limitations of the land and water conservation fund, but we are supportive of the bill.

Mr. DOLD. Mr. Speaker, I rise today in support of the Highlands Conservation Act.

To anyone in this Congress who questions the value of efforts to preserve open space, I invite them to come to New Jersey. My constituents, like most people around the state, have seen the ills of sprawl and the consequences of poor planning and meager preservation efforts.

Despite the fact that many see rampant commercial and industrial development in New Jersey, however, there are still some wonderful tracts of land in areas of our state. One in particular is part of this tract we are trying to save through today’s legislation, the Highlands Region. These are important not just for aesthetically pleasing vistas, but especially for the health of our environment, our water and life-saving for our people.

The Highlands is an incredible 2 million acre swath across four states—New Jersey, New York, Connecticut, and Pennsylvania. This tract is home to nearly one and a half million people and is still a quick drive away from New York City and other major metropolitan areas.

Even more importantly, the Highlands provides and protects the drinking water supplies for over 15 million people who live in the Philadelphia-New York-Hartford metropolitan area, which cuts right through my central New Jersey district.

That is why it is so important that the House today pass the Highlands Conservation Act. This bill authorizes federal Land and Water Conservation Fund money that will be awarded on a competitive basis by local, state and private funding. The governors of the four Highlands states will identify which lands are best eligible for conservation efforts, then apply to the federal government for funding. I know that the governor of New Jersey is ready and eager to get to work identifying these areas and preserving more green space in the state.

I also want to highlight provisions in the bill that provide technical assistance to communities and organizations involved in conservation efforts for the Highlands. So many people in the region have already done so much wonderful work to help preserve the area, and they will now get the added benefit of assistance and expertise from the federal government.

I want to recognize Mr. FRELINGHUYSEN for his leadership on this issue and his hard work to get the legislation on the floor. I also want to salute the work of former Representative Ben Gilman, who led the effort on this legislation during the last Congress.

I also want to thank Chairman POMBO, Ranking Member RAHAL, Subcommittee Chairman RADANOVICH, and Ranking Member CHRISTENSEN for helping see this legislation through the Resources committee. This bill means a lot to New Jersey, and I urge my colleagues to support it.

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

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from California (Mr. CALVERT) that the House suspend the rules and pass the bill, H.R. 135, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: “A bill to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes.”.

A motion to reconsider was laid on the table.

TWENTY-FIRST CENTURY WATER COMMISSION ACT OF 2003

Mr. CALVERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 135) to establish the “Twenty-First Century Water Commission” to study and develop recommendations for a comprehensive water strategy to address future water needs, as amended.

The Clerk read as follows:

H.R. 135

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Twenty-First Century Water Commission Act of 2003.”

SEC. 2. FINDINGS.

Congress finds that—

(1) the Nation’s water resources will be under increasing stress and pressure in the coming decades;

(2) a thorough assessment of technological and economic advances that can be employed to increase water supplies or otherwise meet water needs in every region of the country is important and long overdue; and

(3) a comprehensive strategy to increase water availability and ensure safe, adequate, reliable, and sustainable water supplies is vital to the economic and environmental future of the Nation.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the “Twenty-First Century Water Commission” (in this Act referred to as the “Commission”).

SEC. 4. DUTIES.

The duties of the Commission shall be to—

(1) use existing water assessments and conduct such additional assessments as may be necessary to project future water supply and demand;

(2) study current water management programs of Federal, Interstate, State, and local agencies, and private sector entities directed at increasing water supplies and improving the availability, reliability, and quality of freshwater resources; and

(3) consult with representatives of such agencies and entities to develop recommendations consistent with laws, treaties, decrees, and interstate compacts for a comprehensive water strategy which—

(A) respects the primary role of States in adjudicating, administering, and regulating water rights and water uses;

(B) identifies incentives intended to ensure an adequate and dependable supply of water to meet the needs of the United States for the next 50 years;

(C) suggests strategies that avoid increased mandates on State and local governments;

(D) eliminates duplication and conflict among Federal governmental programs;

(E) considers all available technologies and other methods to optimize water supply reliability, availability, and quality, while safeguarding the environment;

(F) recommends means of capturing excess water and flood water for conservation and use in the event of a drought; and

(G) suggests financing options for comprehensive water management projects and for appropriate public works projects;

(H) suggests strategies to conserve existing water supplies, including recommendations for repairing aging infrastructure; and
I rise in strong support of H.R. 135, the 21st Century Water Commission Act of 2003. H.R. 135 is designed to bring together our Nation's premier water experts to develop recommendations for a comprehensive national water strategy. The bill would establish the 21st Century Water Commission to consider ways to improve our Nation's water policies, including the Water Pollution Control Act of 1972 and the others. The Commission would constitute a quorum for the transaction of business. SEC. 4. REPORTS. (a) INTERIM REPORTS. Not later than 6 months after the date of the first meeting of the Commission, and every 6 months thereafter, the Commission shall transmit an interim report containing a detailed summary of its progress, including meetings and hearings conducted in the interim period. (b) FINAL REPORT. As soon as practicable, but not later than 3 years after the date of the first meeting of the Commission, the Commission shall transmit a final report containing a detailed statement of the findings and conclusions of the Commission, its recommendations for legislation and other policies to implement such findings and conclusions, to— (1) the President; (2) the Committee on Energy and Commerce of the House of Representatives; and (3) the Committee on Energy and Natural Resources and the Committee on the Environment and Public Works of the Senate. SEC. 5. Authorization of Appropriations. There are authorized to be appropriated $9,000,000 to carry out this Act. The SPEAKER pro tempore. Pursuant to the provisions of Public Law 106-38, the provisions of which shall constitute a quorum for the transaction of business.
among Federal Government agencies.

Madam Speaker, clean, safe and available sources of water are essential to the physical and economic well-being of this country. Commercial fishing, agriculture, real estate, manufacturing, and recreation and tourism are just a few of the economic sectors that rely on clean, effective, and available sources for productivity. Every day, the U.S. economy relies on the availability of clean water to grow, process, or deliver products and services. However, at the same time, there is an emerging concern about the availability of adequate supplies of water to meet the growing list of often competing needs.

Throughout the first three-quarters of the 20th century, demand for water in the United States dramatically increased. However, this Nation made progress in reducing the overall consumption of water resources in the past 20 years. Water withdrawals in the United States are now 10 percent below their peak. In addition, industrial water use dropped nearly 40 percent from its height as industrial water-use efficiency improved and as the mix of U.S. industries changed. At the same time, industrial productivity continues to rise, demonstrating that improvements in water-use efficiency are possible without negatively impacting economic growth.

In the past few years, considerable media attention has focused on the availability of adequate water supplies to meet current and future demands. In the last 2 years, regions of the country that have not traditionally experienced water resource concerns, including the Midwest and the Northeast, often found themselves with a greater demand for water resources than were available—and were forced, in some communities to ration water use.

While this debate has long existed in the more arid regions of the West, these experiences in the eastern half of the country have served as a wake-up call to the fact that water supply problems can occur in almost every region of the country. The question is now being asked, “What can be done to ensure adequate water to meet current and future needs?”

This legislation would create a Federal commission of experts on water policy to study this issue, and to recommend strategies and changes to current law that may be necessary to ensure the availability of adequate water resources for future generations.

Madam Speaker, it is important for this Nation to have a dialogue on what can be done to ensure that sufficient water resources are available to meet current and future needs. I do have some concerns with this legislation, and the broader topic of planning for water resource needs. We need to fully discuss what the Federal role in water resource planning should be, and how Federal financial resources are to be expended to address this growing concern.

In addition, I believe that the scope of any national water resource planning study must include all affected parties, and must look to both structural and non-structural approaches to reduce consumption and ensure adequate, safe, and reliable sources of water for generations to come.

If this Congress truly wants to enter the debate on a national water resource policy, we must make sure that the record is complete, and that all alternatives are examined to determine the appropriate means to resolve this important question.

I hope that we can continue to work together on this legislation as it continues through the legislative process.

Mr. DUNCAN. Madam Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. SHUSTER).

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

Madam Speaker, this legislation deals with an issue which I have considered a priority for some time, our water resources and the ability of the Federal Government to provide our communities with effective solutions to their problems.

Our economy depends on our Nation’s water resources. In fact, the United States economy base has grown both geographically and economically through its efficient and effective water system. We must realize that water is a precious resource, and we take steps to ensure its proper use.

This legislation establishes a 21st Century Water Commission to study and develop recommendations for a comprehensive water strategy to address future water needs. This commission would assess our current and future water supply needs and consider
all available technologies for increasing water supply efficiently while safeguarding the environment. Additionally, this commission will suggest financing options and strategies to preserve existing water supplies.

Most importantly, the commission will pursue strategies that avoid increasing mandates on State and local governments. We understand that unfunded mandates take away from local decision-making. When the first withdrawal of a municipality’s finances must go for an unfunded mandate, that community then has less discretion in paying for vital services and programs expected by its citizens. It is critical to the health of our local communities not to burden them with these types of mandates.

I would like to thank the gentleman from Tennessee (Chairman DUNCAN) and the ranking member, the gentleman from Illinois (Mr. COSTELLO), and the entire Committee on Resources for all their hard work.

I support H.R. 135 wholeheartedly and ask that my colleagues do the same.

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

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

Madam Speaker, I have the privilege of chairing the Subcommittee on Water Resources and Environment. We held a hearing on this legislation, and the then chairman, the gentleman from Alaska (Mr. YOUNG), and I and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and the ranking member of my subcommittee, the gentleman from Illinois (Mr. COSTELLO), all approved bringing this legislation to the floor at this time.

As I said a few moments ago, I rise in strong support of H.R. 135, the 21st Century Water Commission Act of 2003. I want to commend the gentleman from Georgia (Mr. LINDER) for his foresight and his hard work in bringing this legislation to this floor.

A couple of years ago, the New York Times had a series of articles in which they called water the oil of the 21st century. There is probably nothing that people take more for granted than a clean, safe, adequate water supply. This bill begins the hard work of tackling one of the most important and difficult environmental and economic issues facing our Nation, and that is ensuring we have an adequate water supply. We need water for our homes, farms, and factories. Water also supports navigation, generates power, and sustains our environment. Communities cannot grow or even exist without adequate water supplies.

As we enter the 21st century, demands for water are growing and are outstripping supplies in many areas, both in the West and the East, leading to disputes over water supply and allocation. In response, many municipalities and developers are trying to secure more water rights so they will have adequate water supplies now and in the future.

Last year's drought in the East made it clear that while water may be abundant in many areas, it is not limitless, and even our Nation's most water-rich regions can run dry. Even though the East has been wet this year, much of the West remains very, very dry. Policymakers no longer can ignore this issue. We need to start planning for the future.

H.R. 135, the 21st Century Water Commission Act of 2003, will help start addressing that problem. I believe that at our Nation's available water supply and the projected demand for water and making recommendations on how to meet that demand.

Because of the importance of water to our Nation's economy and well-being, I held a series of hearings this past spring on water scarcity problems, ways businesses and communities are responding, and how H.R. 135 can help States and communities address their water problems. The witnesses strongly supported greater planning for future water needs, involving all levels of government, and supported H.R. 135 as a means to help start that process.

H.R. 135 places a primary role that States play in addressing water supply issues, but the Federal Government can provide expertise and technical assistance. Numerous parties strongly support this legislation, including the U.S. Conference of Mayors, Urban Water Council, the American Farm Bureau Federation, the National Water Resources Association, the National Association of Homebuilders, the Association of California Water Agencies, and many others.

I urge all of my colleagues to support this very important bill and once again commend our colleague, the gentleman from Georgia (Mr. LINDER), for leading this effort.

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

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

Madam Speaker, once again I want to commend the gentleman from Georgia (Mr. LINDER) for his leadership on this bill. As the chairman of the Subcommittee on Water and Power, I have witnessed firsthand throughout this country water problems that tend to grow, not shrink, as our country faces the problem of less water and water quality issues throughout our country. One important thing that we do here, and that we should do there, is that we treat water, and we must use water that we do not have. The gentleman from Georgia (Mr. LINDER) certainly is showing vision to make sure that we have adequate water in the future.

The 21st Century Water Commission, I refer to it as the Linder Water Commission, will recommend a strategy that recognizes and respects the primary role of States and water rights laws while eliminating duplication and conflict among governmental agencies. This is an incredibly important strategy. We need dependable water supplies that are safe and secure for our future generations.

Again, I commend the gentleman from Georgia (Mr. LINDER) for his leadership.

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

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

Madam Speaker, I support this legislation strongly. I commend our colleague, the gentleman from Georgia (Mr. LINDER), who came before our committee for a hearing, and to urge the adoption of this legislation.

Mr. OBERSTAR. Madam Speaker, I rise today in support of H.R. 135, a bill to establish a commission to examine the issue of clean, safe, and reliable water supplies for this generation and for generations to come.

Madam Speaker, water may well be the most precious resource the earth provides to humankind. The existence of water set the stage for the evolution of life and is an essential ingredient of all life today.

Recognizing the importance of this vital resource, the United Nations designated 2003 as the "International Year of Freshwater." Throughout the year, the United Nations has been conducting an international meetings to raise awareness on the importance of available sources of clean and fresh water. According to the United Nations, the world roughly one person in six lives without regular access to safe drinking water, and over that number—or 2.4 billion—lack access to adequate sanitation. In addition, water-related diseases kill a child every eight seconds.

In the United States, we have avoided many of these concerns through planning and decades of investment in our water infrastructure. Nationally, a combination of Federal, State, and local funds have built 16,024 wastewater treatment facilities that provide service to 190 million people, or 73 percent of the total population.

In addition, 268 million people in the United States—or 92 percent of the total population—are currently served by public drinking water systems, which provide a safe and reliable source of drinking water for much of this Nation.

As I noted earlier, clean, safe, and reliable sources of water are critical to this Nation's health and livelihood. However, in the past few decades, a series of natural and potentially human induced events have demonstrated that our Nation remains vulnerable to shortages of water.

In my own State, shortages of snowfall and rain of over the past few years have had an adverse impact on local water supplies, agriculture, culture, and recreation and tourism, and have resulted in a lowering of water levels in Great Lakes to historic levels. One thing that is certain is that no area of this country is immune to the threat of diminished water supplies, and we must be vigilant to prepare for such occurrences.

This bill is a part of the debate on the very important issue of water resource planning in this country. The gentleman from Georgia, Mr. LINDER, has taken an important step in encouraging this debate, calling for the creation of a Federal commission to examine issues related to national water resource planning, and to report its findings on potential ways to insure against large-scale water shortages in the future.
While I believe that the legislation introduced by our colleague is a good starting point, we must be sure to fully examine all of the relevant issues for ensuring adequate supplies of clean and safe water to meet current and future needs.

For example, water resource planning should work toward increasing the efficiency of water consumption as well as increasing the supply of water. Simply increasing the supply of water can be a more costly approach to meeting future water needs, and in any case, merely postpones any potential water resource crisis.

In addition, it is important to remember that issues of water supply are closely related to water quality. Contaminated sources of freshwater serve little use to this Nation’s health or livelihood, and merely increase the overall cost of providing safe a reliable water resources to the population. In addition, human activities, whether through the pollution of waterbodies from point or non-point sources, the elimination of natural filtration abilities of wetlands, or through the destruction and elimination of aquifer recharge points, can have a significant impact on available supplies of usable water.

We cannot base our future water resource planning needs on the possibility of continually finding “new” sources of freshwater while, at the same time, continuing to destroy or contaminate existing sources. Such a practice is unsustainable and unconscionable.

I urge my colleagues to support this bill. Mr. STENHOLM. Madam Speaker, I rise today in strong support of H.R. 135, the Twenty-First Century Water Commission Act.

One thing I’ve learned since being elected twenty-five years ago, is that Congress can’t pass a bill and make it rain. This morning I look at the United States Drought Monitor again and I was reminded of a disturbing trend that several states have experienced for many years. Twenty-five state are suffering from drought conditions, and with no definite starting or ending point, droughts are extremely hard to predict.

But, as a cotton farmer from West Texas, I am always optimistic that the rains will come eventually. In the meantime, we cannot afford to leave a single stone unturned in our efforts to ensure that our citizens have a safe and adequate water supply.

Will my district be able to meet our water needs fifty years from now? We aren’t able to answer that question today, and we sure can’t wait until that time is upon us to find out.

This is why I joined my colleagues in co-sponsoring the 21st Century Water Policy Commission Act. This legislation does what so many communities in my West Texas district are already trying to do. It establishes mission to consider all aspects of water management, water supply and demand, and it recommends comprehensive policy for meeting our nation’s water needs in the 21st Century. For these reasons, I’m glad to support H.R. 135.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CALVERT) that the House suspend the rules and pass the bill, H.R. 135, as amended.

The motion was agreed to by the rules and the bill was passed as amended.

Conveyance of Decommissioned Ship to Utrok Atoll

Mr. CALVERT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2584) to provide for the conveyance to the Utrok Atoll local government of an authorized decommissioned National Oceanic and Atmospheric Administration ship, as amended.

The Clerk read as follows:

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

TITLE I—UTROK ATOLL RADIOLOGICAL MONITORING SUPPORT

SEC. 101. UTROK ATOLL RADIOLOGICAL MONITORING SUPPORT.

(a) In support of radiological monitoring, rehabilitation, and resettlement of Utrok Atoll, whose residents were affected by United States nuclear testing, the Secretary of Commerce may convey to the Utrok Atoll local government without consideration, all right, title, and interest of the United States in and to a decommissioned National Oceanic and Atmospheric Administration ship in operable condition.

(b) The Government of the United States shall be responsible or liable for any maintenance or operation of a vessel conveyed under this section after the date of the delivery of the vessel to Utrok.

TITLE II—RATIFICATION OF CERTAIN NOAA APPOINTMENTS, PROMOTIONS, AND ACTIONS

SEC. 201. RATIFICATION OF CERTAIN NOAA APPOINTMENTS, PROMOTIONS, AND ACTIONS.

All action in the line of duty by, and all Federal agency actions in relation to (including with respect to pay, benefits, and retirement) a de facto officer of the commissioned corps of the National Oceanic and Atmospheric Administration who was appointed or promoted to that office without the advice and consent of the Senate, shall be treated as if such officer was properly appointed or promoted to that office without the advice and consent of the Senate, during such time until such time as the officer was not properly appointed or promoted to that office without the advice and consent of the Senate, during such time.

The fundamental goal of this legislation is to provide these citizens with a reliable, safe means of transportation to the city of Majuro. This city is the capital of the Marshall Islands and is more than 300 miles from the Utrok Atoll.

The NOAA vessel likely affected by this measure is the McArthur. The ship is 175 feet long, has a cruising speed of 10 knots, a cruising range of over 6,000 nautical miles and a draft of 12 feet. It was commissioned as a NOAA research vessel in 1966 and decommissioned on May 20, 2003.

Under the terms of H.R. 2584, all rights, title, and interest in the ship are transferred to the Utrok Atoll government. The vessel must be in operable condition prior to the actual transfer; but in the future, all maintenance, responsibility, and liabilities are conveyed to the Utrok Atoll government.

Title II of the bill is a corrective measure for the Department of Commerce which may approve appointments and confirmations made for the NOAA Corps in the Clinton and Bush administrations. This measure has been unanimously adopted by the other body.

Title III of the bill reauthorizes two important laws dealing with international fisheries, the Fisherman’s Protective Act and the Yukon River Salmon Act. Identical language was incorporated in H.R. 2048 which unanimously passed the House of Representatives on October 20 of this year. This
The purpose of this proposed legislation is simply to authorize the Secretary of Commerce to convey a decommissioned, operable NOAA vessel to the Government of Utrokr. The vessel would be used to provide support for radiological monitoring, rehabilitation and relocation of Utrokr’s residents. It is part of the Republic of the Marshall Islands.

As you know, many of the Marshall Islands atolls were devastated by the effects of the U.S. Nuclear Testing activities during the 1940s and 1950s. The effects acknowledged by the U.S. Government and suffering unsafe radiological exposure and its residents were forced to evacuate 72 hours after the miscalculated Bravo shot. Two months later, the people of Utrokr were assured it was safe. But it was not.

I now know that this was a grave mistake because Utrokr residents have since suffered increased radiological illnesses and birth defects. Today, the people of Utrokr are seeking to rehabilitate their home island so that it is a safe place to live.

Last year a comprehensive scientific report recommended a potassium fertilizer treatment to accompany the ongoing resettlement process on Utrokr, a treatment which would support the U.S. Geological Survey recommended a potassium fertilizer treatment to accompany the ongoing resettlement process on Utrokr, a treatment which would support the U.S. Geological Survey's recommendation.

The conveyance of this former NOAA vessel will allow more convenient and less expensive transportation for these residents who have to make a 265-mile trip to the neighboring islands of Majuro where the medical facilities are located.

I commend the gentleman from American Samoa (Mr. Faleomavaega) for introducing this legislation to help the residents of this very remote atoll in the Pacific Ocean.

This legislation also contains a very important amendment to address a problem regarding serious lapses in procedure affecting past appointments and proceedings of NOAA’s Uniformed Corps of Officers.

It is important that the chain of command of the NOAA Corps not be disrupted. And while any future repeat of these procedural lapses may not be tolerated, this matter must be addressed expeditiously to prevent any operational or command dysfunction from arising.

I urge all Members to support this legislation.

Mr. Faleomavaega. Madam Speaker. I rise in support of H.R. 2584, a bill introduced to assist our friends from Utrokr as they continue efforts to resettle and rehabilitate their islands as a result of the effects of the United States nuclear testing in the Marshall Islands. I would like to express my gratitude to Chairman Richard Pombo and Ranking Member Nick Rahall of the Resources Committee for their continued support of Pacific Island issues. I would also like to thank my distinguished colleagues and co-sponsors—Representatives Vila (PR), Dan Burton (IN), John Doolittle (CA), Elton Gallegly (CA), Jeff Flake (AZ) and Congresswoman Madeleine Bordallo (Guam).
The Clerk read as follows:

H. R. 3181

Bel 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 "Predisaster Mitigation Program Reauthorization Act of 2003".

SEC. 2. PREDISASTER HAZARD MITIGATION.

Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(m)) is amended by striking "December 31, 2003" and inserting "September 30, 2006".

SEC. 3. HAZARD MITIGATION.

(a) In General.—The last sentence of section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(a)) is amended by striking "7.5%" and inserting "15%".

(b) Applicability.—The amendment made by subsection (a) shall apply with respect to a major disaster declared by the President after September 30, 2003.

SEC. 4. REPAIR ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

(a) In General.—Section 408(c)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(c)(2)) is amended—

(1) in subparagraph (B) by inserting "initial" before "assistance" the first place it appears;

(2) in subparagraph (C)—

(A) in the subparagraph heading by inserting "initial" before "assistance";

(B) by inserting "initial" before "assistance"; and

(3) by adding at the end the following:

"(D) Additional Assistance.—Subject to the limitation contained in subsection (h), the President may provide additional repair assistance under this paragraph to an individual or household that is unable to complete the repairs described in subparagraph (B) using insurance proceeds, loans, or other financial assistance, including assistance from Federal disaster relief agencies.

(b) Applicability.—The amendments made by subsection (a) shall apply with respect to a major disaster declared by the President after the date of enactment of this Act.

SEC. 5. STUDY REGARDING COST REDUCTION.

Section 209 of the Disaster Mitigation Act of 1996 (42 U.S.C. 5170m) is amended by striking the first place it appears the term " mitigation projects", and inserting " mitigation projects."

SEC. 6. HAZARD MITIGATION GRANTS.

(a) In General.—The amendment made by subsection (a) shall apply with respect to a major disaster declared by the President after September 30, 2003.

(b) Applicability.—The amendments made by subsection (a) shall apply with respect to a major disaster declared by the President after the date of enactment of this Act.

SEC. 7. STUDY REGARDING COST REDUCTION.

Section 209 of the Disaster Mitigation Act of 2000 (42 U.S.C. 5121 note; 114 Stat. 1573) is amended by striking "3 years after the date of the enactment of this Act" and inserting "September 30, 2005".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Oregon (Mr. BLUMENAUER) each will control 20 minutes.

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

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

Madam Speaker, H.R. 3181, the Predisaster Mitigation Program Reauthorization Act of 2003 reauthorizes the Predisaster Mitigation Program for an additional 3 years and allows the President to offer additional home repair assistance to additional victims; restores the percentage of Hazard Mitigation Grant Program funds to previously authorized levels; and requires the completion of a Congressional Budget Office study on the cost-effectiveness of the program.

This program, which was originally authorized as a pilot program as a part of the Disaster Mitigation Act of 2000 was intended to evaluate the effectiveness of mitigation grants in the absence of a disaster, as opposed to solely following a disaster, as is currently the practice.

In addition to reauthorizing the Predisaster Mitigation Program, this bill makes two changes to other programs within the Stafford Act. H.R. 3181 authorizes the President to give additional home repair assistance when the initial amount is insignificant, and it also restores the percentage of funding available under the HMGP. In the omnibus appropriation bill that concluded the last Congress, this percentage was modified, and there was compelling testimony before our subcommittee from the District of Columbia (Ms. NORTON), for her invaluable assistance in crafting this legislation, and also the chairman of the Committee on Transportation and Infrastructure, the gentleman from Alas- ka (Mr. YOUNG), and the distinguished ranking member, the gentleman from Minnesota (Mr. OBERSTAR), Madam Speaker, I urge immediate adoption of H.R. 3181.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in support of H.R. 3181, the Predisaster Mitigation Reauthorization Act. As the gentleman from Ohio (Mr. LATOURETTE) pointed out, the purpose is to reauthorize predisaster mitigation which provides assistance on a competitive basis to States and localities to undertake hazard mitigation projects. It is absolutely incontrovertible that if we take steps early in the process, we will protect lives, we will protect property. There is an added benefit in keeping disaster costs down and insurance rates.

One way or another, we all pay for natural disaster events through federal disaster relief and insurance premiums. Nationwide, annual homeowner insurance premiums have increased 42.2 percent since 1995. In the last 25 years, there have been almost 1,000 presidential declarations, and the GAO has estimated that after re- lief has increased fivefold in the course of the last decade. From 1998 to 2001, this is almost $40 billion.

Not only will this legislation help homeowners be whole again, but it will save taxpayers billions of dollars in disaster assistance.

One of the concerns I and a number of Members had when we had the Federal Emergency Management Agency with its long history of helping our Nation deal with natural disasters moved into the Department of Homeland Security was the concern that the focus on the day-to-day disaster preparedness and emergency response, I would be lost in that large bureaucracy. I am hopeful that in the course of our homeland security transition, that we do not allow the focus of that agency to become blurred. Maintaining the Hazard Mitigation Grant Program is an essential part of maintaining that focus.

By funding mitigation projects after disasters at the time when communities are most closely focused on the benefits of mitigation and protecting families from future loss, we are able to invent resources and make a difference.

Sadly, there are already stories in the newspapers in southern California after, the disastrous fires and the testimony to inadequate planning and enforcement even of local regulations, the people are talking about moving back into harm's way.

The Predisaster Mitigation Program Reauthorization Act we bring to the floor today provides the balance between the predisaster program and reaffirming our support for postdisaster mitigation.

The pilot project, as has been referenced would provide for the distribution of grants to carry out disaster mitigation programs, was created to promote appropriate mitigation efforts without having to wait for a disaster to trigger the availability of funds in the future.

Even though authorized to start in 1999, it only began this calendar year, and the competitive grants have yet to be awarded or awarded. Although we want to evaluate the effectiveness of the program, and the CBO cannot yet compete its mandate due to the lack of substantive information, it is appropriate for us to reauthorize for 3 years to make sure we get the evidence.

We ought to be very clear that we want to have the facts and figures to support being able to do more in the future. I deeply appreciate the work of our chairman, the gentleman from Alaska (Mr. YOUNG), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and the work of the chairman of the subcommittee, the
Mr. BURNS. Madam Speaker, I rise today to support passage of H.R. 3181, the Predisaster Mitigation Program Reauthorization Act of 2003. This comprehensive bill, developed on a bipartisan basis, funds the predisaster mitigation program for an additional 3 years, makes two important changes to the Stafford Act, and requires a Congressional Budget Office study of the program’s effectiveness.

This program, which was originally included in the Disaster Mitigation Act of 2000, takes the next step in protecting our communities from the devastating effects of disasters. By encouraging communities to engage in cost-effective disaster mitigation projects before disasters strike, we can dramatically reduce the response and recovery cost of these disasters.

Unlike terrorism, natural disasters can and will strike every State and territory in the United States. From the ice storms that suffered in my home State of Georgia to hurricanes that have even impacted Washington, D.C., every State and locality can prepare itself to reduce its risk from disasters.

Whether it be seismic retrofits of buildings, safe rooms in schools, improved levees, or awareness programs, the actions that we take today will determine how we fare in a disaster. This program makes necessary funds available for such projects.

H.R. 3181 also makes two very important changes to the Stafford Act. These changes have been requested by professional organizations and have strong bipartisan support. H.R. 3181 restores to previously authorized levels the percentage of HMGP funds available following disasters and authorizes additional home repair assistance for individuals when the initial amount of $5,000 is insufficient. Each of these changes will make recovering from a disaster and preparing for disasters easier and more affordable.

Finally, this bill requires a CBO study of the effectiveness of this program, a study which will guide future considerations for our efforts in the United States to ensure disaster relief.

I urge the adoption of H.R. 3181.

Mr. BLUMENAUER. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.
The SPEAKER pro tempore (Mrs. Biggert). The question is on the motion offered by the gentleman from Ohio (Mr. LaTourette) that the House suspend the rules and pass the bill, H.R. 3181.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE
Mr. LaTourette. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3181.

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

There was no objection.

UNITED STATES FIRE ADMINISTRATION REAUTHORIZATION ACT of 2003

Mr. BOEHLEHT—Madam Speaker, I move to report the bill to the Senate (S. 1152) to reauthorize the United States Fire Administration, and for other purposes.

The Clerk reads as follows:

S. 1152

A bill to authorize the reestablishment of the United States Fire Administration, and for other purposes. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, 

TITLE I—UNITED STATES FIRE ADMINISTRATION REAUTHORIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the “United States Fire Administration Reauthorization Act of 2003.”

SEC. 102. RE-ESTABLISHMENT OF POSITION OF UNITED STATES FIRE ADMINISTRATOR.

Section 1513 of the Homeland Security Act of 2002 (6 U.S.C. 553) does not apply to the position or office of Administrator of the United States Fire Administration, who shall continue to be appointed and compensated as provided by section 5(b) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2204(b)).

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

(a) The Administrator shall, to the greatest extent practicable, (1) by redesignating subsection (e) as subsection (g); and (2) by inserting after subsection (d) the following:

“(e) ASSISTANCE TO OTHER FEDERAL AGENCIES.—At the request of other Federal agencies, including the Department of Agriculture and the Department of the Interior, the Administrator may provide assistance in fire prevention and control technologies, including methods of containing insect-infested forest fires and limiting dispersal of resultant fire particle smoke, and methods of measuring and tracking the dispersal of fire particle smoke resulting from fires of insect-infested fuel.

“(f) TECHNOLOGY EVALUATION AND STANDARDS DEVELOPMENT.—

“(1) IN GENERAL.—In addition to, or as part of, the program conducted under subsection (a), the Administrator, in consultation with the National Institute of Standards and Technology, the Inter-Agency Board for Equipment Standardization and Inter-Operability, the National Institute for Occupational Safety and Health, the Directorate of Science and Technology of the Department of Homeland Security, national voluntary consensus standards development organizations, interested Federal, State, and local agencies, and other interested parties, shall—

“(A) develop new, and utilize existing, measurement techniques and testing methodologies for evaluating new firefighting technologies, including—

“(i) personal protective equipment;

“(ii) devices for advance warning of extreme hazard;

“(iii) equipment for enhanced vision;

“(iv) devices to locate victims, firefighters, and other rescue personnel in above-ground and below-ground structures;

“(v) equipment and methods to provide information for incident command, including the monitoring and reporting of individual personnel welfare;

“(vi) equipment and methods for training, especially for virtual reality training and robotic and other remote-controlled devices;

“(B) evaluate the compatibility of new equipment and technologies with existing firefighting technology; and

“(C) support the development of new voluntary consensus standards through national voluntary consensus standards development organizations for new firefighting technologies based on techniques and methodologies described in subparagraph (A).

“(2) STANDARDS FOR NEW EQUIPMENT.—

“(A) The Administrator shall, by regulation, require that new equipment or systems purchased through the assistance program established in section 33 meet or exceed applicable voluntary consensus standards for such equipment or systems for which applicable voluntary consensus standards have been established. The Administrator may waive the requirement under this subparagraph with respect to specific standards.

“(B) If an applicant for a grant under the first section 33 proposes to purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed applicable voluntary consensus standards, the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the volunteer fire department or systems that do meet or exceed such standards.

“(C) In making a determination whether or not to waive the requirement under subparagraph (B), the Administrator shall, to the greatest extent practicable—

“(i) consult with grant applicants and other members of the fire services regarding the impact on fire departments of the requirement to meet or exceed the specific standard;

“(ii) take into consideration the explanation provided by the applicant under subparagraph (B); and

“(iii) seek to minimize the impact of the requirement to meet or exceed the specific standard on the applicant, particularly if meeting the standard would impose additional costs.

“(D) Applicants that apply for a grant under the terms of subparagraph (B) may include a second grant request in the application to be considered for funding in the event that the Administrator does not approve the primary grant request on the grounds of the equipment not meeting applicable voluntary consensus standards.

“(b) MUTUAL AID SYSTEMS.—

“(1) IN GENERAL.—The Administrator shall provide technical assistance to State and local fire service officials to establish nationwide and State mutual aid systems for dealing with national emergencies that—

“(A) include threat assessment and equipment deployment strategies;

“(B) include means of collecting asset and resource information to provide accurate and timely data for regional deployment; and

“(C) are consistent with the Federal Response Plan.

“(2) MODEL MUTUAL AID PLANS.—The Administrator shall develop and make available to State and local fire service officials model mutual aid plans for both intrastate and interstate assistance.

“(c) REPORT ON STRATEGIC NEEDS.—Within 90 days after the date of enactment of this Act, the Administrator of the United States Fire Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science on the need for a National Fire Protection and Training and Emergency Response System, as defined in section 6 of the Firefighters’ Safety Study Act (15 U.S.C. 2203e), including a national credentialing system, in the event of a national emergency.

“(d) REPORT ON FEDERAL RESPONSE PLAN.—Within 180 days after the date of enactment of this Act, the Department of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Governmental Affairs, and the House of Representatives Committee on Science describing plans for revisions to the Federal Response Plan and its integration into the National Response Plan, including how the revised plan will address response to terrorist attacks, particularly in urban areas, including fire detection and suppression and related emergency services.

SEC. 204. TRAINING.

(a) IN GENERAL.—Section 7(d)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2207(d)(1)) is amended—

“(1) by striking “and” and after the semicolon in subparagraph (E); and

“(2) by redesignating subparagraph (F) as subparagraph (G), and inserting in subparagraph (G) the following:

“(3) by inserting after subparagraph (E) the following:
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"(F) strategies for building collapse rescue;
"(G) the use of technology in response to fires, including terrorist incidents and other national emergencies;
"(H) response tactics, and strategies for dealing with terrorist-caused national catastrophes;
"(I) use of and familiarity with the Federal Response Plan;
"(J) leadership and strategic skills, including integrated management systems operations and integrated response;
"(K) integrating new technology and developing strategies and tactics for fighting forest fires;
"(L) integrating the activities of terrorism response agencies into national terrorism incident response systems;
"(M) response tactics and strategies for fighting fires at United States ports, including fires on the water and aboard vessels; and;
"(b) CONSULTATION ON FIRE ACADEMY CLASS—The Superintendent of the National Fire Academy may consult with other Federal, State, and local agency officials in developing curricula for classes offered by the Academy.

(c) COORDINATION WITH OTHER PROGRAMS TO AVOID DUPLICATION.—The Administrator of the Fire Administration shall coordinate training provided under section 7(d)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(d)(1)) with the Attorney General, the Secretary of Health and Human Services, and the heads of other Federal agencies,

(1) to ensure that such training does not duplicate existing courses available to fire service personnel; and

(2) to establish a mechanism for eliminating duplicative training programs.

(d) COURSES AND TRAINING ASSISTANCE.—Section 7(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(1)) is amended by inserting "the " after each reference to "the " in the exception that follows that section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BOEHLERT) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

GENERAL LEAVE
Mr. BOEHLERT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on S. 1152, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the gentleman from New York?

There was no objection.

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

I rise in support of the U.S. Fire Administration Reauthorization Act, which began life in the House as H.R. 2692, introduced by the gentleman from Michigan (Mr. SMITH), subcommittee chairman. Most Americans have never heard of the U.S. Fire Administration, but it has enhanced the protection of all of our communities, our neighborhoods; and firefighters know the agency well.

Over the years, the funds authorized in this bill will continue to train our local firefighters both at the National Fire Academy at Emmitsburg and in State and local training centers. These funds will also help promote residential fire sprinklers, fire prevention activities, and other activities that save lives.

The U.S. Fire Administration has also administered the FIRE program, which helps our local fire departments purchase desperately needed fire equipment. It is one of the most successful Federal assistance programs devised by this Congress or any previous Congress. One of the great things about this program is that the politicians, and I have fondness for politicians, but the politicians are sort of taking a back seat. It is the firefighters themselves in every day protecting our homes and our neighborhoods and communities that established the criteria for this massive grant program and do the actual evaluating. It is a program with unquestioned integrity, that because I have watched it in operation, and all of our congressional districts across the country are taking advantage of it, not for selfish reasons but to protect our people in their homes, in their neighborhoods, in their communities, where they live.

I will tell my colleagues a personal experience in my own congressional district. Utica, New York, had an arson rate three times the national average. It was a serious problem in New York. I sat down with the previous administrator of FEMA and said, let's work with this community because this is a serious problem and it has to be addressed and it is faced with the ability of the individual community to come to grips with it in any meaningful way without some added guidance and inspiration and, quite frankly, some financial support from beyond our borders. FEMA did it. We did it. Collectively, Utica has enjoyed its best day in the last couple of years. The arson rate is down dramatically. People feel more comfortable and safer in their homes. It is all because of some work that came out of the U.S. Fire Administration.

I would say for a whole lot of the right reasons, I urge approval of this bill which will help our localities in very tangible ways, meaningful ways that touch the lives of individual families. We owe it to our firefighters both paid and volunteer. Incidentally, let me just stress, paid and volunteer. I have heard some people suggest on occasion that we have professional firefighters and we have volunteer firefighters. There is no such differential. We have paid and unpaid but those volunteers from coast to coast are some of the most dedicated, professional, able, committed people we will find anywhere. Thank God for the volunteer firefighters of America. That is not to indicate I do not appreciate what the paid firefighters do day in and day out or making a professional career of it, but those volunteers in communities all across this land do outstanding work. They have the same talent and their energy to protect us and our communities. I want to salute them, and I want to dedicate passage of this bill to them.

Madam Speaker, I reserve the balance of my time.

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

I rise in support of S. 1152, the United States Fire Administration Reauthorization Act. I want to thank the Members who had a part, including the gentleman from New York (Mr. BOEHLERT). The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is on her way. I know she has worked on this very diligently.

Madam Speaker, I reserve the balance of my time.

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

I rise in support of S. 1152, the United States Fire Administration Reauthorization Act. I want to thank the Members who had a part, including the gentleman from New York (Mr. BOEHLERT). The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is on her way. I know she has worked on this very diligently.
I want to clarify that the reference to “other Federal agencies” in this section includes the Office of Domestic Preparedness and does not conflict with the counterterrorism training provisions in the Homeland Security Act of 2002.

I also would like to place in the Record at this juncture an exchange of letters between me as chairman of the Committee on Science and Chairman Young of the Committee on Transportation and Infrastructure. I also serve on that committee, too, so in some respects I am writing to myself. This is an exchange of letters that further clarifies it.

House of Representatives, Committee on Transportation and Infrastructure, Washington, DC, November 21, 2003.

Hon. SHERWOOD L. BOEHLERT, Chairman, Committee on Science, Washington, DC.

Dear Mr. Chairman: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters contained in S. 1152, the United States Fire Administration Reauthorization Act of 2003.

Our Committee recognizes the importance of S. 1152 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I agree not to request a referral and allow the bill to be considered in the House under suspension of the rules. This concurrence is conditional on our mutual understanding to forego a sequential referral, waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our jurisdictional interest will be included as part of the Congressional Record during consideration of this bill by the House. Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG, Chairman.


Hon. DON YOUNG, Chairman Committee on Transportation and Infrastructure, Washington, DC.

Dear Mr. Chairman: Thank you for your letter concerning the jurisdictional interest of the Transportation and Infrastructure Committee over matters contained in S. 1152, the United States Fire Administration Reauthorization Act of 2003.

I appreciate your not requesting a referral of this bill and allowing it to be considered by the House under suspension of the rules. Specifically, I acknowledge that your Committee has a valid claim to jurisdiction over certain provisions of the bill as drafted. I agree that we can forego a sequential referral you do not waive, reduce, or otherwise affect the jurisdiction of the Committee on Transportation and Infrastructure.

I also agree that a copy of this letter and of your letter will be included as part of the Congressional Record during consideration of this bill by the House. Thank you for your cooperation in this matter.

Sincerely,

SHERWOOD L. BOEHLERT, Chairman.

Madam Speaker, I reserve the balance of my time.

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

I want to take this opportunity to commend the gentleman from Texas (Ms. EDDIE BERNICE JOHNSON) on this specific legislation. I know that she has been working on this diligently. We recognize that there are a great number of deaths as a result of fire. We need to continue to work in this area. We know we have had natural disasters also in this area. I want to take this opportunity to thank the Members that have played a role.

Madam Speaker, I yield the balance of my time to the gentleman from Texas (Ms. EDDIE BERNICE JOHNSON) and ask unanimous consent that she be permitted to control that time.

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

There was no objection.

Ms. EDDIE BERNICE JOHNSON of Texas, Madam Speaker.

Madam Speaker, let me apologize for being late. I was told to be here by 12, and I was in a briefing, so I came running.

Let me thank the chairman of the Subcommittee on Research of the Committee on Science, the staff and the other leadership of the committee for working on this bill. I rise in support of the Authorization Act of 2003.

This legislation is closely related to H.R. 2692, which I joined Research Subcommittee Chairman SMITH in introducing and which was ordered reported by the Committee on Science on July 22. I would like to thank Chairman SMITH for working with me in a collegial way in the development of the fire authorization bill. The version of the authorization bill before the House preserves the key features of H.R. 2692.

The National Fire Protection and Control Act of 1974, which created the U.S. Fire Administration, was intended to address a serious problem affecting the safety of all Americans. Much progress has been made as a result of this legislation to advance public education about fire safety, to improve the effectiveness of the fire services throughout the Nation, and to foster the wider use of home fire safety devices.

Nevertheless, the United States still has one of the highest fire death rates among advanced nations, and fire deaths exceed the loss of life from all natural disasters combined. Clearly, much work remains to be done in order to make needed improvements in the Nation’s fire safety record. I believe that S. 1152 will ensure that the U.S. Fire Administration has the resources and policies in place to help achieve this goal.

One matter of concern is that the effectiveness of the U.S. fire administration could suffer due to its submersion in the new Department of Homeland Security, which understandably must concentrate its efforts on combating threats from terrorism. The legislation seeks to preserve the status and visibility of the fire administration and its vital programs to advance fire safety within the Department of Homeland Security.

To achieve this result, the bill reestablishes the position of fire administrator as a Presidential appointment and Senate-confirmed post. This is appropriate given the role of the Fire Administrator as the lead advocate for fire services within the Federal Government.

Another important function of the U.S. Fire Administration is to support research and development and testing of new firefighting technologies. This bill reemphasizes this role and authorizes new funding to help carry it out, including support for the process for developing consensus standards for the performance of new fire protection and control technologies.

Consistent with supporting the development of appropriate voluntary consensus standards for new firefighting technologies, the bill requires that equipment provided under the fire grants program conform to such standards where they exist. Fire grants provide fire departments across the Nation with the equipment and training they need to meet their important responsibilities in protecting the public from fire hazards. The Fire Administrator is given flexibility in applying the standards requirement for these grants so that the fire departments may propose solutions that make the most sense for their particular circumstances. Provision for this flexibility in the bill is in accordance with the recommendations received during the Committee on Science hearing on the legislation. The bill makes an additional modification to the National Fire Protection Administration Program by specifying that awards to support training may include training firefighting personnel and maritime firefighting. The need for such training was ably advocated by the gentleman from Oregon (Mr. Wu), championed this provision.

Madam Speaker, this bill is a bipartisan piece of legislation that authorizes the activities of a small, but extremely valuable, Federal agency that contributes to the safety of all Americans. I am pleased to commend the measure to my colleagues and ask for their support in the passage of this bill in the House.

Madam Speaker, I reserve the balance of my time.

Mr. BOEHLERT. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. SMITH), the chairman of the Research Subcommittee and a real friend of the firefighters.

Mr. SMITH of Michigan. Madam Speaker, I thank the chairman for being one of the original congressional

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leaders for first responders and firefighters. And to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), who is the vice chairwoman or ranking member of our Research Subcommittee, I thank her for her help.

We started with the passage of the Homeland Security Act of 2002. The President’s budget request of a 3 percent increase in funding for the U.S. Fire Administration, but still at the same time with the help of the gentleman from Maryland (Mr. HOYER) and the gentleman from New Jersey (Mr. PASCRELL) on that side, certainly the gentleman from Pennsylvania (Mr. WELDON) and the chairman of this committee and myself and many others on the Republican side of the aisle, we work to make sure that we try to give firefighters the kind of training and support that they need to more effectively and efficiently conduct their business.

I would also like to commend the gentlewoman from Michigan (Mr. CAMP) for initiating the standards requirement that allows different fire departments to know the quality of some of the equipment and the machinery and the items that they might buy in that fire department to make sure that they do not, for lack of a better expression, get ripped off with equipment that is not as good as it seems.

Let me conclude by saying this is the bill I introduced and we passed in the House earlier this year, a good bill. This Congress and America have increased our understanding that first responders and firefighters are very important to this country. Eighty percent of our firefighters in the United States are volunteers, but the full-time firefighter represents 80 percent of the people. So we have got to continue to support both the full-time firefighters and the volunteers, and that is what this bill does.

Madam Speaker, the legislation before us today is the United States Fire Administration, which is charged with helping to prevent and control fire-related losses through leadership, advocacy, education, and support. This bill has been endorsed by a number of leading fire organizations including the Congressional Fire Services Institute, International Association of Fire Fighters, National Fire Protection Association, and National Volunteer Fire Council.

S. 1152, which is companion legislation to a bill that the distinguished Ranking Member of the Research Subcommittee, Mr. CAMP introduced earlier this year, adheres to the Administration’s budget request and provides 3 percent increases each year from 2005–2008. It would also restore the position of U.S. Fire Administrator as a Presidially-appointed, Senate-confirmed position, after it was inadvertently eliminated by the Homeland Security Act of 2002.

USFA coordinates federal fire service training, public education, research, and data collection. In addition, USFA has administered the fire grant program, which supports fire departments by providing them with the tools and resources necessary to protect the health and safety of the public and firefighting personnel. USFA Administrator David Paulison has done an excellent job since 2004, and I would like to take this opportunity to publicly recognize his outstanding service.

This legislation also directs USFA to develop standards for firefighting equipment and technology. The new standards will help to ensure that firefighters have access to the highest-quality equipment available. Equipment purchased through the fire grant program must meet the new standards, although under unique circumstances, the Administrator is given flexibility to waive this requirement.

There was an effort to attach language similar to Rep.midt’s bill H.R. 919, the Hometown Heroes Survivor Benefit Act, to the bill before us today. I am one of 281 cosponsors of H.R. 919, which would ensure that the family of a public safety officer who suffers a fatal heart attack or stroke in the line of duty receives survivor benefits. These families are often forced to wrangle with the Justice Department to obtain compensation. In the interest of passing the USFA reauthorization expeditiously the language was dropped. However, I would like to express my commitment to continuing to work for passage of H.R. 919.

In closing, I am pleased that we were able to work closely with members of the minority as well as members of the fire services community in drafting this bipartisan legislation. I urge every Member to support S. 1152 so that we can insure the long-term viability of this important program.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Madam Speaker, I rise in strong support of the United States Fire Administration Reauthorization Act. And I want to commend the gentleman from New York (Mr. BOEHLERT) and the gentleman from Texas (Mr. HALL) not only for bringing forward this important legislation to the floor, but also for working with Members on both sides of the aisle to get the job done.

I urge every Member to support S. 1152 so that we can insure the long-term viability of this important program.

Mr. CAMP. Madam Speaker, I rise today in support of S. 1152, the United States Fire Administration Reauthorization Act. This bill appropriately recognizes the value of the United States Fire Administration (USFA) for its national leadership in reducing the threat of fires and educating Americans about fire prevention methods. I want to thank Research Subcommittee Chairman NICK SMITH and Science Chairman BOEHLERT for their leadership on this issue and their support for the inclusion of a bill I introduced, H.R. 545, the Firefighting Research and Coordination Act. I appreciate Senator Mccain’s leadership on this bill and for his hard work getting it passed last night in the Senate.

The Firefighting Research and Coordination Act helps address current policy questions on how the federal government can most effectively provide firefighters with the training and equipment necessary to protect lives. The bill gives appropriate weight to fire service needs: the development of voluntary consensus standards for firefighting equipment and technology; establishing nationwide and...
State mutual aid systems for dealing with national emergencies; and authorizing the National Fire Academy to train firefighters to respond to acts of terrorism and other national emergencies.

This legislation enjoys wide bipartisan support and has the endorsement of major national fire groups including the Congressional Fire Services Institute, National Fire Protection Association, and the International Association of Firefighters and Fire Chiefs, among others. With these tools this bill provides, I am confident the USFA will continue to be recognized as the premiere authority in fire education and fire prevention. I urge my colleagues to support this critical legislation.

Mr. HOYER. Madam Speaker, I am pleased to support S. 1152, bipartisan legislation to reauthorize the important work done by U.S. Fire Administration R. David Paulison and his dedicated staff in Emmitsburg, MD and Washington, DC.

The Federal Fire Prevention and Control Act of 1974 established the United States Fire Administration and its National Fire Academy to reduce fire-related losses due to fire and related emergencies, through leadership, advocacy, coordination and support.

Since that time, through data collection, public education, research and training efforts, USFA has helped reduce fire deaths by at least half—making our communities and our citizens safer. For the past three years, the Fire Administrator has been tasked with administering the Assistance to Firefighters Grant program, created by Congress to adequately train and equip our career and volunteer firefighters across the country.

This $750 million program is vital to our firefighters, too many of whom risk their lives on a daily basis to protect our homes and our families without the modern equipment and advanced training they deserve. The Fire Grant program has succeeded at getting much-needed dollars to fire departments in fair, efficient manner, and USFA has been widely praised for its work in administering the program.

Authority for the Fire Grant program has now been moved to the Department of Homeland Security, and Members of the Fire Caucus, and all supporters of the fire community, will closely monitor the administration of the Grant program to guarantee that it continues to meet the needs of our fire departments.

Madam Speaker, this legislation also contains provisions important to the National Fallen Firefighters Foundation, which was established more than a decade ago through the leadership of Senator Paul Sarbanes to create an organization that would properly honor all of our fire heroes—and care for the surviving families and loved ones as they cope with their grief and attempt to move on after their loss.

The Foundation carries out this mission with great compassion and dedication, and they have achieved a tremendous record of assisting the families of our fallen firefighters through the many programs, projects and activities they promote throughout the year. The provisions included in this legislation will allow the Foundation to continue, and to improve upon, the important work we have charged them to do.

Mr. Speaker, I am pleased to support this legislation, and urge my colleagues to do the same.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mrs. Biggert). The question is on the motion offered by the gentleman from New York (Mr. BoeHlert) that the House suspend the rules and pass the Senate bill, S. 1152.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.
I thought President Bush in the United Kingdom the other day said it
so well when he said, “I want to express my deep sympathy for the loss
of life in Turkey. The nature of the ter-
rorist enemy is evident once again. We see
this conflict - they want to intimidate. They par-
ticularly want to intimidate and demor-
alize free nations. They’re not going to
succeed.”

Madam Speaker, despite some sig-
nificant human rights issues, and no
one has been more of a critic of Turkey
than I have in the past, although they
are making some progress, despite all
of that, Turkey remains one of the few
successful democracies in the Muslim
world, with a tradition of religious tol-
erance. The Turkish Republic is an ex-
ample of how a predominantly Muslim
country can enjoy a secular, demo-
cratic government. Turkey has shown
that the Islamic faith of its citizens
and a secular democracy can flourish
side by side.

By targeting the British Consulate
General and a leading British bank,
these terrorists viciously illustrated
that all of our allies and their targets
must remain united with our allies in
the fight against terrorism.

Madam Speaker, these contemptible acts killed almost 50 people,
including the British Consul General in Istanbul,
and injured more than 750 innocent
people. Our deepest condolences go out
to their families and to their nations.

Turkey has been a strong American
country, as we all know, the underbelly of NATO
for more than 50 years. By
agreeing to this resolution, we affirm
our mutual commitment to that com-
mon defense.

I urge my colleagues that
after the September 11 of 2001 attacks,
NATO invoked its collective defense
clause, declaring that the al Qaeda at-
tacks in the United States were at-
tacks against the entire alliance.

I thought British Prime Minister
Tony Blair summed it up very well
when he said, “And when they say
this an attack directed against our ali-
ciance, indeed, it is directed against
anybody who stands in the way of that
fanaticism” he went on to say, “That
is why our response has got to be to
say to them as clearly as we possibly
can, you are not going to defeat us be-
cause our will to defend what we be-
lieve is, in actuality, and in the end,
stronger, better, more determined than
your will to inflict damage on innocent
people.”

Madam Speaker, let me conclude by
saying this: Turkey and the United
Kingdom both played important roles
to drive al Qaeda from its base in Af-
ghanistan and to replace the Taliban
government that harbored those ter-
rors. The United States in coopera-
tion with the UN and many countries
to command the International Se-
curity Assistance Force, which has sta-
bilized the Kabul region and supported
the Karzai government. Turkey and
the United Kingdom stood by the
United States when our Nation was the
target of global terrorism. By passing
this timely resolution today in a bipar-
tisan way, Democrats, Republicans,
moderates, liberals and conservatives,
we affirm our determination to stand
by our friends, to command the forces
to fight the extremist criminals who want
to end our way of life. They will fail
and we shall prevail. I strongly support
this resolution, and I urge all of my
colleagues to do likewise.

Madam Speaker, I reserve the bal-
ance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may con-
sume. I am strongly in support of this
resolution.

First, let me pay tribute to my dear
friend, the gentleman from Florida
(Mr. HASTINGS), for initiating this im-
portant legislation and to recognize
the contributions of my friends, the
gentleman from Florida (Mr. WEXLER)
and the gentleman from New Jersey
(Mr. SMITH). I particularly want to
thank the gentleman from Illinois
(Chairman HYDE) for being so gracious
late yesterday afternoon in expediting
the handling of this legislation.

Madam Speaker, at least 50 people
are dead and over 700 are injured in a
sickening and appalling wave of suicide
bombings in Istanbul over this past
week. The attacks targeted Jewish
places of worship and British govern-
mental and business institutions; but
the overwhelming majority of the vic-
tims are Muslim Turks, proof positive
of the total cynicism and utter phoni-
ness of these so-called Islamist assass-
sins.

This is not just a war on the Jews,
though it is also that. It is not just a
war on the British or on our own coun-
try; although it is that. Nor is it a war on
the entire civilized and democratic
world and its values. It is now clear
that al Qaeda and its Turkish sup-
porters have declared war on the demo-
cratic Republic of Turkey as part of
their holy war. Al Qaeda recognizes
that the existence of Turkey, 99
percent Muslim, pro-Western, a secular
democracy on the frontiers of the
Western world, makes a mockery of al
Qaeda’s religious extremism. These
terrorists want to roll back Western
values and silence and destroy Turkish
democracy.

Madam Speaker, the Turkish Govern-
ment has behaved admirably in this
dark hour. It condemned the action
and it vowed to catch the perpetrators,
and I have no doubt that they shall.
Now, the hard work of finding these
terrorists, destroying their cells, and
preventing future attacks begins.

The Turkish Government has
behaved admirably in this

Madam Speaker, we mourn the
deaths, we pray for the wounded,
and our hearts go out to the families of all
of the victims. And to all the citizens
of Istanbul and all of Turkey whose
lives have been so brutally violated, let
us honor them by joining with Turkey
allies that we have with the United
States when our Nation was the
target of global terrorism. By passing
this timely resolution today in a bipar-
tisan way, Democrats, Republicans,
moderates, liberals and conservatives,
we affirm our determination to stand
by our friends, to command the forces
to fight the extremist criminals who want
to end our way of life. They will fail
and we shall prevail. I strongly support
this resolution, and I urge all of my
colleagues to do likewise.

Madam Speaker, I am delighted to
yield 6 minutes to the distinguished
gentleman from Florida (Mr. HASTINGS),
my good friend and the author
of this resolution.

Mr. HASTINGS of Florida. Madam
Speaker, I want to begin by thanking
my good friend of long-standing here
in the House of Representatives and a vig-
orous fighter for human rights and the
protector of the rights of people who
are set upon as this despicable act has
done. I would also like to thank the
gentleman from New Jersey (Mr.
SMITH), my friend, and have him to
know that I, along with him, am deeply
saddened because so many of our col-
leagues to do likewise.

Most importantly, I would like to
thank the gentleman from Illinois
(Chairman HYDE), as the gentleman
from California (Mr. LANTOS) has al-
ready, for expediting this matter for us
giving us an opportunity to go to
the majority leader and the minority
leader; and I thank them for expediting
this process. The majority leader’s
office has been extremely helpful in that
regard.

It would be remiss of me if I did not
take this opportunity to commend
the gentleman from Florida (Mr. WEXLER),
who is my good friend and my
soulmate geographically in Florida, as
friendship; the gentleman from Texas
(Ms. GRANGER) and the
gentleman from Kentucky
(Mr. WHITFIELD) from the majority side, my
good friends that I have gotten to
know through our efforts, not only in
this resolution, but others; and also the
gentlewoman from Nevada
(Ms. BERK-
LEY); and countless others who have had direct involvement.
I had the good fortune less than 2 months ago to travel to Turkey with Brent Scowcroft, and it was the most illuminating and enlightening experience. It was not my first visit to Turkey; I have been there now a total of seven times.

On November 15, 2003, two explosions set off minutes apart devastated Nev Shalom Synagogue, Istanbul’s largest synagogue and symbolic center to the city’s 25,000-member Jewish community, and the Beth Israel Synagogue about 3 miles away. In addition, yesterday, explosions hit the Turkish headquarters of the London-based HSBC Bank and the British Consulate General, killing at least 26 people, including Roger Short, someone that I knew and the British Consul-General, and wounding over 450.

In the span of 5 days, terror claimed over 50 lives and injured more than 800 people in Turkey.

The House of Representatives gathers here today united in expressing that we abhor and denounce these hateful, repugnant, and loathsome acts of terrorism. We gather here to, in unison, make sure that the world understands our outrage by this week’s attacks.

This is determined to stand by Turkey in the fight against the scourge of terrorism. The acts of murder committed in Istanbul were a cowardly and brutal manifestation of the moral vacuum directing the disease of international terrorism. My and all of our heartfelt condolences go out to the victims and their families.

Madam Speaker, the United States and Turkey are natural allies based on our shared values and common interests in building a stable, peaceful, and prosperous world. Moreover, as a predominantly Muslim nation with a secular government, Turkey is an example, as the gentleman from New Jersey (Mr. SMITH) has pointed out, of a successful secular Muslim democracy. Turkey is a pivotal showcase of the values and principles that I supported while serving on the Committee on International Relations and a steadfast fighter against global terrorism. I am certain that Turkey is a valuable ally of the United States.

Madam Speaker, the United States and Turkey are natural allies based on our shared values and common interests in building a stable, peaceful, and prosperous world. Moreover, as a predominantly Muslim nation with a secular government, Turkey is an example, as the gentleman from New Jersey (Mr. SMITH) has pointed out, of a successful secular Muslim democracy. Turkey is a pivotal showcase of the values and principles that I supported while serving on the Committee on International Relations and a steadfast fighter against global terrorism. I am certain that Turkey is a valuable ally of the United States.

Mr. LANTOS. Madam Speaker, I am very pleased to yield 3 minutes to the gentleman from Nevada (Ms. BERKLEY), a distinguished member of the Committee on International Relations and a steadfast fighter against global terrorism.

Ms. BERKLEY. Madam Speaker, I would like to thank the gentleman from California (Mr. LANTOS) for giving me the opportunity to speak and share my thoughts with my colleagues, and the gentleman from New Jersey (Mr. SMITH) for being stellar on this issue.

I rise today, Madam Speaker, in strong support of House Resolution 453, condemning the terrorist attacks in Istanbul, Turkey, on November 15 of this year and expressing my sincerest condolences to the victims and their families.

This past Saturday, as they gathered together to observe the holy Sabbath, two explosions devastated the Jewish community in Istanbul, Turkey. The first occurred at the city’s largest synagogue and symbolic center to the city’s 25,000-member Jewish community and the second at Beth Israel synagogue about three miles away.

More than 20 people lost their lives and more than 300 were injured as terrorism, yet again, tore the fabric of civilized society and shattered innocent lives. Most of those killed in the blasts, ironically, were Muslim Turks who lived or worked near the synagogues who were passing by when the bombs exploded. This is not the first time that al-Qaeda has targeted the Jewish institutions. In 2002, they killed 12 people in an attack at a synagogue in Tunisia.

The Turkish Government immediately condemned the terrorist attacks in the strongest possible terms and I am pleased that the Turkish people have reacted in strong solidarity with the Nation’s small and long-established Jewish community.

Madam Speaker, as a youngster growing up in Las Vegas, I belonged to the Jewish youth groups, and occasionally the Anti-Defamation League would bring in films of the liberation of the concentration camps in World War II. I cannot minimize the impact of those films and the beauty and life that we lost then and now. And I would sit there and watch the films and ask myself how could one human being do such a horrific thing to another, and how is it that more people throughout the world do not stand up and denounce this horrific act.

I am here in the United States of America because my grandparents walked across Europe in order to come to this country to escape the persecution of 6 million of my fellow Jews were unable to escape in World War II. For me to have the opportunity to be on the floor of the House of Representatives and not condemn this horrific act of terrorism would be a shame and an insult to not only the 20 people that lost their lives recently in Istanbul, but the millions of other people across the world, Jewish and not Jewish, who have lost their lives senselessly and needlessly to terrorists.

I stand up and condemn this sort of activity, and I urge my colleagues to join us, and vote for this resolution taking a strong stance against bigotry and intolerance, racism and anti-Semitism, violence and terrorism. These are very difficult and challenging times in which we are living through. But it is incumbent upon all Americans, we in the House of Representatives leading the way, to stand up and condemn this sort of activity before it becomes pervasive and matter of fact.

Mr. WEXLER. Madam Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WEXLER), my good friend, a distinguished member of the Committee on International Relations.

Mr. WEXLER. Madam Speaker, I want to also thank my good friend and close associate, the gentleman from Florida (Mr. HASTINGS), and my colleagues on the Congressional Turkey Caucus for initiating this vitally important resolution condemning the horrific terrorist attacks in Turkey over the past week. I also want to thank the gentleman from Illinois (Chairman HYDE), the gentleman from California (Ranking Member LANTOS),
the gentleman from New Jersey (Mr. SMITH), for especially expeditiously bringing this very important resolution to the Floor.

I rise to express my most profound and heartfelt condolences to the Turkish people in their pursuit of terrorism and to the Turkish Government on the terrorist attacks in Istanbul and pledge the support of each Member of Congress as we listen to this debate in the full Congress to bring to justice those individuals responsible for these heinous acts. Americans know, too, too well, the horrors of terror, and today we mourn with the Turkish and British people for this senseless loss of life.

Madam Speaker, the recent bombings in Turkey epitomize the fact that terrorism knows no boundaries and does not distinguish between religion, nation or culture. What these attacks demonstrate is the common thread of terror facing the United States, Turkey, and our allies throughout the world. They also remind us of our shared responsibility and our common purpose.

For over 50 years Turkey has stood shoulder to shoulder with the United States as a valued strategic partner, NATO ally, and friend. It is in this spirit of partnership that the United States and the American people stand today with the Turkish people, ready to assist in punishing those murderers who carried out these cowardly actions. Together we will continue our pursuit of justice so that we may ensure that all victims of terror, whether in Turkey, the United States or elsewhere throughout the world, will have died in vain.

As the gentleman from Florida (Mr. HASTINGS) stated earlier, I too have had the privilege of visiting Turkey on many occasions. The Turkish people are a warm and caring people. They have a sense of pride, they are patriots. That will continue. And we, the American people, must continue to assist them in their pursuit of terrorism within their boundaries.

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

Madam Speaker, before yielding back my time, I would merely like to mention that a number of us coming back from Baghdad were in Ankara, Turkey, just a couple of weeks ago. We had a lengthy and significant discussion with the distinguished Foreign Minister of Turkey. We reaffirmed, as did our Turkish counterparts, our firm commitment to fight terrorism globally. These tragic events in Istanbul since our visit to Ankara underscore the urgency and the importance of our stand. I call on all of our colleagues to support this very important resolution.

Mr. BERELER. Madam Speaker, this Member as a cosponsor of the resolution and a committed friend of the Turkish people, rises in strong support of H. Res. 453. This Member would like to thank the distinguished gentleman from Florida (Mr. HASTINGS) for introducing this very timely resolution. Mr. HASTINGS has worked closely with Members and staff of the Committee on International Relations and its Europe Subcommittee—including the distinguished ranking members of the full committee and subcommittee, Mr. LANTOS and Mr. WEXLER—to craft the legislation that is before us this morning.

This Member would also like to thank the distinguished gentleman from New Jersey (Mr. SMITH) for his leadership on this issue and his work to ensure that NATO is the leader of the U.S. delegation to the Parliamentary Assembly of the Organization for Security and Cooperation in Europe, and Mr. HASTINGS is an active member of that delegation, and this Member commends them for their work.

Madam Speaker, this Member serves as President of the NATO Parliamentary Assembly (NATO PA) and Chairman of the House Delegation. Though such assemblies, Members get to know their counterparts from other nations first-hand and to visit these nations to understand more about these lands and their people.

This Member already has written to Mr. Vahit Erdem, the chairman of the Turkish delegation, expressing our deepest sympathies to the Turkish parliament and the Turkish people, particularly the families of the victims.

One year ago, the NATO PA met in Istanbul, in a conference center overlooking the Bosphorus straits, separating Europe from Asia. From our hotel rooms, we could look south to see the Taksim neighborhood that was devastated by the bombing of the British Consulate General yesterday. Indeed, several of us had the opportunity at night to stroll the busy, historic streets of that district.

As we discussed issues in the trans-Atlantic relationship, we also had an opportunity to experience the great city of Istanbul, one of the most historically important cities in the world. Istanbul literally lies between Europe and Asia, the only city in the world on two continents, and its history is that of a bridge between east and west.

The reprehensible terrorist attacks of last Saturday, directed against Turks of the Jewish faith, were an attempt to directly assault the democratic principles around the world.

Sadly, they remind us that international terrorism remains a grave threat to all nations of the North Atlantic Alliance. Two years ago, when NATO invoked Article 5 of the North Atlantic Treaty, both Turkey and the United Kingdom showed that they were prepared to play a leading role in the war against terrorism with the Command of the International Security Assistance Force in Afghanistan. We remember their clear and strongly anti-terrorism, pro-American response to the al-Qaeda attacks on the United States, and in this resolution today, we pledge our support to Turkey in response to this latest terrorist atrocity.

NATO already has declared that the September 11, 2001, attacks by al Qaeda constituted an attack on the entire Alliance. Likewise, these attacks on an ally are an attack on all allies. Article 5 has already been invoked against al Qaeda. As a result NATO today is in Afghanistan, working to defeat that terrorist organization and its Taliban allies.

In words of Lord Robertson, the NATO secretary-general: "If we fail, we will find Afghanistan on all of our doorsteps. Worse still, NATO's credibility will be shattered, along with that of every NATO government. Who will stand with us in the war against terror if we take on a commitment such as this and then fail to deliver?"

The bombings in Istanbul are a vicious reminder of the stakes in the global war on terrorism and the need to ensure that Afghanistan never again becomes a haven for those who seek to murder our people and destroy our societies. We all must provide the resources needed to win this war and protect our citizens.

Madam Speaker, in closing, this Member urges his colleague to pass this resolution.

Mr. ORTIZ. Madam Speaker, I rise to offer my condolences to the Turkish people and the Turkish government for the horrific terrorist attacks in Istanbul on November 15 and 20.

As al Qaeda has proved again and again, they intend to fight this 21st Century's first global war against civilians and non-combatants. As al Qaeda has proved again and again, we will fight this war wherever it flares up. And we will win, because we have the fortitude to do the right thing.

Turkey is one of our strongest allies in the fight on global terrorism—and has repeatedly defended our side in the war (as a NATO ally) and in the war on terror, in understated ways. I have a number of friends and people we know there, that I met on numerous House Armed Services Committee trips to visit NATO allies.

All South Texans condemn the cowardly and senseless killing of innocent people in Turkey, one of the finest examples of democracy in practice, and one of the few Muslim nations to practice democracy.

We have shared principles of democracy, freedom, tolerance and the pursuit of peace—and today we stand with our Turkish friends. Those who opposed democracy will eventually learn that to kill democracy is to kill all those who love democracy. Al Qaeda doesn't have enough bombs to kill all those who love democratic principals around the world.

My family and I are praying for the families and victims injured and perish in this atrocity.

The United States Congress hereby offers our judgment that this attack was cowardly, inhumane and unjustifiable, and we stand with our Turkish friends in this hour of great loss.

Mr. POMEROY. Madam Speaker, I rise today in support of this resolution condemning the terrorist attacks in Istanbul, Turkey on November 15 and 20, 2003. I wish to express my most sincere and heartfelt condolences to the Turkish government and the relatives of those killed or injured. My thoughts are with Turkey and its people in this time of sorrow.

If there is one thing these cowardly acts have demonstrated, it is that terrorism knows no borders. These catastrophic attacks were not just an attack on Turkey, but an attack on humanity and civilization. As Americans who have experienced terrorism firsthand, we share in Turkey's grief.
I am convinced that the United States must stand shoulder to shoulder with Turkey as it defends its safety and protects its liberty by bringing to justice those responsible for these heinous acts. Together, we must stand ready to provide any assistance deemed necessary to ensure that justice is served—not only to account for the deaths and injuries inflicted against the Turkish people, but in defense of freedom around the world.

In the end, Madam Speaker, these tragedies will be remembered as a time of incredible loss and sadness. But it will also mark a time when America and Turkey came even closer together to respond to global terrorism. We are united today as never before to ensure that terrorism is defeated, completely and finally.

Mr. BURTON of Indiana. Madam Speaker, today I come to the House floor in strong support of H. Res. 453, a House resolution condemning the terrorist attacks in Istanbul, Turkey and expressing condolences to the families of the individuals murdered.

On November 15 and 20, four horrific terrorist attacks rocked Istanbul. Two Jewish synagogues, the Consulate and the London-based HSBC Bank were the targets. Faceless, cowardly terrorists who thrive on inflicting fear and terror on the innocent carried out these attacks. These recent attacks epitomize the fact that terrorism knows no boundaries and makes no distinction between religion, nationality or culture.

Terrorism must be condemned in the strongest terms whenever and wherever it occurs. The Government of Turkey appropriately did so and has vowed to bring the perpetrators to justice. But, no one country can do this alone. In order for the perpetrators of terrorism to be brought to justice, all the countries of the world must stand united against terrorism that targets the civilized world.

For over fifty years, Turkey has stood shoulder-to-shoulder with the U.S. as one of our most valued strategic partners and it is only fitting that Congress express sympathy for those murdered and wounded, extend condolences to the bereaved families and affirm our unity with Turkey in the ongoing fight against terror. I am pleased that the House Leadership scheduled H. Res. 453 for floor action today.

Mr. ROTHMAN. Madam Speaker, I rise today to express my sorrow and rage over the Saturday bombings of the Neve Shalom and Beth Israel synagogues and the Thursday bombings of the British Consulate and HSBC Bank in Istanbul, Turkey. Tragically, 51 innocent victims of the War on Terror have died in Turkey this week and over 750 were wounded. These victims died or were wounded simply because they ventured to pray on a Saturday morning in honor of Shabbat, the Jewish day of reflection and rest, or were going about their normal daily lives in Istanbul.

Turkish officials have identified the bombers of the Neve Shalom and Beth Israel synagogues as Turkish militants, with possible connections to al Qaeda, who loaded bombs, each with about 500 pounds of ammonium sulfate, nitrate, and fuel oil, into trucks they pulled in front of the synagogues and detonated nearly simultaneously. Among those who died were 6 Jews and 18 Muslims, killed in a 1986 bombing at Neve Shalom. Initial reports indicate that truck bombs were also used in the terrorist attacks against the British Consulate and London based HSBC Holdings, which killed at least 27 and wounded over 450 people.

Madam Speaker, approximately 30,000 Jews live in Turkey—a 99.8% Muslim nation. For years Jews have lived peacefully and freely and have flourished in this predominantly Muslim nation. Much of this is due to Turkey’s historically good treatment of its Jewish residents—dating back to the early influx of Jews during the Spanish Inquisition and later to Turkey’s refusal to deport and extinguish its Jewish population during the Holocaust despite its longstanding relationship with Germany. Today, a benevolent relationship has grown between the Turkish and Israeli governments who share close ties and hold joint military exercises.

The attacks in Turkey this week aim to undermine the relationship between Turkey, the U.S., and Britain, and highlight the growing resurgence of al Qaeda and its worldwide network. The attacks in Turkey follow the suspected hand of al Qaeda in incidents in Saudi Arabia, Indonesia, and Morocco. The attacks on Thursday also highlight the fact that Turkey is a secular Muslim country that leans West through its business dealings, culture, and government affairs. The terrorists are determined to undermine the links between Turkey and the Western world.

Madam Speaker, as fighting has flared up in Iraq and al Qaeda has again regrouped and gained strength, and as President Bush returns from his trip to England while Israel and the Palestinian Authority tentatively reach out to each other in hopes of a cease fire and peace, now is not the time to turn our backs on the War on Terror. Now is the time to stand together with our friends and allies around the world as we all mourn those who died in Turkey this past week and those we have lost to terror attacks in the past, while jointly taking a stand to continue to fight for our survival in our war of self-defense against these madmen. We must work to ensure that all our allies help us root out terror at its source by sharing intelligence, auditing finances and doing whatever else is necessary in the hopes that like the Jews and Muslims have done for years in Turkey: we can all live together in peace.

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

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 453, as amended. The question was taken.

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

Mr. SMITH of New Jersey. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair’s prior announcement, further proceedings on this motion will be postponed.
Sec. 404. Five-year extension of housing assistance.
Sec. 402. Enhancement of authorities relating to a section or other provision of title 38, the United States Code.

Title IV—Health Care Authorities and Related Matters

Section 1712a(i)(F) is amended by striking ‘‘and who was detained or interned for a period of not less than 90 days’’; (b) Exemption From Pharmacy Co-payment Requirement.—Section 1729a(a)(3) is amended—
(1) by striking ‘‘or’’ at the end of subparagraph (A); (2) by redesigning 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’’.

Section 1710e 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 of chemical and biological warfare testing from 1962 through 1973 (including the program designated as ‘‘Project Shipboard Hazard and Defense (HAD) and related health effects test test’’) 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)—
(i) by striking ‘‘paragraph (1) or (C)’’ and inserting ‘‘paragraph (C), (D), (E) or (F) 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
(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.’’.

Section 1711 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 title 38, United States Code.

(a) Reimbursement of Extended-Care Services Provided to Veterans Under the Veterans Millennium Health Care and Benefits Act.—Section 1712a(b) is amended by striking ‘‘and’’ after ‘‘than those’’ and inserting ‘‘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 redesigning 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)’’.

Title X—Enhanced Authority for Provision of Nursing Home Care and Adult Day Health Care in Contract Facilities

(a) Enhanced Authority for Provision of Nursing Home Care.—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—
(1) 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. 1395c(a)); and
(2) in the case of the medicare program, a provider participating under a State plan to 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.

Title X—Rehabilitative Services

(a) Reimbursement of Rehabilitative Services.—Section 1701(b) is amended by striking the date of the enactment of the Veterans Millennium Health Care and Benefits Act and inserting ‘‘November 30, 1999, 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’’.

Title X—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. 17103 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 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 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 106–113; 113 Stat. 1595; 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) the following:

‘‘(A) by striking ‘‘The Secretary’’ and inserting ‘‘The Secretary 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.‘’

(b) ALLOCATION OF FUNDS.—Subsection (d) of section 116 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.‘’

(c) DETERMINATION.—The Secretary shall provide that the funds to be allocated under this section during each of fiscal years 2004, 2005, and 2006 are 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 ‘‘$7,000,000’’ and inserting ‘‘$9,000,000’’.

SEC. 202. ENHANCEMENTS TO ENHANCED-USE LEASE AUTHORITY.

(a) NOTIFICATION OF PROPERTY TO BE LEASED.—Subsection (b) of section 8104 is amended by adding at the end the following:

‘‘(4) The Secretary shall provide that, in so designating a property to be leased under an enhanced-use lease and inserting ‘‘enter into an enhanced-use lease of the property involved’’; and

(5) by striking ‘‘to so designate the property and inserting ‘to enter into such lease’;’’ in paragraph (2), by striking ‘‘90-day period’’ and inserting ‘‘45-day period’’; and

(c) DISPOSITION OF LEASED PROPERTY.—Section 8104 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;

(B) by striking the third sentence;

(c) by adding at the end the following new sentence: ‘‘(d) 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.—The heading of section 8163 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).

Subsection 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 to be built on the grounds of the Pensacola Naval Air Station, Pensacola, Florida, in an amount not to exceed $45,000,000.

(2) Construction of a Department of Veterans Affairs-Department of the Navy joint comprehensive 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.

(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 Secretary 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 $30,000,000.

(5) A project for (A) renovation of all inpatient care wards at the West Haven, Connecticut, facility of the Department of Veterans Affairs health care system 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 comprehensive 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 $30,000,000.

(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 $71,000,000, of which $26,000,000 shall be provided by the Secretary of Veterans Affairs and $45,000,000 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 appropriation 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.

Subsection 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 submission 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 April 15, 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. The report shall list each proposed major construction project in order of priority, with such priority determined in the order in which the projects are to be funded. The report shall consider the following:

(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 existing facilities to provide health care services to a population that is currently in operation, as determined by the Secretary.

(D) The renovation or modernization of such facility, including the provision of barrier-free design and improvement of building systems and utilities, or enhancement of clinical space at a Department of Veterans Affairs medical facility currently in operation, as determined by the Secretary.

(E) The need for such facility to further an enhancement of existing programs and services.

(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 shall consider the importance of locating available resources equitably among the geographic service areas of the Department and take into account recent shifts in populations of veterans among those areas.

(d) SUNSET.—The Secretary may not enter into a contract to carry out major construction projects under the authority in subsection (a) not later than April 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 continuous 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 involves 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 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 medical care facilities is available for providing health care for veterans residing in rural areas.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall report 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. Such consultation shall include consideration of establishing a Department of Veterans Affairs-Dpartment of Defense joint health-care venture at the site referred to in subsection (c).

(2) For purposes of paragraph (1), the term "southern New Jersey" means the following counties of the State of New Jersey: Ocean, Burlington, 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 States of Georgia, Florida, Alabama, and Mississippi.

(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 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—

(A) Integration with the Medical University of South Carolina of some or all of the services referred to in subsection (a) through the 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 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) Not later than April 15, 2004, the Secretary shall submit to the Secretary of the Senate and House of Representatives a report on the results of the study. The report shall include such consultation as the Secretary determines necessary to consider exchanging services.
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, record, or other paper of the United States shall be considered to be a reference to the Bob Stump 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 "George E. Wahlen 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 George E. Wahlen 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.
"(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 each of such paragraphs.

"(D) The Secretary shall promptly submit to the congressional veterans' affairs committees a report on any modification of a system.
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 1395w of title 42.
(b) An employee described in this subsection 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.

(b) An employee described in this subsection 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 this chapter is amended by inserting after the item relating to section 7354 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 “(U)” 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 inserting “functions;”

(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 do.

(c) FIVE-YEAR EXTENSION OF AUTHORITY TO ESTABLISH RESEARCH CORPORATIONS.—Section 7306 is amended by striking “December 31, 2008” and inserting “December 31, 2013.”

SEC. 403. DEPARTMENT OF DEFENSE PARTICIPATION IN REVOLVING SUPPLY FUND PROGRAMS.

(a) ENHANCEMENT OF DEPARTMENT OF DEFENSE PARTICIPATION.—Section 8211 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 for the purchase of any other supplies, service, or property necessary to carry out this section.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to funds appropriated for a fiscal year after fiscal year 2008.
This legislation is the result of compromise between the House and the Senate. It is the product of many minds. And I am grateful to my ranking member, the gentleman from Texas (Mr. Rodriguez) for all of his help in bringing us to this point.

In summary, the bill would authorize six new medical building projects at a total cost of $276.6 million in Chicago, San Diego, West Haven, Lebanon, Beckley, and Pensacola. It also authorizes the use of $96.5 million for the Veterans Administration to design five new projects in Denver, Colorado, Columbus, Ohio, Pittsburgh, Pennsylvania, Las Vegas, Nevada, and East Central, Florida. I am confident these projects will be funded once they are fully designed with the authorization provided in this bill.

The Denver project, for example, is a joint venture involving the Veterans Administration and the Air Force to establish a new Fitzsimmons Hospital Center in Denver, Colorado. The project will move forward with $26 million from the VA added to $4 million from the Air Force. And I thank my colleagues, the gentleman from Colorado (Mr. Beauprez) and the gentleman from Colorado (Mr. Cooley) for all of their hard work on this project.

Another very important planning project in our bill is for Columbus, Ohio. It would relocate and expand an existing VA clinic to available Federal property in Columbus. I am especially pleased that this project will move forward with $26 million from the VA added to $4 million from the Air Force. And I thank my colleagues, the gentleman from Ohio (Mr. Houson) for his leadership and help with this matter.

Personally, I look forward to going out to Ohio, hopefully, in the company of Secretary Principi, to review the project. The Denver project, for example, is a joint venture involving the Veterans Administration and the Air Force to establish a new Fitzsimmons Hospital Center in Denver, Colorado. The project will move forward with $26 million from the VA added to $4 million from the Air Force. And I thank my colleagues, the gentleman from Colorado (Mr. Beauprez) and the gentleman from Colorado (Mr. Cooley) for all of their hard work on this project.

In Pittsburgh, Pennsylvania, the VA needs a new health facility to replace two aging hospitals, both of which are over 50 years old. The committee has agreed to provide planning funds of $9 million for this project as well.

In addition to these projects, the bill would also delegate to Secretary Principi the ability to prioritize construction projects coming out of VA's so-called "CARES" process, provided appropriations are available. The support of my colleagues for the projects described would be available. And we are confident this approach is a responsible way to proceed. With this delegation of authority to the Secretary, however, we also impose some limits on the VA in this bill. If, for example, as a result of CARES, the Secretary is closing VA medical facilities, or significantly reducing health care staff or consolidating two or more hospitals, we request that VA report these plans to Congress and wait 60 days before proceeding.

In closing, Madam Speaker, I would like to mention two hospital or facility naming pieces of this legislation. First of all, I had the honor as a member of the Committee on Armed Services to serve under Chairman Bob Stump, who also was a distinguished chairman of the Committee on Veterans' Affairs. There is no truer friend to America's veterans than the late, great Bob Stump. I had the privilege of serving under him earlier this year, unfortunately, to a long illness. But we wanted to memorialize his service to American veterans in an appropriate and respectful way, which is why our bill names the Prescott, Arizona, VA Medical Center the Bob Stump Department of Veterans Affairs Medical Center.

As well, I want to honor a very distinguished veteran from my own district, John McGuirk, a native of Connecticut, who enlisted in the United States Navy during World War II, serving as a salvage diver. He hazarded death and injury every day of his service, serving in the South Pacific from Pearl Harbor to Manila in the Philippines, including service aboard the salvage vessel USS Bunk. He died in 2001.

John McGuirk was instrumental in establishing a community-based outreach clinic in New London, Connecticut, on the grounds of the U.S. Coast Guard Academy. And this legislation will memorialize him by naming this clinic after him.

Madam Speaker, I urge all Members to vote in support of final passage of this legislation, the Veterans Health Care Capital Asset and Business Improvement Act of 2003. (Mr. RODRIGUEZ) Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of S. 1156, as amended, the Veterans Health Care, Capital Assets and Business Improvement Act of 2003. This legislation draws the best from the provisions of the Senate and House bills. I have worked closely on the bill with the chairman of the Subcommittee on Health, the gentleman from Connecticut (Mr. Simmons). I want to thank him for his graciousness and the hard work. I would also like to thank the gentleman from New Jersey (Mr. Smith) and also the ranking member, the gentleman from Illinois (Mr. Evans), for their assistance in finalizing this bill.

I am very pleased that the bill includes important provisions from H.R. 2433, as amended, a bill I introduced with the support of the gentleman from Connecticut (Mr. Simmons). I also appreciate the persistence of the gentleman from California (Mr. Thompson), who will be speaking, in ensuring that these tests were brought to light in the items that we would be bringing before in this piece of legislation.

This bill will take important steps to remedy the serious wrong done to some of our veterans from exposure to the Cold War and Viet Nam. The military conducted a series of about 50 tests over almost a decade to determine the effects of the number of biological and chemical exposures to military operations and whether such exposures could be adequately protected. Many of these veterans participated without their knowledge, and too often veterans who participated in these tests were not properly protected from the exposure to the substances as well as, occasionally, live agents. These agents included sarin and VX nerve gas, as well as biological war agents including Q fever and rabbit fever.

The military has now completed a number of investigations into the operations of the Deseret Test Center and concluded that as many as 6,000 veterans may have been involved. Veteran participation is unacceptable, and we recognize this, and we are concerned; and we want to assure them that if they are suffering lasting health consequence that we will do something about this.

I am very pleased that this legislation does something about that. This legislation provides high-priority eligibility for the next 2 years to allow them to seek and receive VA treatment for the health problems including those that may be related to the problems, especially to the exposure of these hazardous agents.

This authority will allow them, and it will not adequately compensate them for what they have gone through, but we are at least beginning to try to correct the situation that we find ourselves in. Allowing them to have their health care concerns addressed may begin to give them the peace of mind that this Nation owes them.

I am also pleased the final bill includes many provisions on the bill H.R. 1720, as amended. Madam Speaker, this bill authorizes many worthy construction projects to which the VA has given high priority. Unfortunately, the VA major medical construction has suffered for years as Congress has waited for the results of the CARES program, which is Capital Assets Realignment for Enhanced Services. I hope now that VA is about to approve a final plan, Congress will see fit to provide the appropriations VA requires to invest in its outdated infrastructure that we know is lacking. So we are hoping that we can do more as the report comes out.

A provision in our bill is designed to assure Congress that we are also adequate informed of the most recent developments that may result from this process, facility closures, staff realignments, as well as consolidations that may affect many veterans.

I am also pleased that this bill would give us both the assurance of this notification and the time to respond to these developments. Regardless of its outcome, CARES gave us at least one thing of value and that is the information that it has provided us. Last fall, the Senate and the House passed a bill that confirmed the ongoing concerns.

I, along with my good friend, the gentleman from Texas (Mr. Ortiz), have talked about the veterans of south
Texas. I know the gentleman from Texas (Mr. Ortiz) will be speaking today. They suffered long, miserable journeys, up to 6 hours one way, to receive hospital care and some specialized services. And I do not think that anyone of our veterans had the worst access to acute hospital care in the nation like in south Texas.

I am pleased this bill will require the VA to report to us on the steps it intends to take to resolve this long-lasting problem in south Texas.

This bill will provide new benefits to former prisoners of war. Under the current law, neither Jessica Lynch nor her comrades who suffered internment in Iraq would be eligible to receive outpatient dental care from the VA. Why? Because they were in captivity for fewer than 90 days. Veterans who have experienced the trauma associated with being prisoners of war deserve dental care regardless of the time of the captivity.

This bill will also do away with these veterans medication co-payments. Surely we can all agree that these veterans have paid enough. This bill will extend and enhance long-term care and mental health programs. The VA continued to study how it will provide care in the future. Congress must remain vigilant about the programs that are needed by some of the most vulnerable veterans in the system.

I am pleased we have continued to support two independent watchdogs to monitor and report to Congress on the methods of improving mental health programs within the VA for the seriously mentally ill and for victims of post-traumatic stress disorder.

With troops who have seen the consequences of combat still in the field, we need the VA permanent programs to be available to both men and women who have trouble readjusting to civilian life.

Madam Speaker, there are numerous additional provisions in the bill that will allow the VA to provide better care to our veterans. I would like to thank the committee leadership and the staff for their hard work on this bill.

Madam Speaker, I rise in support of S. 1156, as amended, the Veterans Health Care, Capital Asset And Business Improvement Act of 2003. The bill draws the best from provisions offered in this body and in the Senate. I have been on this bill with the Chairman of the Health Subcommittee, Mr. Simmons. I would also like to thank Chairman Smith and Ranking Member Evans for their assistance in finalizing this bill.

I am most pleased that the bill includes important provisions from H.R. 2433, as amended, a bill I introduced with the support of my Chairman, Mr. Simmons. I also appreciate the persistence of the gentleman from California, Mike Thompson in ensuring that these tests were brought to light. This bill will take important steps to remedy a serious wrong done to some of our most vulnerable veterans during the Cold War era. The military conducted a series of about 50 tests over almost a decade to determine the effect of a number of biological and chemical exposures on military operations and whether such exposures could be adequately detected. Too often veterans who participated, sometimes unwittingly, in these tests were not properly protected from exposures to a number of stimulants and, occasionally, live agents. These agents included poisonous gases as well as biological war agents including Q fever and rabbit fever.

The military has now completed a number of investigations into the operations of the Desert Test Center and concluded that as many as 6000 veterans may have been involved. Veteran participants are understandably concerned and want assurances that they are not suffering lasting health consequences related to these tests. This bill provides high priority health care to these veterans for the next two years to allow them to seek and receive VA treatment for any health problems, including those they believe may be related to exposures to these hazardous agents. This authority will never adequately compensate for the neglect and betrayal the VA has shown these veterans. But, allowing them to have their health care concerns addressed may begin to give them the peace-of-mind the nation owes them.

I am also pleased that the final bill includes many of the provisions from H.R. 1720, as amended. Madam Speaker, this bill authorizes many worthy construction projects to which the VA has given high priority. Unfortunately, VA’s major medical construction has languished for years. Congress has waited for the results of the Capital Assets Realignment for Enhanced Services (CARES) study. I hope now that VA is about to approve a final plan, Congress will see fit to provide the appropriations VA requires to invest in its outdated infrastructure. If so, this bill will be the positive outcome of CARES. A provision of our bill is designed to ensure Congress that we are also adequately informed of some less positive developments that may result from this process—facility closures, staff reallocations and consolidations. I am pleased that this bill will give us both the assurance of this notification and the time to respond to these developments.

Regardless of its outcomes, CARES gave us at least one thing of value—informed last fall. VA came forward with data that confirmed ongoing concerns I, along with my good friend Solomon Ortiz, have had about the veterans of South Texas. We knew they often suffered long, miserable journeys—up to 6 hours one way—to receive hospital care and some specialized services, but I don’t think anyone knew many of our veterans had the worst access to acute hospital care in the nation! I am pleased this bill will require VA to report to us on steps it intends to take to resolve this longstanding problem.

This bill will provide new benefits to former prisoners-of-war. Under current law, neither Jessica Lynch nor her comrades who suffered internment in Iraq would be eligible to receive outpatient dental care from the VA. Why? Because they were in captivity for fewer than 90 days. While this limitation on eligibility was based on a rationale, it now seems capricious. Veterans who have experienced the trauma associated with being a prisoner of war deserve dental care regardless of their time in captivity. This bill will also do away with these veterans’ medication copayments. Surely we can all agree that these veterans have paid enough.

This bill will extend and enhance long-term care and mental health programs. As VA continues to study how it will provide health care in the future Congress must remain vigilant about these programs that consume many resources but are needed by some of the most vulnerable veterans in the system. I am pleased those who have seen the consequences of combat still in the field we will need VA’s pre-eminent programs to be available to the men and women who have trouble readjusting to civilian life.

Madam Speaker, there are a number of additional provisions in this bill that will allow VA to provide better care to our veterans. I thank the Committee leadership and the staff for their hard work on the bill and want to commend it to all of my colleagues.

Madam Speaker, I reserve the balance of my time. Mr. SMITH of New Jersey. Madam Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. Buyer), the distinguished chairman of our Subcommittee on Oversight and Investigations.

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

Mr. Buyer. Madam Speaker, this is an excellent bipartisan legislation, not only between the Members of this body but also between the House and the Senate. This is a good compromise, not only with regard to major facility construction, whether it is to improve, renovate, replace, update and establish new health care facilities around the country. That is an excellent portion of this bill.

I would like to bring to my colleagues’ attention that included in this compromise package is some legislation I authored to ensure the ethical treatment and safety of veterans who participate in VA medical research. We spent a lot of money on VA medical research, and there have been some incidents over the years whereby veterans have been harmed. And just the title of what it is called, Human Subject Protection, by calling humans subjects, it even sort of desensitizes the issue that there is a human being here at stake.

The VA medical research human subject protections section of this bill does the following:

We will establish an independent office to oversee research and compliance assurance. This bill will also provide that the new office counsels the Under Secretary for Health on all matters related to the protection of human research subjects, research misconduct and impurity, and also the ethical conduct of research, and research safety.

That office shall investigate allegations of research, misconduct and impropriety; suspend or restrict research...
to ensure the safety and ethical treatment of human subjects; and assure compliance in the conduct of research. The director of the office shall conduct periodic inspections at research facilities, observe external accreditation site visits, investigate allegations of research misconduct and improprieties. This bill also requires the immediate notification of the Under Secretary for Health when endangerment of human research subjects is evident or suspected and requires that Congress be notified when research misconduct or impropriety has been discovered.

This bill provides that funding for the new office would be independent from the Office of Research and Development. Finally, the bill mandates that the Comptroller General of the United States conduct a study of the effectiveness of this new office and submit a report to Congress by January 1, 2006. I want to thank all Members of the House Committee on Veterans' Affairs and the Senate for including this language in section IV of the bill. In particular, I want to thank the gentleman from New Jersey (Mr. Smith) and the ranking member of the Subcommittee on Oversight and Investigations, the gentlewoman from Oregon (Ms. Hooley), for co-sponsoring the legislation. Also, in particular, I want to thank the gentlemen from Connecticut (Mr. Simmons) and the ranking member, the gentleman from Texas (Mr. Rodriguez), for this bill at the subcommittee level, for bringing this to the attention of all of our colleagues. This is good legislation and good work, and I thank everyone for their efforts.

Mr. Rodriguez. Madam Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Evans), the ranking Democrat.

Mr. EVANS. Madam Speaker, I rise to support the Veterans Health Care, Capital Asset and Business Improvement Act of 2003. I want to start out by thanking the gentleman from New Jersey (Mr. Smith) again for his willingness to work closely with me and the Democratic members of the committee to develop this as a final package. Credit goes to the gentleman from Connecticut (Mr. Simmons) and the ranking member from Texas (Mr. Rodriguez), for moving these measures to the floor today.

The bill anticipates the final approval of the CARES plan, identifying Congress's priorities requiring notification of major initiatives that come before the floor. I will continue to work behind the curtain and in front of the public to get this legislation passed.

The bill memorializes two great friends of mine: Bob Stump, who was an advocate of veterans throughout his career. We truly miss him not being on the committee anymore. He was a great American, and we salute his courage in standing up for what he believed in. Also, Jesse Brown, a veterans advocate as well, the former Secretary of Veterans Affairs for veterans. And we recognize these contributions of these two veterans with the passage of this bill.

This is a laudable effort for improving services for elderly and mentally ill veterans. It strives to make VA the first choice. I am proud of the committee's work. Madam Speaker, I rise to support the Veterans Health Care, Capital Asset and Business Improvement Act of 2003. I want to thank Chairman Smith for his ongoing commitment to veterans and his willingness to work closely with us on the development of this final package.

There are many important provisions in this bill. I appreciate the good bipartisan work of Chairman Simmons and Ranking Member Rodriguez in shepherding these measures from the Health Subcommittee to our consideration of a final conference package on the floor today. This bill anticipates the final approval of the National Capital Asset Realignment for Enhanced Services (CARES) Plan. This Plan may set the framework for the first significant investment in the VA medical care system's infrastructure in several years. We are now close to having the needed investments—some estimate that the deficit is as high as $6 billion in delayed VA projects. VA's Phase I Study in VISN 12 has offered interested parties a view to the future under a CARES-like process. I had to look no further to see how the administration might handle the hundreds of new proposals it has on tap if most of the recommendations in the Draft CARES Plan are adopted.

The answers I received about the plan for VISN 12 were unsettling. This is particularly true since this Phase I study is the prototype for the larger National plan. VA planned to close one of the divisions of VA Chicago without sure funding for a modern new bed tower at the other division. This replacement facility was a greenfield site in Chicago, much in contrast to the existing VISN 12 facilities. VA plans to develop the on-site multispecialty outpatient clinic veterans were promised.

This spring I introduced H.R. 2349 which authorized funds to construct the new bed tower at the West Side division of VA in Chicago. It also attempted to hold VA to a successful integration. There are still no plans to develop the on-site multispecialty outpatient clinic veterans were promised.

This year I introduced H.R. 2349 which authorized funds to construct the new bed tower at the West Side division of VA in Chicago. It also attempted to hold VA to a successful integration. There are still no plans to develop the on-site multispecialty outpatient clinic veterans were promised.

This bill is laudable for improving services for elderly and mentally ill veterans. One provision allows VA authority to provide work skills training and development services, employment support services and job development and placement services as part of a more comprehensive rehabilitation package. This is likely to improve the therapeutic outcomes for seriously mentally ill veterans, homeless veterans and veterans with substance use disorders—those who can truly benefit from hands-on job coaching services. It extends authority for VA to provide properties foreclosed under its home loan program to nonprofit organizations for veterans. This has the potential to provide extensive use of this authority and nonprofits have provided many nights of care to homeless veterans as a result.

Las Vegas. We have since learned that VA's needs may be evolving and settled on appropriating advance planning funds in the amount of $25,000,000 for a major medical facility project there.

The bill also adopts language inspired by a provision introduced by my friend from Kansas, Dennis Moore. His bill has tremendous appeal to downtown, which this body is passionate about. The provision requires VA to notify Congress in writing of actions proposed under the CARES initiative that would result in medical facility closures, significant staff realignments of medical facility consolidations and prohibits VA from taking these actions before 45 days following the notification or 30 days of continuous session of Congress.

I plan to continue to look behind the CARES process to ensure that VA is making its decisions in the best interest of veterans—not the bottom line.

In addition to honoring my friend, the late Jesse Brown, the former Secretary for 'Veterans Affairs by naming the VA Medical Center (West Side Division) in Chicago for him, this final package will name the Prescott VA Medical Center for our Committee's former Chairman, and my personal friend, the late Bob Stump. We honor two true veterans' advocates with the passage of this bill, and I am pleased to be associated with it.

Madam Speaker, I am pleased that we are finally able to authorize VA to provide health care to certain Filipino World War II veterans of the Philippines Commonwealth Army and former Philippines "New Scouts" who permanently reside in the United States, in the same manner as provided to Filipinos. I commend my colleague, Mr. Filner, for his persistence in seeing this to fruition.

Several years ago, my friend from California, Mike Thompson, discovered that many veterans had participated in a series of dangerous tests to identify the military's ability to detect and protect itself from biological and chemical attacks. His desire led the military to admit responsibility for conducting these tests which involved spraying American troops with agents that were, in some cases, extremely potent. The ranking member of the Health Subcommittee, Ciro Rodriguez, saw an opportunity to do something for these veterans by giving them access to VA health care for any condition for two years. This will allow these veterans to seek care for conditions they believe may be related to their exposures. I am pleased to support this provision.

This bill is laudable for improving services for elderly and mentally ill veterans. One provision allows VA authority to provide work skills training and development services, employment support services and job development and placement services as part of a more comprehensive rehabilitation package. This is likely to improve the therapeutic outcomes for seriously mentally ill veterans, homeless veterans and veterans with substance use disorders—those who can truly benefit from hands-on job coaching services. It extends authority for VA to provide properties foreclosed under its home loan program to nonprofit organizations for veterans. This has the potential to provide extensive use of this authority and nonprofits have provided many nights of care to homeless veterans as a result.
The bill extend VA's authority to provide a range of non-institutional extended care services and a mandate to provide medically necessary, institutional nursing care services to severely service-connected disabled veterans through December 31, 2008. It allows VA to extend to its improved veterans' readjustment program assisted living for veterans. It provides earmarked funding for specialized mental health services for veterans in each of the next three fiscal years. It also continues the reports of two important VA advisory groups who were asked to make a series of bold recommendations to the Under Secretary for Health and the Congress about programs for seriously mentally ill veterans and veterans with post-traumatic stress disorder.

Finally, this bill strives to make VA an employer of choice. We have reached one of those rare compromises that seem to offer something to everyone by creating a new appointment and promotion authority for certain clinical personnel, such as clinical psychologists, social workers, audiologists, kinesiologists, and others in the Veterans Health Administration (VHA). This authority will allow these employees to enjoy some of the same protections other Federal workers have, but will also provide VA with greater hiring and promotion flexibility. Some health care workers, most notably nursing assistants, will enjoy Saturday premium pay under this bill. It will allow VA to appoint employees of the Veterans Canteen Service taking into consideration their time in service in that capacity. We have offered VHA the authority to hire chiropractors to enhance the types of health care services it routinely offers veterans.

Madam Speaker, I am proud of the Committee's work on this bill and encourage all of my colleagues to approve it.

Mr. SMITH of New Jersey, Madam Speaker, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. RENZI), a member of the committee, and a very active one at that. (Mr. RENZI asked and was given permission to revise and extend his remarks.)

Mr. RENZI. Madam Speaker, I want to begin by commending the chairman, the gentleman from New Jersey (Mr. SMITH), the gentleman from Illinois (Mr. EVANS), the gentleman from Connecticut (Mr. SIMMONS), and the gentleman from Texas (Mr. RODRIGUEZ) for their hard work in crafting a comprehensive bill that gives great improvements to veterans' health care programs.

It is imperative at this time especially that we honor the service of veterans and provide for the quality of life they have helped foster for their years of service to us and this Nation.

This bill ensures the VA health care system will continue to provide the highest quality health care services to our Nation's patriots.

Worth noting is, I just take a minute to highlight a provision in this bill that honors the memory of a veteran that served in this body. Congressman Bob Stump dedicated his life to the service of our country, first in World War II as a Navy medic, then as an elected official in the State of Arizona, and also in the House of Representatives here in Washington.

Throughout his career, he devoted his efforts to taking care of men and women in uniform on and off the battlefield who committed themselves to defend this Nation and our Constitution. As the previous chairman of the House Committee on Veterans' Affairs, he worked for over 20 years in support of increased health care benefits for veterans and in strengthening the Montgomery GI Bill to allow veterans to have greater access to education and training.

This bill honors the legacy of Bob Stump and his steadfast commitment to veterans by renaming the Prescott Veterans Affairs Medical Center in Prescott, Arizona, the Bob Stump Veterans Affairs Medical Center.

I would like to thank members of his staff, Delores Dunn, J. Anne Keane, and Susan Hosinpellar, who continue to carry on the tradition of his service. It is they who brought forward this idea along with the Arizona delegation who helped make it happen. It is a fitting tribute to one of our Nation's greatest heroes.

Mr. RODRIGUEZ, Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Madam Speaker, I also rise in support of S. 1156 as it comes to the House.

As I said yesterday on the floor of the House and I will say again to the chairman of the Committee on Veterans' Affairs and his ranking member, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS), this is the benefits package that we passed yesterday and the health package that we will pass today, the sum together of these make this year one of the most productive years ever for benefits and health care for our Nation's veterans.

I urge passage of Senate bill 1156.

Mr. SMITH of New Jersey. Mr. Speaker, because there have been so many requests for time on our side, as well as on the Democratic side, I ask unanimous consent that we extend this debate by 10 minutes equally divided between the minority and majority.

The SPEAKER pro tempore (Mr. BURGESS). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. HEFLEY), the distinguished chairman of the Committee on Standards of Official Conduct.

Mr. HEFLEY. Mr. Speaker, let me tell my colleagues this is a good bill. This recognizes needs that have gone unmet in in some cases seems like generations, and I am not going to go through and describe the bill in its totality because other speakers have done it better than I can, but let me just say an area that I am particularly interested in is the work of the Secretary of Veterans' Affairs to enter into a contract in the amount of $26 million for the advance planning and engineering for the VA medical facility project at the former Fitzsimmons Army Medical Center site in Aurora, Colorado.

As the gentleman from Connecticut (Mr. SIMMONS) said, the University of Colorado Hospital is moving to this new medical campus, which is really going to be something to see when it is completed. And they have cooperated with the veterans hospital over the years, and now to bring the veterans hospital out there with the savings
The VA is already struggling to address and meet the current demands on the VA health care structure in the Las Vegas valley. Last year, 1,500 southern Nevada veterans were sent to neighboring States because we could not provide the services locally. This is a terrible burden on those veterans and their families. They should not have to travel hundreds of miles across the country for needed care.

In addition, due to the decrepit condition and structural deficiencies, the VA evacuated the Addelker D. Gay VA Clinic in Las Vegas after only 5 years in operation, forcing veterans to rely on a string of temporary clinics scattered across the Las Vegas Valley. I cannot tell my colleagues what a travesty it is when I see 80-year-old veterans waiting for a shuttle in 110-degree temperature in the middle of Las Vegas summers, waiting for a shuttle to pick them up to take them from one location to another for their health care. This sight has to be corrected as quickly as possible.

In short, southern Nevada is facing a veterans health care crisis. Recently, the Department of Veterans Affairs re-released the CARES document which proposes $4.6 billion worth of VA construction projects across the country. The CARES initiative directs funding to construct new facilities in areas where veteran populations are growing such as the Las Vegas Valley. Because of the exponential growth in the number of veterans living in and around Las Vegas, the CARES initiative calls for the construction of a full-scale medical facility, including a full-service patient care hospital and outpatient clinic and a comprehensive long-term care nursing facility of which we have none of those.

To fully understand the current health and medical care needs of the 5 million veterans and veteran services that will be needed in the next 20 years, the CARES Commission evaluated the plan and heard testimony in 38 public hearings across the country, including Las Vegas, from veterans, Members of Congress, VA employees, local government officials and veteran service groups. I commend the work of the CARES Commission. This process was done with our veterans squarely in mind, focused not only on those areas that have multiple facilities but also on the fastest growing regions, like southern Nevada, which lack the facilities needed to keep pace with the sudden influx of veterans from other areas of the country. Any plan to address shortfalls in veterans’ care must reflect the need to expand services in areas where our veterans live.

This bill that I speak of, and that we are here today to discuss, authorizes the Secretary of the VA to provide $25 million to construct and advance planning of a full-scale VA medical complex in Las Vegas, Nevada, as outlined through the draft of the CARES plan. This authorization is the first step in addressing the health care crisis of the veterans in southern Nevada.

I urge my colleagues to support this legislation. I cannot tell my colleagues how important it is to the veterans across the country.

Mr. BEAUPREZ. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Colorado (Mr. BEAUPREZ), who along with the gentleman from Colorado (Mr. HEFLEY) worked very, very hard for the new Fitzsimons hospital, and I am very grateful for their help.

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

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

Mr. Speaker, I am proud to speak today in support of the Veterans Health Care CapitaI Asset and Business Improvement Act of 2003.

Take any systems in the VA, the Denver Medical Veterans Center in Colorado was constructed about 50 years ago primarily to provide low-volume inpatient care to our veteran population in Colorado. Today, we have an opportunity to provide health care in a much more efficient manner.

This legislation, as has already been mentioned, will allow for the relocation of the VA hospital to the new Fitzsimons campus. Such relocation is necessary to provide a more efficient service, to deliver modern health care on a state-of-the-art medical campus. The VA would be able to continue the synergistic University of Colorado partnership which will provide numerous operational efficiencies, as well as access to an extensive staff of doctors, technicians and specialists. S. 1156 would authorize this critical relocation.

It is my belief that the savings in operational efficiencies at Fitzsimons in itself will pay for the construction of a new hospital at Fitzsimons also allows for the ability to build a much-needed spinal cord injury center.

This new hospital and the strengthened partnership holds potential for cutting edge enhancements in veteran health care through collaborative research with the university. The unparalleled quality of health care that will be afforded to our veterans with this unique partnership is not something that we should deny our veterans. In addition to the university and the VA, this legislation authorizes the DOD to join the Fitzsimons VA partnership to provide health care to the nearby Buckley Air Force Base. Many of us believe that the new Fitzsimons VA Hospital may become a new model for delivery of health care for our veteran population.

Regardless of where our veterans happen to live, they deserve the best care possible, and as this bill advances through the draft of the CARES plan, I ask that we all keep in mind the long-term planning mission of the VA, which is to improve access to and the quality and
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Rodriguez), the subcommittee ranking member, and the gentleman from Illinois (Ranking Member EVANS) for their commitment to veterans’ issues and their steadfast leadership and dedication to those men and women who have served us admirably in this country and throughout the world.

I want to also thank the gentleman from Connecticut (Mr. SIMMONS), subcommittee chair, and the gentleman from Texas (Mr. RODRIGUEZ), the ranking member, for their dedication and leadership. I want to make sure that veterans have their proper stay in terms of care.

Another person who has worked tirelessly for the committee and for Filipino veterans is my colleague and friend from California, Mr. FILNER.

His commitment and resolve has been stellar on behalf of these veterans whom we both serve.

This bill, Mr. Speaker, is a long time coming. There are many, many good measures in this bill I applaud the committee for doing good and timely work.

Mr. Speaker, addressing the current and future needs of our veterans must continue to be a national top priority.

There is one important measure in this bill, though, that has been particularly close to me for the past several years. I want to applaud and thank members of the Committee on Veterans’ Affairs for including the authorization to provide hospital and nursing home care and medical services to Filipino World War II veterans of the Philippines Commonwealth and Filipino New Scouts in the same manner that is provided for other U.S. veterans and who reside permanently in the United States.

Currently, there are 11,000 World War II Filipino veterans who are citizens or legal residents of the United States. Many of these brave veterans are in their seventies and eighties and in desperate need of health benefits, and I am proud to represent many of them in my district. Passage of this language provides health benefits to these brave men, as well as benefiting our communities across the country.

I represent a district with approximately 35,000 Filipinos, the largest population of Filipino veterans in America. And for several years now, I have put my heart and soul into the welfare of many Filipino veterans who have asked me to help them in their struggle for recognition and equity in acquiring long overdue benefits.

I have witnessed firsthand how providing these long overdue health benefits will affect our families, our neighborhoods, our friends and, ultimately, our communities. I urge my colleagues to support this very important legislation on behalf of all of our veterans, especially these Filipino veterans who have waited long enough.

Finally, I want to commend the committee on H.R. 2297, the Veterans Benefits Reform Act of 2003, which passed the House last night. This legislation addressed many issues that are also very important to the Filipino community. H.R. 2297 included language that extended eligibility for burial in the National Cemeteries to new Filipino scouts.

For this, Mr. Speaker, and for all other reasons and the great provisions of this bill, I want to thank the committee, and especially thank the Secretary of Veterans Affairs, Secretary Principi, for his leadership and guidance.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Nevada (Mr. GIBBONS).

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

Mr. GIBBONS. Mr. Speaker, in honor of our former friend and colleague, a World War II veteran, the veterans’ group friend across this country, the late Bob Stump, I rise in strong support of this legislation. S. 1156, the Department of Veterans Affairs Long-Term Care and Personnel Authorities Enhancement Act of 2003. I want to add my voice in support of those who have already spoken in support of this legislation.

This bill goes a long way in providing our Nation’s veterans with the medical care that they have earned and deserve.

Fulfilling the current and future healthcare needs of our veterans must remain a high priority. I applaud the commitment of the leadership of the House, especially the Nevada delegation, in meeting the needs of Nevada’s veterans. I also applaud the work of my
Mr. RODRIGUEZ. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. RODRIGUEZ) that would provide health care free of charge to veterans who participated in what are known as Project 112 and Project SHAD. These projects were a series of over 100 tests that subjected our servicemen and our service women to harmful chemical and biological agents and possibly to decontaminates now believed to be harmful. We shall have a long way to go in getting the story of this. This bill provides important care to our veterans who, in many cases, unknowingly participated in these trials. I commend the gentleman from Texas (Mr. RODRIGUEZ) and the other members of the committee working to provide for this critical health care provision.

My own experience with this came when a constituent of mine called and said that he had participated in Project SHAD. He and a number of his ship mates now have cancer, and he wanted help. After 3 years of investigation, the Department of Defense revealed last year that these tests involved live agents, in some cases, VX nerve gas, sarin, nerve gas and E. coli. The Department of Defense describes VX as one of the most lethal substances ever synthesized, and sarin, as we all know, was used in that tragic terrorist attack, not only tragic, but deadly terrorist attack, on the Tokyo subway a few years ago. We put at least 5,000 of our servicemen at risk by exposing them to these hazardous agents.

We have a duty to rectify this disgraceful conduct on the part of the Department of Defense and, therefore, Project SHAD and similar cases of chemical and biological testing involving servicemen are issues of trust and integrity. Our military personnel put their trust in our government to protect them, and our integrity has been compromised because, nearly 40 years later, we are still not protecting them.

I urge all Members of this House to vote for this bill and take one step towards renewing this trust in our veterans from whom we so respect and so depend.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Nebraska (Mr. OSBORNE). Mr. OSBORNE. Mr. Speaker, I would like to especially thank the gentleman from New Jersey (Chairman SMITH) the gentleman from Connecticut (Chairman SIMMONS) and the gentleman from Texas (Mr. RODRIGUEZ) for their work on this bill. It is an excellent piece of legislation.

Mr. Speaker, the biggest veterans health care issue in our district, which is largely rural, is access. We have a great many veterans who are driving hundreds of miles and sometimes many hours to a clinic; and as a result, many of them, particularly the oldest and the sickest, simply cannot get there. They do not have access. Also, of course, they are facing waiting lists sometimes of several months.

Mr. Speaker, what I did was I submitted legislation to provide vouchers for health care at local hospitals. That legislation is not in this particular bill. However, this legislation expresses 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. I really applaud members for getting that in there, because I think that is badly needed.

In addition, the legislation also contains a requirement that 120 days after the date of enactment of this legislation, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the House a report describing the steps the Secretary is taking to improve access to health care for veterans residing in rural areas.

So I applaud Members for getting that in there and also requiring at least a 200-page report. We apprise this. I would like to thank my colleagues for including these important provisions, and thank them for this bill. I urge support.

Mr. ORTIZ. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ORTIZ), whom we consider our dean, who is also responsible for some of this legislation.

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

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

Mr. Speaker, this bill requires a plan for the care of veterans in rural south Texas by January 31, 2004, either through VA or through contracts with private hospitals.

Of course, I would like to thank my good friend, the gentleman from Ohio (Mr. Ho bson), for his help in finding more health services for our veterans; and also my good friend, the gentleman from New Jersey (Chairman SMITH); the gentleman from Illinois (Chairman SIMMONS), my good friend; the gentleman from Florida (Mr. MILLER), and certainly the ranking member. In fact, I thank all the members of the Committee on Veterans' Affairs on both sides of the aisle.

I want to say that the first district of Florida probably includes some of the most striking examples of access to care challenges that this country ever had. I have almost 100,000 veterans that live in the Panhandle. All of them are eligible to receive health care through the VA. Pensacola ranks in the top 10 in veteran populations in the Nation, and Fort Walton Beach tops that list.

Despite these numbers, our community-based outpatient clinic in Pensacola treats twice the number of Pan handle veterans than it was designed to do. Veterans in Fort Walton and farther east must travel to the other side of Eglin Air Force Base, which spans over 700 square miles in the middle of my district, in order to even reach the Pensacola clinic. For VA in-patient care, all of my patients must go to Biloxi, Mississippi, a trip upwards of 200 miles for some of my residents.
I would say in VA's budget submission for this fiscal year, the Pensacola facility was described as "obsolete." This description does not even come close to painting an accurate picture of the crowded and totally inadequate facility as we move forward on providing a new facility is now, and this bill sets the pace.

I am proud that the Naval Hospital Pensacola has been ahead of the bell curve on the implementation of co-sharing agreements, as has the 96th Medical Group at Holloman Air Force Base. Whereas both facilities have the potential to set the pace for the rest of the Nation in regards to issues of VA and DOD resource-sharing, the CARES Commission report acknowledges this in its "highest priority project request" for land to build a replacement Pensacola clinic at the Naval Hospital Pensacola, with the Navy to provide contract hospitalization for medicine and surgical care.

This bill, Mr. Speaker, underscores the solidarity amongst all stakeholders in this endeavor. I would say that nothing makes me prouder than to represent the veterans of northwest Florida, and I urge my colleagues to support S. 1156.

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

Mr. Speaker, let me take this opportunity, first of all, to thank the gentlemen from Ohio (Chairman SMITH) and the gentleman from Illinois (Chairman SIMMONS) for their hard work on this particular bill.

I also want to take time to also recognize our leading Democrat, the gentleman from Illinois (Mr. EVANS), for his hard work on this specific bill. I also want to take this opportunity to thank all the Members who participated to make this happen, such as the gentleman from Texas (Mr. ORTIZ) and the gentleman from California (Mr. TIBERI) as well as those on the Republican side.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. TIBERI), and the gentleman for his work on the Columbus project which has advance planning funds to the tune of $9 million in this bill.

Mr. TIBERI. Mr. Speaker, I am very disappointed that this final bill does not fully authorize a new veterans health care facility in central Ohio that was done in the House bill we approved earlier this year, thanks to the hard work by the gentleman from Ohio (Chairman Hoscon), my central Ohio colleague; but as importantly, the gentleman from New Jersey (Chairman SMITH) and the subcommittee chairman, the gentleman from Connecticut (Mr. SIMMONS), who worked extremely hard to get that commitment in the bill that we passed here, a facility badly in need of expansion. That $90 million represented a beginning-to-end commitment that this House made. This bill before us includes only $9 million for planning purposes. That cut is an insult, and it is something that we in the House knew nothing about, were not consulted with, and we are stuck with the version before us today.

The money included in this bill for the new central Ohio veterans facility is a part of a larger piece proposed by the veterans administration, but it is only a start. I want to assure the veterans community in central Ohio that I am committed to finishing the job and making a new expanded health care facility a reality in the years to come.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. SIMMONS). Mr. Speaker, I would like to briefly respond to the gentleman from Ohio (Mr. TIBERI) to say that it is a start, it is a good start, and we are going to be with the gentleman all the way. I look forward to coming to Ohio with Secretary Principi to visit the facility.

I would also like to thank the subcommittee staff director, J ohn Bradley, and the minority staff director, Susan Edgerton for their hard work, and I would like to make a comment. Over 100 years ago, the U.S. Marine Corps was dispatched to China to relieve the diplomatic legations in that country that were under great pressure from the Boxer Rebellion, and when they came back, they adopted the term "gung-ho." To be gung-ho, to be enthusiastic, to be filled with vigor for something. But the term "gung-ho" comes from the Chinese. I see the gentleman from Illinois (Mr. EVANS) is smiling, he probably knows, which means work together.

Under the leadership of the chairman and the ranking member, we have worked together on this legislation, and we have accomplished something that we have not accomplished for 5 years, which is an authorization bill, hopefully, heading to the White House for the President's signature.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first of all, I thank the gentleman from Illinois (Mr. EVANS). Again, we have collaborated on a bill working with the subcommittee chairman, the gentleman from Connecticut (Mr. SIMMONS), and the ranking member, the gentleman from Texas (Mr. RODRIGUEZ), and we have produced an extraordinarily good piece of legislation.

We worked with the other body, and I want to thank Senator Arlen Specter, the chairman, and the ranking member, Senator Graham. There was give and take, obviously. We began working on this very comprehensive product last spring. Again, this is a combination of a number of bills rolled and packaged into one bill. Project Shad was mentioned earlier by my colleague from California (Mr. Rodriguez), and I want to assure my colleagues we have done our due diligence. This is a very good piece of veterans legislation.

I want to thank our staff, Pat Ryan; John Bradley, who is the staff director for the subcommittee; Kingston Smith, our deputy chief counsel; Jeanie McNally; Mary McDermott; Peter Dickinson; Steve Kirkland; Bernie Dotson; Summer Larson; Kathleen Greve; Delores Dunn; Paige McManus; Seibert; and Drabek. As my colleague mentioned, we have had great cooperation with our friends on the other side of the aisle.

Again, this is a quintessential bipartisan piece of legislation, something that this entire body can be proud of, and it will advance the ball significantly when it comes to veterans health care as well as the construction project.

Let me also remind my colleagues that we have passed over to the other body H.R. 11 and another bill that I sponsored and a bill that the gentleman from Kansas (Mr. MORAN) sponsored in the last Congress, and they never came back. They listed a number of projects that should not have but did not get funded and were not authorized.

Now, finally in this Congress, under the great leadership of the gentleman from Connecticut (Mr. SIMMONS), we have gotten that product back from the Senate, and it will go to the President Bush for his signature. This is a great day for veterans. Again, I thank all of my colleagues for their cooperation and leadership.

Mr. Speaker, I include for the Record a joint explanatory statement.
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 29, 2003 (“House Bill”).

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 bill 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 102 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.

**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 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 Senate language, except the Compromise Agreement does not include the resource availability certification requirement.

**Enhancement of Rehabilitative Services**

**Current Law**

Chapter 31 of title 38, United States Code, 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 provision.

**House Bill**

Section 3 of H.R. 3307 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 re habilitation for mental health disorders, including serious mental illness and substance use disorders.

**Compromise Agreement**

Section 3 of H.R. 3307 would also authorize VA to use funds in the Special Therapeutic and Rehabilitation Activities Fund (STRAF) to support veterans who have been detained or interned in the United States and who are not service-connected with a disability rated at more than 50 percent, to furnish such therapeutic employment support services.

**Senate Bill**

The Senate Bill contains no comparable provision.

**House Bill**

Section 103 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**

Chapter 31 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 S. 1156 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 Bill contains 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 non-institutional extended care services to enrolled veterans. In addition, section 1701A(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 S. 1156 would extend the authorities for noninstitutional extended care services and required nursing home care to 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 subsections (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 S. 1156 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 Bill contains 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 S. 1156 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 Bill contains no comparable provision.

**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 or 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 S. 1156 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 $9,000,000.

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, and such region, any changes made 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.

Substitute B—Project Authorizations

AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS

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

Senate Bill
Section 211 of S. 1156 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 Correlations, Building L 48,500,000
  - West Haven, CT Renovate Inpatient Wards & Consolidate Research Facilities 50,000,000
  - Columbus, OH New Medical Facility 90,000,000
  - Pensacola, FL New VA-Navy Joint Venture 45,000,000

Compromise Agreement
Section 211 of the Compromise Agreement authorizes the major construction projects for Louisiana, 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 S. 1156 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 Extended Outpatient Clinic 2,079,000
  - Charlotte, NC Relocate Outpatient Clinic 2,067,000

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 1,200,000
  - Aurora, CO Regional 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 renovation 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 of title 38, United States Code, requires Congressional authorization of all VA major medical facility construction projects.

Senate Bill
The Senate Bill contains no comparable provision.

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 Re-alignment 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 funding 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 of title 38, United States Code, requires Congressional authorization of appropriations for VA major medical facility projects.

Senate Bill
Section 213 of S. 1156 would authorize $34,500,000 for fiscal year 2004 for projects authorized and $4,364,000 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 would authorize $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 $96,500,000 for advanced planning projects identified in section 213 of the Compromise Agreement.
CONGRESSIONAL RECORD — HOUSE  November 21, 2003

Subtitle C—Capital Asset Realignment for Enhanced Services Initiative

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

Current Law

Section 801(a)(2) of title 38, United States Code, requires Congressional authorization of all VA major medical facility projects.

Senate Bill

Section 402 of S. 1156 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.

Section 221 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 Congress on VA’s action plans for taking on Veterans’ Affairs with a plan of action to improve access to health care for veterans residing in rural parts of VAs’ service area.

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 requires VA to report to Congress on VA’s action plans for taking on Veterans’ Affairs with a plan of action 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

Current Law

There is no comparable provision in current law.

House Bill

The House Bill contains no comparable provision.

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 a 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 necessary 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 S. 1156 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 Bill contains no comparable provision.

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 after the 30th day of continuous session of Congress after such notifications are made.
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 "J ohn 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 S. 1156 would name the VA Outpatient Clinic located in Horsham, Pennsylvania, the "Victor J. Saracini Department of Veterans Affairs Outpatient Clinic."

House Bill
The House Bill contains no comparable provision.

Compromise Agreement
Section 246 of the Compromise Agreement follows the Senate language.

PERSONNEL MATTERS

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

Current Law
Section 7403 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 S. 1156 would modify title 38, United States Code, to authorize the appointment of physical therapists, kinesiologists and social workers, under title 38 provisions as opposed to title 5, United States Code, provisions.

House Bill
The House Bill contains no comparable provision.

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.

APPPOINTMENT 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. 2257, as amended, would authorize VA appointment of chiropractors under title 38, United States Code. The House bill would establish the qualifications for VA appointment of chiropractors under this provision.

Senate Bill
The Senate Bill contains no comparable provision.

House Bill
Section 3 of H.R. 2257, as amended, would authorize appointment of chiropractors in the Veterans Health Administration.

Compromise Agreement
Section 302 of the Compromise Agreement follows the Senate language with modifications that would redefine "medical care" occupations as "health care" occupations and eliminate provisions that would provide for exceeding skill and experience requirements and reimbursements to 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.

Senate Bill
Section 303 of the Compromise Agreement follows the Senate language.

Compromise Agreement
Section 303 of the Compromise Agreement follows the House language.

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 7360 of title 38, United States Code, provides that no such corporations may be established after December 31, 2003.

House Bill
The House Bill contains no comparable provision.

Compromise Agreement
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.

Senate Bill
Section 4 of H.R. 2433, 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.

Senate Bill
Section 5 of H.R. 2433, as amended, would add a new section 7307 to title 38, United States Code, to authorize premium pay for Saturday tours of duty for additional VHA health care workers.
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 S. 1156 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 through 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; (f) in section 1721A note and enacted in section 110(e)(2) of Public Law 106-117, an annual report of the Special Committee on PTS; the report is due February 1 of each of the three following years.

Senate Bill

The Senate Bill contains no comparable provision.

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 30 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 Personnel Authorities Act of 2003. This bill represents a step in the right direction for many of our veteran communities.

In the interest of my constituents, this bill and the language contained within brings to the forefront the problems at the San Juan VA Medical Center and opens opportunities to provide immediate relief for the Veterans in Puerto Rico. Again, I thank my colleagues for working so diligently on these first steps to improve healthcare for our veterans and urge my colleagues to vote ‘yes’ to approve this bill.

Mr. ACEVEDO-VILÁ. Mr. Speaker, I rise today to urge my colleagues to vote in favor of S. 1156—Department of Veterans Affairs Long-Term Personnel Authorities Act of 2003. This bill represents a step in the right direction for many of our veteran communities.

I am pleased that this bill also honors George E. Wahl, Utah’s only living Medal of Honor winner. George Wahl is a dedicated American and Utah is proud to pay tribute to his service by renaming the Salt Lake Veterans Affairs Medical Center in his honor.

George Wahl’s twenty-year service to this nation as a soldier was not his only contribution. Even now, he continues to serve as an advocate for both active troops and veterans. I am proud to honor this patriot, just as I am proud of all Americans who serve their country.

they have sent a clear message of appreciation to the over 140,000 Puerto Rican veterans for their service in defense of our shared values. Puerto Ricans have served proudly in every armed conflict since the First World War. The language in this bill acknowledges the value of their service to Puerto Rico by authorizing up to $140,000 Puerto Rican men and women who are serving in the armed forces in Iraq, Afghanistan, Guantanamo and many other regions throughout the world. The language in this bill sends the right message to these young men and women that when they serve their Nation well, the United States Congress will serve them well.

I congratulate my colleagues on a job well done. Through long hours of deliberation and patient understanding and understanding, both chambers of this Congress have come to what I believe is an impressive piece of bipartisan work. Now, it is my hope that the Secretary will move swiftly to reprogram the necessary funds to build a new tower at the San Juan VA Medical Center. Without the additional dollars mentioned in this bill, the San Juan VA Medical Center would have been forced to provide services with a bed loss of 120. This would have put additional burdens on a facility, which the C.A.R.E.S. Committee has deemed to be spatially deficient. The Committees understood this and worked to include the language to encourage the Secretary to move forward.

The construction of the new bed tower will allow the San Juan VA Medical Center to provide safer and more modern services for the immediate future to the veterans and the people returning from Iraq and Afghanistan.

I would like to personally thank Chairman SMITH, the Ranking Member, Mr. FILNER, Ms. CORRINE BROWN and the other members of the committee for working with me on these vital projects. The report language is more than a listing of projects—it is sending the right message to the 140,000 veterans in Puerto Rico; it sends the right message to the 5,000 Puerto Ricans who have been called to active service in Iraq, and it certainly sends the right message to the 13,000 Puerto Ricans who have sacrificed their lives this year in service of the United States against the war on terror.

I look forward to continually working with my colleagues in both chambers to provide for the veterans in Puerto Rico. Again, I thank my colleagues for working so diligently on these first steps to improve healthcare for our veterans and urge my colleagues to vote “yes” to approve this bill.

Mr. MATHESON, Mr. Speaker, as a strong supporter of the military, I am pleased to support this legislation, which enhances veterans health care.

I am especially pleased that this bill also honors George E. Wahl, Utah’s only living Medal of Honor winner. George Wahl is a dedicated American and Utah is proud to pay tribute to his service by renaming the Salt Lake Veterans Affairs Medical Center in his honor.

George Wahl’s twenty-year service to this nation as a soldier was not his only contribution. Even now, he continues to serve as an advocate for both active troops and veterans. I am proud to honor this patriot, just as I am proud of all Americans who serve their country.
The SPEAKER pro tempore (Mr. Burgess). The question is on the motion offered by the gentleman from New Jersey (Mr. Smith) that the House suspend the rules and pass the Senate bill, S. 1156.

The question was taken.

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

Mr. Smith of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

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

A FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agreed to the report of the committee of conference on the bill, referring the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 2417) “An Act to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.”

SUPPORTING NATIONAL MARROW DONOR PROGRAM AND OTHER BONE MARROW DONOR PROGRAMS

Mr. Walden of Oregon. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 206) supporting the National Marrow Donor Program and other bone marrow donor programs and encouraging Americans to learn about the importance of bone marrow donation.

The Clerk read as follows:

H. CON. RES. 206

Whereas up to 30,000 people each year are diagnosed with leukemia or other blood diseases and approximately 20,000 will not find a matching donor within their family and must rely upon strangers;

Whereas diseases such as leukemia, aplastic anemia, and defective immune systems can lead to a rapid deterioration in an individual’s health and ultimately the individual’s death if potential marrow donors are not identified;

Whereas volunteers in donor programs provide a life-saving service to those that are afflicted with leukemia or other blood diseases;

Whereas since the founding of the National Marrow Donor Program in 1986, it has facilitated more than 15,000 unrelated transplants for patients with leukemia or other blood diseases;

Whereas the National Marrow Donor Program provides potential donors with information on how to become a bone marrow donor;

Whereas the National Marrow Donor Program has a worldwide reach and a large database of potential donors;

Whereas the National Marrow Donor Program currently facilitates more than 160 transplants each month; and

Whereas the National Marrow Donor Program makes a positive impact on the lives of thousands of Americans: Now, therefore, be it

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

(1) supports the goals and ideals of the National Marrow Donor Program and other bone marrow donor programs;

(2) encourages all Americans to learn about the importance of bone marrow donation and to discuss such donation with their families and friends;

The SPEAKER pro tempore (Mr. Simmons). Pursuant to the rule, the gentleman from Oregon (Mr. Walden) and the gentleman from Ohio (Mr. Brown) each will control 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. Walden). Mr. Walden of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that the House is considering House Concurrent Resolution 206 introduced by the gentleman from Texas (Mr. Burgess) to recognize the important work that the National Marrow Donor Program and other bone marrow donor programs do to save lives.

Bone marrow transplants are often one of the last options available to patients struggling to fight debilitating and often terminal illnesses. Unfortunately, finding a bone marrow match is very difficult. In fact, every year nearly two-thirds of patients in need of a bone marrow transplant will not find a marrow donor match within their family and, therefore, must rely on the help of strangers.

Each month the National Bone Marrow Registry coordinates more than 150 transplants. With a diverse registry of more than 4 million potential bone marrow and cord blood donors, the National Bone Marrow Registry offers hope to thousands of patients. Just last month, the House approved H.R. 3034, the National Bone Marrow Donor Registry Reauthorization Act, to reauthorize the national bone marrow registry for an additional 5-year period.

Since 1986, the National Bone Marrow Donor Program has facilitated more than 15,000 transplants for patients. I hope we can continue in extending this program to guarantee that thousands more will benefit. This resolution will raise awareness about the bone marrow donor programs, and will encourage more Americans to donate, and I urge all of my colleagues to support this resolution today.

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

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

Mr. Speaker, I commend the gentleman from Texas (Mr. Burgess) for raising awareness regarding the importance of bone marrow donation. There are at least 20,000 Americans today who need a bone marrow transplant but cannot find a compatible donor within their own family.

National Marrow Awareness Month is a vehicle for encouraging more people to join the bone marrow registry, a noble goal, and it is right that Congress acknowledge the importance of this month.

But, Mr. Speaker, the timing is unfortunate. The Republican majority today is giving this body fewer than 24 hours to consider legislation which will have a dramatic impact on the financial stability of 39 million retirees and disabled Americans, as well as those in their families. This bill takes money out of taxpayers’ pockets and puts much of that money in the pockets of the drug industry and the insurance industry, the two industries that sat in back rooms with Republican leaders and this bill. Every American has a stake in the outcome of this.

Less than 24 hours to review, debate and vote on an 1,100-page bill that erects a brand new private insurance system for stand-alone drug coverage which replaces tried and true Medicare. The bill features such a meager drug benefit that seniors will still be unable to afford the medicines they need, a bill that creates a fast-track process to expedite reductions in Medicare benefits, a bill that makes different seniors pay different premiums for the exact same coverage, and a bill that launches a private insurance experiment, privatizing Medicare, forcing millions of seniors in this country to pay more or join an HMO. We received that bill yesterday, that 1,100-page Medicare bill, and are being forced to vote on that bill today.

With all due respect, I support this Burgess legislation and applaud the gentleman’s efforts, but we need every minute we can get to try to get a handle on just how dramatically this Medicare privatization bill will turn our world upside down.

Mr. Speaker, we all know what is going to happen tonight. We have seen this same scene. Every single month after month this year. In April, it started where in the middle of the night Congress passed contentious, important tax legislation by a handful of votes. Every single month during the summer, Congress did the same thing. The controversial legislation Head Start, budget reconciliation, the tax cut, Medicare, last year the trade promotion bill authority, always between
12 midnight and four in the morning, always in the dead of night, always on Thursday night so the papers did not pick it up until Saturday, always when the media had gone to bed and the American public had turned off their television sets, and early evening so people in this country can see what in fact is in it.

On this legislation we are considering today, I appreciate the efforts of the gentleman from Texas (Mr. Burgess), but on a day when this body is asked to participate in such remarkably irresponsible decisionmaking on the most important health care vote of this session, no Member right now can devote to this Burgess resolution the attention it deserves.

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

Mr. WALDEN of Oregon. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. Burgess), the author of this measure.

Mr. BURGESS. Mr. Speaker, I thank the gentleman from Louisiana (Mr. Tauzin) and the gentleman from Oregon (Mr. Walden) for bringing this resolution to the floor. I would like to thank the leadership for allowing this resolution to come to the floor late in the session; and I would disagree that the timing is unfortunate, I think the timing is perfect. I would also like to thank the staff of the Committee on Energy and Commerce for their hard work on this issue.

Bone marrow donation is critical to millions of cancer patients. Every year, nearly 30,000 people are diagnosed with leukemia or other treatable blood diseases. Oftentimes, the only course of treatment is a bone marrow transplant to save a life with a child, a husband or wife, or with a brother or sister. I thank the countless number of heroes who have given the gift of life or who have devoted themselves to the fight against blood disorders. The experience of giving the gift of life is a life-saving service to those who are afflicted with leukemia or other blood disorders.

The House has already reauthorized the bone marrow donor program this year. Mr. Speaker, I yield my balance of time.

Mr. WALDEN of Oregon. Mr. Speaker, I yield myself the balance of my time.

I urge my colleagues to support this resolution. I think it is critically important that we do that to move this program forward.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of H. Con. Res. 206, legislation expressing Congressional support for the National Marrow Donor Program during this National Marrow Awareness Month.

At the outset, let me thank my colleague from Texas, Mr. Burgess, for sponsoring this legislation, and Chairman Tauzin of the Energy and Commerce Committee, and the Chairman of the Subcommittee on Health, my colleague and neighbor from Florida Mr. Bilirakis, for helping expedite consideration of this legislation.

Mr. Speaker, the National Marrow Donor Program is a world-class medical miracle that saves lives here and throughout the world every single day of the year. Since its establishment more than 16 years ago, the registry has grown to more than 5,000,000 volunteers. These are true volunteers in every sense of the word. They have given of their time to take a simple blood test to be listed in the national registry. For the more than 17,000 volunteers who have been called upon to donate marrow, they have undergone a relatively simple surgical procedure to donate the bone marrow to save the life of a man, woman or child with leukemia or one of 60 otherwise fatal blood disorders.

Earlier this year in a sign of strong Congressional support, the House unanimously approved my legislation, H.R. 3034, the National Bone Marrow Donor Registry Reauthorization Act, to continue the work of registry’s work for another five years. We look forward to its passage in the other body.

The National Marrow Donor Program is a powerful national resource, and I want to make a special tribute to the men and women who work tirelessly to ensure that Americans in need of life-saving transplants receive the bone marrow, peripheral blood stem cells, or umbilical cord blood they need.

Recognizing the need for a single source of information, Congress endorsed by request in 1986 for a small appropriation to the United States Navy to establish the National Bone Marrow Donor Registry. Our goal was to improve the facilitation of bone marrow transplants by coordinating adult, volunteer marrow donors as well as a full range of supporting services to donors, patients and physicians.

With the funding I have provided every year since through appropriations bills for the Navy and the Department of Health and Human Services, the National Marrow Donor Program has grown. It now operates under a contract with the Navy and now under a competitively awarded contract with the Department of Health and Human Services. During that time, I have watched proudly as the Registry has developed into the international lead registry, where donors and patients searching for marrow to treat a variety of diseases. Through a network of 91 Donor Centers, 11 Cord Blood Banks, 150 Transplant Centers, and 19 International Cooperative Registries, it allows physicians to select for the best matched source of adult stem cells whether it be from volunteer marrow or blood donors or umbilical cord blood units.

This large network has made marrow donation a world-changing experience. On any given day, bone marrow from our registry is being flown around the world at the same time bone marrow is being flown to a U.S. hospital through our formal relationship with the international registries.

A diverse Registry of volunteer bone marrow donors has been recruited. And now the Registry also lists more than 28,000 units of umbilical cord blood for potential transfer. Additionally, the National Marrow Donor Program has helped more than 250 patients receive cord blood transplants.

The experience of giving the gift of life to others is a life-changing experience. On any given day, physicians maximize the time they spend with their patients and minimize the time it takes to search the Registry, the Program has developed a real-time, electronic searching...
database that links more than 400 partnering organizations. The resulting transplants are made possible through the efforts of millions of volunteers and professionals, connected through an award-winning integrated information system that quickly records, analyzes, and electronically transmits millions of pieces of critical data every day in and from hundreds of medical organizations. There is more to providing marrow and other sources of blood stem cells than simply helping physicians search the Registry. Patients also need assistance. Therefore, the Program provides support services for individual patients to help them through the transplant process. The Patient Advocacy program provides patients with services such as information about transplants, assistance in intervening with insurers to determine coverage, and financial assistance. These efforts include patients assistance funds, case management services, referring physician education, consultation on the best match sources, and accelerated searching to facilitate transplants with an urgent need. The Program also provides support to patients after the transplant occurs to ensure that they can return to a normal, healthy life. Without this support, many patients would not be able to obtain life-saving transplants.

Even with these wonderful successes, we all recognize that the number of donors is not sufficient to meet the needs of every American. Each year more than 30,000 children and adults are diagnosed with life-threatening blood diseases, such as leukemia and plastic anemia, as well as certain immune system and genetic disorders for which a marrow or bone marrow transplant may be a cure. These transplants require matching certain tissue traits of the donor and patient. Because these traits are inherited, a patient's most likely match is someone of the same heritage. Thus, men and women of the National Marrow Donor Program work continuously to recruit more donors, especially minorities who historically have difficulty finding matches. Since 1995, the Program has more than tripled the number of minority donors.

Mr. Speaker, at a time when our nation seeks to bring the nations and the people of the world closer together, to live in peace, and better understand each other, we can look to the National Marrow Donor Program as one important way to achieve these goals. There is no greater cause than to save a life, and with the ongoing support of every member of this House we can adopt this Resolution today to support the many heroes who have contributed to the work and vision of this program.

From the early days when we sought a home and had a new donor slammed in our faces, there was Admiral Elmo Zumwalt, Jr. and Dr. Bob Graves. There was Captain Bob Hartzman of the United States Navy who connected us with the Navy Medical Command where we appropriated the first small amount of funding to give birth to the program. And there were the early marrow pioneers such as Dr. Robert Good, Dr. John Hansen, Donnell Thomas, and Dr. Jerry Barbosa, all of whom helped perfect the science of marrow transplantation and who assisted us in our legislative quest to establish a federal bone marrow registry.

There were the members of Congress, past and present, who stood by me as I sought funding to start up the program, to recruit marrow donors, and to perfect the marrow transplant procedures. There were my colleagues on the Appropriations and Energy and Commerce Committees who helped expedite these funding requests and the consideration of several authorization bills.

There were members of the board of the National Marrow Donor Program and the Marrow Foundation, who have volunteered their time to establish a finely tuned international registry that quickly and efficiently matches marrow donors and patients to give them the best chance for a successful transplant. There is also the staff of the NMDP, based in Minneapolis, Minnesota but with operations throughout our nation, who manage the flow of information, marrow and cord blood around the world. And there is the staff and medical teams at the transplant and donor centers who use their medical expertise to complete the transplantation procedures.

Finally, there are the true heroes of the program, the patients and donors. Every patient that has sought a transplant has helped the doctors and researchers perfect the marrow or bone marrow transplant procedures. Every donor has helped improve the outcome for every future patient. And every donor who has signed up for the national registry has given the ultimate gift of life. They are the heroes without whom we would not have this tremendously successful national and international program.

Mr. Speaker, in closing, let me again thank the sponsors of this Resolution. Let me thank every member of this House for their partnership in helping us continue the work of the National Marrow Donor Program. With your support, we are giving hope to thousands of patients here and throughout the world today and into the future.

I call on my colleagues to continue their support for the National Marrow Donor Program and its important mission. Whether it is working with physicians and patients to find the best source for a transplant, helping a patient navigate the complexities of the health care system and insurance, or encouraging more Americans to become part of the life-saving Registry, the Program has proven itself a critical part of our nation's health care infrastructure. Today, we proudly support the work of the National Marrow Donor Program during National Marrow Awareness Month and share in the celebration of the program's successes. However, our work is not finished. We must continue to help all Americans in need of umbilical cord blood, bone marrow, or peripheral blood stem cells to have access to the life-saving services and the patient advocacy programs of the National Marrow Donor Program.

Ms. BORDALLO. Mr. Speaker, I wholeheartedly support House Concurrent Resolution 206 supporting the National Marrow Donor Program and other bone marrow donor programs and encouraging Americans to learn about the importance of bone marrow donation. For me and the people of Guam, it's a matter of Justice.

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

The SPEAKER pro tempore (Mr. Simmons). The question is on the motion offered by the gentleman from Oregon (Mr. Walden) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 206.

The question was taken.

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

Mr. WALDEN of Oregon. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

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

CONFERENCE REPORT ON H.R. 1904, HEALTHY FORESTS RESTORATION ACT OF 2003

Mr. GOODLATTE. Mr. Speaker, pursuant to House Resolution 457, I call up the conference report on the bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands and to protect riparian areas, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and...
address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

The Clerk read the title of the bill. The SPEAKER pro tempore. Pursuant to House Resolution 457, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 20, 2003, at page H11686.)

The SPEAKER pro tempore. The gentleman from Virginia (Mr. Goodlatte) and the gentleman from Texas (Mr. Stenholm) each will control 30 minutes.

Mr. INSLEE. Mr. Speaker, I respectfully demand one-third of the time under clause 8(d) of rule XXII.

The SPEAKER pro tempore. Is the gentleman from Texas opposed to the conference report?

Mr. STENHOLM. No, Mr. Speaker, I am in favor of the conference report.

The SPEAKER pro tempore. Under clause 8(d) of rule XXII, the Chair will divide the hour of debate on the conference report as follows: the gentleman from Virginia (Mr. Goodlatte), the gentleman from Texas (Mr. Stenholm), and the gentleman from Washington (Mr. Inslee) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. Goodlatte).

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that the gentleman from California (Mr. Pombo), chairman of the Committee on Resources, be recognized for 10 minutes for the purposes of controlling debate.

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

There was no objection.

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

Today, we are finally able to bring the Healthy Forests Restoration Act, H.R. 1904, for a vote. In spite of a severely flawed process to arrive at this point, we have driven a hard bargain, and we have got a bill that the President will sign. I believe it will make a difference on the ground, but it is only a first step towards fixing what is wrong with the management of our public lands.

I worked with two other distinguished committee chairmen, the gentleman from California (Mr. Pombo) of the Committee on Resources and the gentleman from Wisconsin (Mr. Sensenbrenner) of the Committee on the Judiciary, to craft a bipartisan bill that passed earlier this year by an overwhelming, and bipartisan, majority. I also want to note the outstanding efforts of my counterpart in the other Chamber, Agriculture Committee Chairman Cochran, and our distinguished ranking member, the gentleman from Texas (Mr. Stenholm), for their efforts.

This bill seeks to address the issues that have tied the hands of our forest managers: National Environmental Policy Act analysis that drags on for months, administrative appeals that spring up at the last minute, and court actions that stall projects for so long that areas proposed for treatment frequently are destroyed by fires long before the judicial process concludes. The conference process has produced a bill that does not do as much as I would like to address on these issues. I understand there are many in both Chambers who dislike the overall structure of the product. But this bill creates the first real relief from bureaucratic gridlock after over 8 years of legislative effort. It sends a clear signal that the Congress favors results over process and that protecting our communities, our watersheds, and our people is more important than producing mountains of paperwork.

There are over 190 million acres of forests and rangelands which remain at risk of catastrophic wildfires, insect pests, and disease, larger than New England. Our bill takes the modest step of addressing the hazardous conditions on only 20 million acres of this total. This bill also takes an innovative approach to forest health on private lands. New regulatory, incentive-based approaches to promote conservation on private lands. In short, it takes a national approach to a national problem.

We as a Congress have more work to do to perfect our forest management laws. Forest fires are a symptom of a land management system that suffers from procedural, managerial, and regulatory failures. Forest management laws, environmental laws, and procedural laws do not work well together. They create a process that only highly trained legal minds can comprehend; while claiming to encourage citizen participation, they often achieve just the opposite. So we need to do more, but we should be proud of what we are doing today. We are taking a bipartisan step toward better management of our forests. We are saying that protecting communities, our watersheds, and the people comes before protecting the dilatory tactics of those who oppose any type of sensible land management.

I applaud President Bush for helping to bring this about. We would not be on the verge of passing this bill without his leadership. I hope he continues to exert leadership in this field to ensure that the Federal land managers act aggressively to implement this program as quickly as possible. I will do my utmost to ensure that bureaucratic inaction does not delay implementation. I urge my colleagues to support this conference report.

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

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

Mr. Speaker, I rise in strong support of the Healthy Forests Restoration Act conference report, and I am pleased to be here on the verge of completing legislation that will give us a chance to return America’s cherished forests back to a healthy landscape. For the last century, public managers have suppressed all forms of wildfire, including natural small-scale fires that restore forest ecosystems.

The unintended result of this policy is a decades-long buildup of forest fuel, woody biomass, and dense underbrush that is as close as the next lightning strike or escaped campfire from exploding into a massive fire. In some areas, tree density has increased from 50 trees per acre to as many as 500 trees per acre, according to the Forest Service and fire ecologists. These unnaturally dense forests are a small-scale ignition away from a large-scale wildfire. These natural small-scale fires burn at the ground level and at low temperatures, allowing some trees to survive and, in the process, renew the forest.

The suppression of these natural small-scale fires, however, has resulted in an accumulation of fuels that supports catastrophic wildfires of unnaturally intense that burn hotter, spread faster and cause long-term severe environmental damage, sometimes even sterilizing the soil. America’s forest ecosystems are being subjected to an alarming rate by large-scale catastrophic wildfire and massive outbreaks of disease, insect infestation, and invasive species. Federal foresters estimate that an astounding 190 million acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at unnatural risk to catastrophic wildfire. Of that, over 70 million acres are at extreme risk to catastrophic wildfire in the immediate future.

During the second year of the National Fire Plan implementation, we witnessed the second largest fire season this Nation has seen in half a century. An early widespread drought, unparalleled since the Dust Bowl of the 1930s, affected 45 percent of the country. On June 21, 2002, the national level of readiness rose to the highest level possible, 5 weeks earlier than ever before, and remained at that level for a record-setting 62 days. In fact, wildland fires burned 7.2 million acres, or nearly double the 10-year average. Colorado, Arizona and Oregon recently recorded their largest timber fires of the century. And then we witnessed the devastation in Southern California.

Forest ecologists, professional land managers, and many environmental groups agree, the exploding incidence of catastrophic wildfire and disease and the massive threat to the health, diversity, and sustainability of America’s national forests. The Nature Conservancy, one of
the world's largest and most acclimated environmental groups, has been a lead-
er in the environmental community in
building public awareness about the en-
vironmental calamities that cata-
stockic wildfires cause.

Of course the reality that most influ-
ence wildland fire behavior, weather, topography and fuel, land managers
can effectively affect only fuel. Unless we
take a proactive approach to fuel reduc-
tion, the remaining components of
the National Fire Plan, which in-
clude firefighting, rehabilitation, com-
munity assistance and research, will
only continue to increase in cost. Local
governments, volunteer firefighters,
professional foresters, conservation-
ists, and United States Forest Service agree, it is
time to act to protect our forests.

Fortunately, the Healthy Forests
Restoration Act addresses these con-
cerns by giving Federal land managers
the opportunity to restore our forests
to a sustainable balance while main-
taining important environmental re-
quirements. The conference report be-
fore us allows for authorized hazardous
fuel reduction projects on Federal lands to
help protect communities in the wild-
land-urban interface prepare for
wildfires, improves the NEPA analysis
process, and augments public involve-
ment and review. Additionally, the re-
port includes titles allowing grants to
use biomass, providing watershed for-
cestors, and labor organizations agree, it
is time to act to protect our forests.

In closing, let me remind Members
that this is not a new issue to come be-
fore this House but a balance while main-
taining important environmental re-
quirements. The conference report be-
fore us allows for authorized hazardous
fuel reduction projects on Federal lands to
help protect communities in the wild-
land-urban interface prepare for
wildfires, improves the NEPA analysis
process, and augments public involve-
ment and review. Additionally, the re-
port includes titles allowing grants to
use biomass, providing watershed for-
cestors, and labor organizations agree, it
is time to act to protect our forests.
we will not solve the problem of getting these fuels reduction programs in line, and I will tell the Members why we will not. The reason we have we are not getting the job done and giving therapy to our forests is that we have not invested enough money to do it. We have only invested enough money to do 2 to 3 percent, and that is not going to significantly improve in this bill. Doubling does not even go to half of what we need to get the job done in a reasonable fashion.

The fourth, if I can, problem with this bill: It is clear that we have got to cut down a whole bunch of trees to solve this problem because they are dense, they have grown up because of our misguided fuels suppression program, and now we have got this catastrophic fire situation. But the question is what do we cut and where? That is really the issue we need to resolve on the floor of this House. And here is a tree, a mature tree, wish I could tell the age, marked for cutting in the fuels reduction program. There is no reason to cut that tree except for commercial purposes. We need to develop a firm definition, so that the Forest Service cannot come in and say, "We need to cut this tree," and it would have been easier if we provided them adequate money to do it, so they do not have an incentive to cut bigger trees to generate money for this program. But we did not do it, because the appropriations process did not cut the mustard. So we have a problem that we have not given adequate definition of what to cut and where.

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

Mr. POMBO. Mr. Speaker, I yield myself 2 minutes.

I am glad that the gentleman from Washington (Mr. INSLEE) claimed the time in opposition to this because I think it is important for everyone to see just how difficult this bill has been to finally arrive at this point of developing a bill and a conference report that is so widely supported in both this Chamber and the Chamber across the country, that we have brought together such divergent interests, so many people who may have initially opposed this bill that are now on board because of the great compromise that was reached to bring this bill to the floor.

The history behind the Healthy Forests initiative, it has been, I think, 8 years now since the very first bill was introduced and the work began to finally get to the floor. I believe we have gone through, I believe, close to 75 hearings in Committee on Resources alone on this legislation. There has been a countless number of people that have gotten to their feet and back and forth. And these past 3 years, we actually have to give a lot of credit to two of my colleagues in the House, the gentleman from Colorado (Mr. McCONNELL), subcommittee chairman, and the gentleman from Oregon (Mr. WALDEN) for the work that they did in pulling together with all of the different interests to bring something together, the gentleman from California (Mr. GEORGE MILLER), former ranking member on the committee, and the gentleman from Oregon (Mr. DEFAZIO) and others to put together a bill that was really a great balance between so many different interests. And I found with interest the gentleman from Washington (Mr. GOODLATTE), the gentleman from California (Mr. GUTKNECHT), chairman of the Department Operations, Oversight, Nutrition, and Forestry Subcommittee of the House Committee on Agriculture.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman for yielding me this time.

And I want to especially thank all those who have been involved, the gentleman from Virginia (Chairman GoodLATTE), the gentleman from California (Chairman POMBO), and the gentleman from Texas (Mr. TENHOLM), ranking member. And in addition, I think we should thank President Bush because of his leadership on this issue.

Nearly half of the 190 million acres managed by the Secretaries of Agriculture and Interior are at extreme risk to wildfire. Millions of acres across the South, the East, and in my home State of Minnesota are facing disease and insect epidemics. And yet federal managers will treat only about 2.5 million of those acres each year because of the extraordinarily lengthy procedural and documentation requirements.

Time and again, we have seen the destruction that forest mismanagement and drought can cause to our landscape and to our families. This year alone 4.3 million acre of our Nation’s forests have burned and 29 firefighters have lost their lives. Recently, more than 750,000 acres have been burned in southern California, and 22 Californians died trying to escape those fires.

Many see the fires on TV and think this is only an issue for “out West.” This is not true. Forest mismanagement is a national problem. The lack of forest management of our national forests in States across our country, including my home State of Minnesota, has placed private forests and communities at risk of fires, insects, and disease. Almost 3 million acres of the National Forest System lands in Minnesota are at high risk. Standing by and doing nothing to protect this precious resource is tantamount to criminal neglect. Congress has an obligation to ensure that we do not neglect our national forest lands and ensure that they are available for generations to come. Too often, excessive regulation and “paralysis by analysis” has made even the simplest management project an ordeal of years instead of weeks. H.R. 1904 is critical to begin to solve the problems of proper management of our forests.

I urge all Members to support this important legislation.
It contains old-growth language that clearly reflects the intent of Congress that the objective is to return the forests to pre-settlement conditions, which means the large, fire-resistant trees are more widely spaced, particularly in the inter-mountain areas; that we would leave native stands intact, but we would aggressively thin from below. We would remove ladder fuels, we would remove trees that are growing in huge bunches, the last of the larger trees. I mentioned earlier the Davis fire in Oregon and the lodgepole that carried the fire into the crowns of the Ponderosa, that would have survived the fire otherwise, had we gotten in there and removed those lodgepoles, which have little commercial value. That is why this program will be expensive. In many areas, what needs to be removed has little or no commercial value. Where it has commercial value, we will use that to set the costs and to amplify the program.

It does not unduly restrict the right of appeal. It does require that people participate meaningfully in the process if they are going to appeal, and that is the way it should be. I want people to be involved from the beginning in communities, meaningfully commenting on the plans and proposals of the Forest Service. It allows judicial review if the bill is misapplied by this or any future administration.

But it will move the process along, and we will begin to chip away at the backlog. But make no mistake, even if we get this done, we will have to keep on trying and we will have to keep up the pace. The rationale behind this legislation is to return the forest system to the way it should be. I want people to set the costs and to amplify the program.

What is the name of this bill? The Healthy Forest Restoration Act. It reminds me very much of the Clear Skies Initiative that the President was pushing and the majority in this House was solidly behind. What did we get from that? A lot of people in this House will tell you that it was not. It got stuck back in Washington, D.C., and what did they do? They talked and talked and talked. And over the years, while we talked about solutions, what have we done? We have talked our forests to death. We have talked ourselves into a corner, and then we sue our ways back out. It is stupid. That is not the way to present a better forest. This piece of legislation in fact will now manage the lawsuits. Please support this compromise. It is a good one.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, as co-sponsor of H.R. 1904, the Healthy Forest Restoration Act of 2003, I rise in support of this legislation because of the relief it provides to combat the challenges facing our forest system today. From hazardous fuel reduction to litigation and delays in forest research, this bill gives our forest managers and our private citizens the money and the technical assistance they need to help bring our forests back to health.

Mr. Speaker, H.R. 1904 will work to alleviate the fire hazards that currently plague our forests. As evident by the rampant spread of the wildfires that recently ravaged Southern California, our Nation’s forest system is overwhelmed with excess brush and foliage which could fuel catastrophic wildfires.

This bill provides thinning programs for up to 20 million acres of at-risk lands near communities and their water supplies, at-risk lands that serve as habitats for threatened and endangered species, and at-risk land that is particularly susceptible to disease or insect infestation.

Mr. Speaker, H.R. 1904 also provides money and technical assistance to stop the growing problem of insect and disease infestation. In southeastern Michigan, for example, Forest Service managers are battling the emerald ash
borer. This insect has decimated the population of ash trees located in a 6-county area. Luckily, officials have responded quickly, and we are in the process of containing this threat. H.R. 1904 will assist in our fight against invasive pests like the emerald ash borer and others around our country by promoting new research and quick action to reduce the impacts on these forest pests.

I strongly urge my colleagues to pass this conference agreement on H.R. 1904. I want to thank the ranking member, the chair, and all of the staff for their hard work on this. It is time we reduce the threat of wildfires to our communities and our environment. Support H.R. 1904.

Mr. POMBO. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the committee, my friend from California, and I thank him for yielding me this time. I rise in strong support of this conference report, which at once is an important first step and, at the same time, is long overdue.

It has been interesting to listen to the conflicting philosophies on the floor. There is one point of view represented that true environmentalism means therapy for the forests.

Mr. Speaker, I think the questions are not asked. Is it therapeutic to have such destruction in the forests that the number of particulates in the air eclipses rush hour in many of our major metropolitan areas? Is it therapeutic in the forests to see watersheds destroyed? Is it therapeutic in the forests to see land burned so badly that, as the gentleman from Texas pointed out, the land is sterilized?

No, the sound environmental position is to have sound scientific principles embracing healthy forest management. And to the effort of protecting homes and property and people like the 20-plus who perished in California, this job is long overdue. We must pass this bill; and, quite frankly, we should do more, not only for rural America, but for suburbanites who perished in the recent fires in California.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentleman for yielding me this time and for all the hard work he has put in on this particular piece of legislation. I also want to especially thank my two colleagues, the gentlemen from Oregon (Mr. WALDEN) and (Mr. DEFAZIO) for their enormous work on this piece of legislation.

Mr. Speaker, this is an issue that is very important to my home State and to my congressional district. Reduction of hazardous fuels. Oregon has been hit hard by wildfires in recent years, and we are very happy that we are finally taking steps in this House to make up for years of neglect of our Federal forests. Forests and timber are vitally important to the citizens of Oregon. The economic costs of forest fires in Oregon have been astronomical and the human costs have been even higher. It is essential we do something about it, and something sooner rather than later.

Prior to coming to Congress, I served as a county commissioner in Clackamas County, which owned thousands of acres of forest land. I was responsible for management of those forests. I know from experience that it is possible to manage a forest and that in many cases, it is necessary to manage a forest in order to protect it.

This legislation before us will have a positive impact. Not only will it help save people’s homes and people’s lives, it will focus money on lands that need it most and provide environmental protections.

Mr. Speaker, this is an issue that is very important to my home State and to my congressional district. I have worked closely with my colleagues to ensure that we have a balanced and provides money to get the job done. Mr. Speaker, I urge my colleagues to join with me in supporting this legislation that fosters a healthy management and protection of our national forests.

Mr. INSLEE. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.

Mr. UDALL of New Mexico. Mr. Speaker, I compliment the gentleman from Washington (Mr. INSLEE) for his management of this bill. Let me just talk a little bit about the judicial review test here, because I think that we are embarking on new ground. When we put in a test that talks about short-term and long-term, really what we are ending up doing is saying that if you cut down the whole forest and it is okay in 100 years, that is all right. I mean, that is the kind of test that we are putting into this piece of legislation. We do not know what that means. And so we are encroaching into the judicial arena, trying to tell the courts what to do. This is a new test. It is a new standard. It has never been used before.

And what is going to happen? We hear all the talk about lawsuits and litigation from this side of the aisle. Guess what, folks? This is going to be a lawyers employment bill. If there is anything that is going to come out of this, it is going to be more billable time, it is going to be more lawyers involved in this process. And I think what is going to happen further, if we allow this to happen, if we allow this to happen, we are going to see this appear across the board in other areas, workers’ rights, OSHA, any place where Federal agency decision-making is going on, this is what is going to happen.

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This legislation before us will have a positive impact. Not only will it help save people’s homes and people’s lives, it will focus money on lands that need it most and provide environmental protections.

At the same time it allows local communities and citizens to remain involved in the process. What I am most pleased about, however, is that this legislation provides funding for fuel reduction projects that are authorized in this bill is a great start and will help protect our forest and our communities.

The House and the Senate have reached an important compromise that is balanced, and provides money to get the job done. Mr. Speaker, I urge my colleagues to join with me in supporting this legislation that fosters a healthy management and protection of our national forests.

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urban interface, in effect constrain the provisions of the National Environmental Policy Act. Furthermore, denying the public the full and fair opportunity to have viable alternatives to agency action considered circumvents established policy of public participation.

Such a report is an important aspect of our democratic process for making decisions affecting public lands. Limiting public comment and ignoring the provisions of NEPA and other laws designed to protect our environment does not assist in developing sound forest management.

I believe, however, that the conference report is a better bill than the version passed by the House. The Report contains specific provisions to protect the wildland urban interface. Furthermore, the report authorizes tribal watershed management programs for Indian tribes, an issue that I have strongly advocated for since we began working on this legislation in the 107th Congress.

Nonetheless, I am afraid that this legislation is just another assault by the Bush Administration on our Nation’s forests. Most of the attacks over the last year have been below the radar—in arcane rules, stealth riders and misnamed legislation. In this many-fronted assault, big timber is the winner.

Unfortunately buzzwords such as forest health, catastrophic-wildfire prevention and streamlining, the Administration’s initiatives transform forest policy in ways that are staggering in their scope as well as in their implications for democracy.

The changes revamp laws fundamental to sound forest management, including the National Forest Management Act, the Appeals Reform Act and NEPA. The cumulative effect of these changes is to undermine or eliminate open public scrutiny, agency accountability, resource protection and recourses in the courts. It began in December 2002, when the Administration proposed a forest-planning regulation that renders public involvement virtually meaningless. The rule ignores scientific involvement, reduces environmental review on logging projects not already given a wholesale exemption and severely restricts opportunities for public involvement.

Furthermore, it encroaches upon the courts’ ability to review the legality of logging projects already approved by the public. The Administration has also announced sweeping changes affecting the National Forest Management Act, the Appeals Reform Act, and NEPA. It removes the ability to review the legality of logging projects already approved by the public, including roadless areas and old growth. If bug and disease-control are the purported reason for logging, projects up to 1,000 acres will bypass all environmental review and appeals.

With millions of dollars authorized in the act for any hazardous fuels project on public lands, logging without laws can proceed throughout the backcountry.

The synergistic effects of these radical rollbacks are breathtaking. I predict that the assault will only foment more controversy and rollbacks are breathtaking. I predict that the assault will only foment more controversy and severely restrict opportunities for open decisionmaking, agency accountability, resource protection and recourse in the courts.

The new administrative appeals process.

It skews the planning process to favor logging, mining and off-road vehicle use. It ren- donors plan standards more discretionary, further reducing agency accountability. Many strengthen, thus, the Administration’s efforts to demonstrate compliance with NEPA, and terminates the opportunity for the public to appeal the final plan.

The Forest Service assured critics that it would undertake in-depth environmental studies when specific logging projects were proposed. Not so.

In June 2003, the Administration abolished environmental review of logging done in the name of “hazardous fuels reduction” on up to 1,000 acres to be followed by sweeping up to 20,000 acres of salvage sales. The changes have been announced, if any, meaningless con- straints.

For example, the projects must be “consistent” with local forest plans. Yet, under the soon-to-be final planning regulations, forest plans can be amended simply by changing the plan on an interim basis with no public notice.

Under the banner of hazardous fuels reductions, large-scale, intensive commercial log-
and suppression of pests that really threaten eastern forests.

Mr. Speaker, the Healthy Forest Restoration Act is a national solution to a national problem. I urge Congress to vote yes.

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

Mr. POMBO. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WALDEN), the coauthor of the legislation.

Mr. WALDEN of Oregon. Mr. Speaker, this legislation provides for major improvements in how we will manage our forests. First of all, it reduces unneeded government analysis. Second, it provides for actually more public involvement, especially in the beginning, through better notice and better participation requirements. It requires and reforms the appeals process so we can end the costly delays that do keep our professional foresters from doing the work they need to do to make our forests more healthy.

Finally, it does require the courts to more quickly move on appeals and, more importantly, consider the catastrophic affect on forest health of preventing these projects from going forward.

Now, we have heard today about the problem with the General Accounting Office, but let us talk about what the General Accounting Office actually found. The GAO report found: 58 percent of eligible thinning projects in the United States were appealed in fiscal year 2001 and fiscal year 2002. Fifty-two percent of the eligible forest thinning projects proposed near communities in the wildland urban interface were appealed. Half the projects, half the projects right around communities were appealed. The GAO found an overwhelming number of Forest Service appeals were found to be without merit. Seventy-three percent of the appeals were rejected.

Ladies and gentlemen, we have to change the process. That is what we are doing today. We are going to fund the work that needs to be done. This year alone we are going to spend $420 million to go in and thin out our forests so we will not have catastrophic fires in the future. I would like to see this bill passed expanded beyond 11 percent of the forests that need this kind of treatment, but that is as far as we could get under the work they need to do to see our communities protected.

This legislation relies on the underlying National Forest management plans to protect old growth forests. My colleague, the gentleman from Washington (Mr. INSLEE), talks about protecting old growth. We do that in this bill because the underlying plans protect the old growth. And the alternative of defeating this bill is to have old growth forests that are blackened, burned, destroyed, and I will not stand for that. Vote for the bill.

Mr. GOODLATTE. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Speaker, I would like to offer my gratitude to the chairman of the Committee on Agriculture, the gentleman from Virginia (Mr. GOODLATTE), the ranking member, the gentleman from Texas (Mr. STENHOLM), the gentleman from California (Mr. POMBO), and especially to my colleague, the gentleman from Colorado (Mr. MCINNIS).

In the West we care very deeply about this legislation, particularly in Colorado. We have had the Buffalo Creek Fire in 1982, the Eldorado Fire in 1994, the Hayman Fire in 2002, the High Park Fire in Colorado, we have had massive loss in acres of our beautiful forest land. We have had immeasurable damage to the environment, to our water quality.

The Denver Water Board spent over $20 million cleaning up after the last fire. Habitat has been destroyed. Our tourism industry has been harmed greatly. And, more importantly, we have lost the lives of our brave firefighters in these fires.

We are in strong support, those of us that care about our national forests and our private forests, are in strong support of this conference committee report. And I commend all those who have worked hard on this conference committee and this legislation.

The SPEAKER pro tempore (Mr. BASS). The Chair would like to announce that the gentleman from California (Mr. POMBO) has 3 minutes remaining, the gentleman from Virginia (Mr. GOODLATTE) has 1 minute remaining, the gentleman from Texas (Mr. STENHOLM) has 7 minutes remaining, the gentleman from Washington (Mr. INSLEE) has 5 minutes remaining.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DREIER).

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this conference report. And I was told that I had to spend my entire 2 minutes praising the gentleman from Texas (Mr. STENHOLM), but I am going to instead talk about the benefits of this bill. And I want to compliment my colleague, the gentleman from California (Mr. POMBO), and the chairman of the conference, our good friend, the gentleman from Virginia (Mr. GOODLATTE), the chair of the Committee on Agriculture, the gentleman from Oregon (Mr. WALDEN), and others who have been so involved in this measure.

I happen to represent the Los Angeles area in southern California. And the world knows that we have just suffered devastating fires in the southern California area. It impacted the districts of my colleague, the gentleman from California (Mr. LEWIS) who represents the area in the Inland Empire to the east of Los Angeles, further east of that, I represent the several others of our colleagues in San Diego. I know that my colleague, the gentleman from California (Mr. HUNTER), as we all know, lost his home. And this impacted the district of the gentleman from California (Mr. CUNNINGHAM). And I can go through the litany of our colleagues. Many members of the California delegation had their districts impacted by this. We lost lives, we lost a tremendous, tremendous amount of property. I lost in excess of 50 homes in the area that I represent.

And I was very pleased when the gentleman from Virginia (Mr. GOODLATTE) was before the Committee on Rules yesterday and talked about the fact that within this measure we will be able to have resources to deal with things like the bark beetle which has played a role in creating a problem in southern California when these trees were not cleared. And that played a role in starting these fires.

We know that some resources were provided through the Department of Agriculture to deal with this, but it was not handled appropriately from the report that we had. We had the report that was handed to the Office of Emergency Services there. It is important for us to do everything that we can to ensure that the loss of life and property is diminished. I am convinced that passage of this conference report will go a long way to doing just that. And I thank all my friends who played such an important role in making this happen.

The SPEAKER pro tempore (Mr. BASS). The Chair will advise that the closing order will be the gentleman from California (Mr. POMBO), first, the gentleman from Texas (Mr. STENHOLM) second, the gentleman from Washington (Mr. INSLEE) third, and the gentleman from Virginia (Mr. GOODLATTE) fourth.

Mr. POMBO. Mr. Speaker, I have one additional speaker to close.

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

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. SMITH).

(Mr. SMITH of Michigan asked and was given permission to revise and extend his remarks.)

Mr. SMITH. Mr. Speaker, our Committee on Agriculture is a great committee in terms of Republicans and Democrats working together.

Our forests in this country are one of our strong resources that not only help us economically but also help the environment, and conserving the environment is important. Our forests certainly are an important part of Michigan, but they are also an important part of our economic strength in the United States.

In the West, catastrophic wildfires recently have decimated those forests over the last several years. We have made a mistake over how we want to control forests. And sometimes in our overzealousness to protect from fires, we have increased the potential of additional damage. Two days ago, we
passed an energy bill. In this bill there is also language to utilize the natural renewable resources of our woodlands of America to also contribute to energy.

Removing some of the bureaucratic red tape that hinders fire prevention is not only environmentally friendly but also fiscally responsible, as fire prevention costs American taxpayers approximately one-fourth of what it costs to fight catastrophic forest fires. The Healthy Forests Restoration Act authorizes the Bureau of Land Management (BLM) to reduce the amount of underbrush and deadwood buildup in forests that serve as kindling and fuel for the hottest, most dangerous fires. It would regulate BLM’s activities by putting limits on the tree removal and road construction that has provoked controversy at times in the past. This would give BLM the tools it needs to confront the increasing threat of destructive forest fires on federal lands that have had serious impacts both on people and wildlife.

The bill takes additional measures to improve our forests. These include provisions to encourage energy production from renewable energy sources, protection of watersheds in forest areas and the creation of a forest reserve program aimed at preserving and rehabilitating up to one million acres of degraded and roadless lands.

Disease and insect infestations are not only detrimental to our woodlands, but also to our tree-lined streets and backyards. In southeast Michigan, we are combating an exotic beetle known as the Emerald Ash Borer. The beetles’ larvae feed on the sapwood and eventually kill branches and entire trees. This invasive pest has resulted in the quarantine of all ash products in six counties and southeastern Michigan. There are 28 million ash trees in the six quarantined counties and an estimated 700 million ash trees in Michigan. We are not finding that the pest is spreading into Ohio. The magnitude of this problem is serious. Preliminary data from the Forest Service estimates that the potential national impact of the Emerald Ash Borer is a loss of ash trees up to 2 percent of total timber with a value loss of between $20–60 billion.

Following discussions with Secretary Veneman and gaining the support of the Michigan delegation, Michigan Department of Agriculture, and DNR we were able to get the approval of substantial millions of dollars in emergency assistance from USDA to combat the Emerald Ash Borer. This federal funding will supplement resources provided by state and local authorities and will be used for pest surveillance, quarantine of infected areas, and some means to more efficiently combat destructive pests like the Emerald Ash Borer, the Healthy Forest Restoration Act puts in place measures that will allow accelerated information gathering on such insect infestations. By removing bureaucratic red tape and being more proactive in maintaining forest health, the Healthy Forest Restoration Act is a step in the right direction towards efficiently managing our forests, preventing catastrophic fires, controlling damaging insect infestations, and protecting our environment.

Mr. Speaker. I ask unanimous consent to give two of my remaining minutes to the gentleman from Virginia (Mr. Goodlatte) for the purposes of closing.

The SPEAKER pro tempore. The gentleman from Virginia (Mr. Goodlatte) has 2 minutes to conclude. 

Mr. POMBO. Mr. Speaker, I yield the balance of our time to the gentleman from Colorado (Mr. McNillis), the subcommittee chairman and co-author of the legislation.

Mr. McNillis. Mr. Speaker, I appreciate the yeoman’s work of the chairman and the guidance of making sure that we could get this bill through. I also wish to acknowledge deeply the gentleman from Virginia’s (Mr. Goodlatte) service and especially the service of the staff who have worked so hard in making sure that we could come together on this side of the aisle so that when we approached this side of the aisle we had a package that had common sense. We had a package that people like the gentleman from Texas (Mr. Stenholm), the gentleman from California (Mr. George Miller), and the gentleman from Oregon (Mr. Defazio) could come to the table and work with us on. And a lot of that was guided, the going back and forth was guided by someone who I consider an artist and that is the gentleman from Oregon (Mr. Walden), somebody who can negotiate between both the Republicans and the Democrats.

It was about 99 years ago when Teddy Roosevelt used his State of the Union address to urge Congress to create a national forest system to ensure proper stewardship of these tremendous assets that we have in our huge public lands. And by the way, I live in a district that has 23 million acres of public lands. It is fitting now that 99 years later, 99 years later we have one of the most significant pieces of forest legislation that has come in since.

What this piece of legislation does is over the 99 years we have seen the leadership, the guidance, the expertise and the science taken away from the Green Hats, who I complimentarily refer to as our Forest Service people, the people who understand the forests, the people who dream of running the forest, the people who have been educated in the forests. We have seen through some very tactical maneuvers their power somewhat diminished. We have taken the Sierra Club-types and moved to the courts and moved to the Congress.

What this bill does is this bill allows this authority to go back to those people on a commonsense approach, on a balanced approach which is demonstrated by the fact that this will pass with bipartisan support, to let it go back to the Green Hats, to let the Forest Service manage those forests.

The passage of this legislation today means in Oregon as we are responding to the America forest health crisis, the crisis that was demonstrated recently in the State of California, the crisis which we have seen in the State of Oregon, the crisis through bug infestation, not just fires, but bug infestation down in the South. Storm King Mountain, the mountain that I grew up on, the mountain that I took bodies off of, we finally are responding and it is going to make a big, big difference.

Mr. STENHOLM. Mr. Speaker, I will be closing, so when the appropriate order comes, I will take my turn.

The SPEAKER pro tempore. The closing order will be the gentleman from Texas (Mr. Stenholm), the gentleman from Washington (Mr. Inslee), and the gentleman from Virginia (Mr. Goodlatte).

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

I will yield to the gentleman from Virginia (Mr. Goodlatte) if he would like to engage in a colloquy on monitoring.

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

Mr. STENHOLM. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Speaker, I will clarify a point that the gentleman from Texas (Mr. Stenholm) is interested in. Let me state that the projects authorized by title IV are primarily scientific efforts, and scientific methods should be the primary means of assessing them. While we encourage multiparty monitoring, it is not our intent to require it, particularly for projects conducted under title IV.

Mr. STENHOLM. Mr. Speaker, I yield.

Mr. Speaker, I certainly agree with the chairman. I understand the benefit of multiparty monitoring. However, the chairman is correct in expressing that our intent with respect to projects conducted under title IV are to be scientific, and multiparty monitoring is not a requirement of these projects.

Mr. Speaker, I would like to conclude by thanking all who have worked so diligently for so long to bring us to this point to where we truly have a compromise that will move our forest policy in a desirable direction.

I thank the staff, all who have worked on both sides on the aisle so diligently under somewhat trying conditions. The gentleman from Oregon and I have had some of the internal strife that unfortunately finds its way into this House of Representatives. But that certainly has not been the case regarding
the House Committee on Agriculture, and the bipartisan support there is something that I have enjoyed and working with the chairman and the gentleman from California (Mr. Pombo) and others as we have strived to put together a really good bill.

When you read the bill, much of the complaints about what we have heard today are not in the bill. If you are going to have sound forests, if you are going to have a sound forest policy, sound science, common sense has got to reassert itself. There are very few who have a difference of opinion regarding what is good conservation, what is good management, and how we do, in fact, manage our forests so that we do have lumber for housing and other projects.

So all in all, this is a good sound compromise worthy of overwhelming support of this body. I thank all of those who have worked on it. It certainly has been something that I personally have worked on for many, many years. I am glad to see it is getting to this point. I urge a very strong vote in favor of the project.

Mr. INSLEE. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Washington (Mr. INSLEE) has 5 minutes remaining.

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

Mr. Speaker, I commend all of the people who have worked on this bill. There are a lot of technical and difficult issues trying to fashion a hazardous fuels reduction program. And I am unable to support this and I hope my colleagues will join me and the Sierra Club and the League of Conservation Voters and other main-line commonsense groups who have committed their lives to protecting our national forests in defeating this bill and moving on to a better one, and I hope that my colleagues will join me.

Underlying that position is the basic belief that the medicine that we are providing here is both inadequate and misguided. It is misguided because it is based on a myth; and that myth rising to an urban legend is that these fires have consumed thousands of acres because people have questioned what some government officials have done, and that is an abject falsehood.

The GAO report shows that 92 percent of these projects go ahead unimpeded. In California, you know why the California projects did not get done? It was not environmental project appeals. In the last 3 years, there has not been one hazardous fuel reduction program that held up national forests in Southern California the last 3 years. The reason some of this work did not get done is Uncle Sam, us, did not appropriate enough money for California to do the job. The State of California asked for $430 million last year to do the job. The State of California was clearly needed to address the problem, and the gentleman from Oregon (Mr. DEFAZIO). They have to deal with that, but in addition, massive parts of the Western part of this country are tied up in legal cases, including the entire southern California area that is tied up over litigation related to the spotted owl. This is clearly a problem. And we have got to face the problems that we face across the country.

I want to thank also the gentleman from California (Mr. Pombo). He recognizes very clearly the nature of this problem, and the gentleman from Colorado (Mr. MCINNIS), I want to congratulate him on his leadership in bringing this bill to the floor as well. He is leaving the Congress at the end of this term, and this is his signature bill. This is his legacy in the Congress. So I commend him as well.

I also commend Members who have fought against this process like the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO), they have seen the light. They understand what it takes. They understand that it is time to get about the business of solving the problem, rather than another 8 years of fighting, and I would say to those few, let us understand, get on board, get this done.

Yes, there is additional work that needs to be done. Yes, we will look forward to working with them in future.
Congress, but now is the time to give the President the ability to sign a bill that will put our Forest Service to work, to get this problem underway. We will come back for additional legislation because this problem is going to persist, and this is only a beginning.

Support this conference report. It is a good one.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, my home state of California has just been through a terrible series of wildfires. The fires, now both contained and burned 800,000 acres, destroyed over 3,300 homes, caused over $12 billion in property damage, and tragically took the lives of 22 people.

What could have been done to prevent it? What should we do now to prevent such occurrences in the future?

The answer, it seems to me, is active management and control of overgrown areas near development, usually referred to as the Woodland-Urban Interface. This will go a long way to preventing fires from destroying homes and worse, killing our citizens.

We are facing yet another problem of our own today. H.R. 1904, the Healthy Forests Initiative, that its proponents tell us will help prevent the kind of devastation that we endured in California.

This conference report is certainly better than the initial House version of the bill. In the House version, money used for clearing would have had to come from nearby logging activities. In the chapparral of Southern California, there is no logging, and that means no removal of forest fuels would have occurred to protect our homes and our families.

The House held a conference meeting that before us today. H.R. 1904, The Healthy Forests Initiative, that its proponents tell us will help prevent the kind of devastation that we endured in California.

This conference report is certainly better than the initial House version of the bill. In the House version, money used for clearing would have had to come from nearby logging activities. In the chapparral of Southern California, there is no logging, and that means no removal of forest fuels would have occurred to protect our homes and our families.

The Healthy Forests Initiative is only effective for federal lands. Roughly two-thirds of the lands that burned in California was not federal land, and therefore would be unaffected by the healthy forests initiative.

Second, only half of the $760 million is set aside for fire prevention when within 3 miles structures—the Woodland-Urban Interface. The other half will go toward thinning in other areas. Moreover, where in the initial bill the clearing was paid for by nearby profitable logging, now we are giving $365 million to commercial loggers for these thinning activities. So, instead of asking logging companies to contribute their fair share to forest management and fire mitigation, we are subsidizing them to do it.

I am disappointed with this bill. We had an opportunity to craft a bipartisan bill, one that would have addressed the pressing issue of protecting lives and property in the Wildfire-Urban Interface. Instead, the Healthy Forests Initiative puts commercial logging interests ahead of protecting our vulnerable communities. Once again, the Republican-controlled Congress has quite simply gotten it all wrong.

While this bill does not sufficiently address this important priority, I am supporting an effort that does. I am working to provide more funding for community and individual-initiated and driven initiatives to clear fire fuels in their areas. We should be empowering local communities to clear these areas—they have the greatest knowledge of the environments in which they live, and the greatest personal stake in the success of these efforts. I am hopeful that this initiative will generate broad bipartisan support.

In the meantime, I regret that I must oppose the Healthy Forests Initiatives, principally because it uses a great deal of resources, but it won’t do very much to make our Southern California more resistant to wildfires. Mr. GEORGE MILLER of California. Mr. Speaker, today the House of Representatives accepted the conference report for H.R. 1904, the Healthy Forests Restoration Act. I was appointed to the conference committee by Representative INGLE of California and Representative CONOVER of Michigan. Unfortunately, instead of using the conference process to reconcile differences between the House and Senate versions of the legislation, certain members of the conference committee were included in bimonthly meetings to craft a compromise acceptable to the group of negotiators. In short, the negotiating group picked people from the conference committee who would agree with them and did not invite others to participate. Official members of the conference committee were invited to a conference meeting to consider the product negotiated outside the conference process. The conference consideration did not provide for a real debate of amendments and the Chair moved to close the conference 30 minutes after it began. This does not constitute proper debate but the elements of arrogance of power.

Mr. UDALL of Colorado. Mr. Speaker, I am going to vote for this conference report. It has flaws. But if its provisions are properly implemented it can help reduce the risk of severe wildfire damage that now threatens lives and property in many communities in Colorado and other States—and for me that is the bottom line.

I am convinced we need to act to protect our communities and their water supplies. For that, a variety of things must be done, including working to reduce the built-up fuels that can increase the severity of the wildland fires that will periodically occur nearby.

That’s why I have introduced legislation to expedite those thinning projects. It is also why last year was an effort that now threatens lives and property in many communities in Colorado and other States—and for me that is the bottom line.

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November 21, 2003

COMMUNITY-PROTECTION PLANS

I strongly support increased public involvement during the planning and other initial stages of fuel-reduction projects. That was the purpose of an amendment I offered during the markup of the House bill. The ideal is to make it less likely those projects will be delayed by controversies or lawsuits, by developing support at the front end for projects that are urgently needed, narrowly tailored and scientifically defensible. As I mentioned, the conference report’s provisions related to community protection plans can foster such involvement and promote a collaborative approach that will do much more to reduce conflicts and delays than will the provisions related to NEPA analysis, administrative appeals, and judicial review.

NEPA ANALYSIS AND JUDICIAL REVIEW OF THINNING PROJECTS

On judicial review, the Senate bill is slightly better than the House bill, and the conference report follows the Senate bill.

On NEPA analysis, the conference report is a compromise between the House and Senate bills. Under the House bill, no alternatives to a proposed action would have to be analyzed; under the Senate bill at least the “no-action” alternative would have to be analyzed, and so would a third if proposed during scoping. The conference report would follow the House bill for projects within the interface, but follow the Senate bill for projects outside the interface.

As passed by the House, H.R. 1904 clearly reflected the premise that the land-managing agencies are laboring under procedural burdens that unnecessarily delay work on fuel-reduction projects—a premise that I think has not been proved beyond doubt.

The Forest Service has testified that the agency has been slow to act to reduce the risks of catastrophic wildfire because of “analysis paralysis,” meaning that the fear of appeals or litigation has made Forest Service personnel excessively cautious in the way they must analyze and control fuel-reduction—and other—projects. The chief may be correct in that diagnosis—certainly he is in a better position that I am to evaluate the mental states of his subordinates. But it is important to remember that the Chief has also testified that the revision of the environmental laws is required in order to treat this condition—and on that point I am in full agreement.

Nonetheless, I supported some restrictions on NEPA analysis last year, and because the conference report does not go as far as that direction as the House bill I am prepared to reluctantly accept this part of the conference report as well as its provisions related to administrative appeals and judicial review even though I could have the conference report’s provisions of last year’s Resources Committee bill or this year’s Senate bill dealing with those topics.

OLD GROWTH AND BIG TREES

The House bill had no specific protection for old-growth stands, and only weak language to require that thinning projects focus on removing smaller trees. The Senate bill had provisions intended to protect old-growth stands and slightly stronger language to put emphasis on thinning out smaller trees. The conference report fails far short of ideal in these areas—in this respect it is weaker than either the Udall-Helfley bill of 2001 or H.R. 1904. However, it is an improvement over the House-passed bill.

FUNDING

The House bill had no specific authorization for funding thinning projects; the Senate bill authorized $760 million per year, and the conference report follows the Senate bill.

This part of the conference report is a definite improvement over the House bill, because the main obstacle to getting needed work done has been lack of funds, and lack of focus on red zone areas, not the environmental laws or the appeals process.

Of course, an authorization alone will not assure appropriate amounts, and nothing in the conference report will protect the funding that is appropriated for thinning projects from being used to fight fires if Congress does not provide adequate funding for that essential purpose. However, the specific authorization may assist in both respects by demonstrating the importance that Congress attaches to thinning projects.

OMITTED PROVISIONS

The conference report drops a number of provisions that the Senate added to the original House bill. I think some of those provisions would have been retained, such as those dealing with health monitoring of firefighters, monitoring of air quality, increases in the fines for violations of regulations related to fires on Federal lands, and the enforcement of animal fighting provisions of the Animal Welfare Act. I also would have preferred the deletion of some parts of the original House bill that have been retained in the conference report.

On balance, however, neither the omission of some good Senate provisions nor the retention of some defective House provisions is enough to make the conference report unacceptable to me.

In conclusion, Mr. Speaker, let me say that while I am voting for this conference report, I do not expect this to be the last time Congress addresses the matters it addresses. I am under no illusions about the flaws in this legislation, and will be working to improve it. I will also do all I can to make sure that it is implemented in a way that is consistent with sound, balanced management of the Federal lands.

Mr. BLUMENAUER. Mr. Speaker, the problem of forest fires in the West are aggra- vated by the fact that threats to human mis-management has been a problem as long as I have been in Congress. I am pleased that with the work of Oregonians Representative PETER DEFAZIO, Senator RON WYDEN and Representative GREG WALDEN, the bill that’s moving forward is better than the bill I voted against in the past.

I wish I could vote for H.R. 1904 in good conscience, but I still has three fundamental flaws. First, the bill proceeds with no procedural problem. This bill would under- mine the National Environmental Protection Act, the judicial process, and the system of administrative appeals to fix a perceived problem of too many projects being tied up in envi- ronmental litigation. However, the Government Accounting Office estimates that only 1 percent of forest management projects have been tied up in litigation. This type of sweeping pro- cedural change is unnecessary.

Second, the bill opens up our forests to much broader timber harvest. This should be debated on its own merits and not under the guise of forest health and fire prevention. If we want to substantially increase timber harvest on Federal lands we ought to be clear and deal with that directly.

Last, and most troubling of all for me, is that this bill does not adequately protect families whose lives and property are at risk because of forest fire hazard. This bill does not focus our resources on the interface between resi- dential properties and forest land, in what we are coming to know as the “fire zone.” Focused hazardous fuel reduction around commu- nities could substantially reduce the risk of fire damage by providing a buffer to help slow and stop advancing fires.

This is a better bill than before but it is still a missed opportunity. To adequately protect families and businesses we need to take a few, simple, proactive steps. We need to strengthen building codes and insurance requirements for “firewise” construction and “de- fensible space” landscaping. According to For- est Service scientists, these precautions can increase a home’s ability to survive a wildfire by more than 90 percent. We need to educate homeowners of the dangers before wildfires start with them. We need to provide affordable, livable housing options for families away from dangerous areas. And, we need to provide affordable, livable housing options for families away from dangerous areas.

Mr. RAHALL. Mr. Speaker, I rise in opposi- tion to the conference report. Others will come to the floor to discuss the threat of wild fire to the health and general welfare of segments of the American population.

Others will come to the floor to discuss other elements of this legislation, such as its provisions concerning insect infestation which threatens some of our forests and forest in- dustries.

I am not unmindful of the need to address the issues raised by the bill, but in our view, we would do so in a more prudent and re- sponsible manner.

There is one issue in the pending legisla- tion, however, which transcends the debate on forest fires and forest land, in what I hope is the independence of our judiciary and the right of Americans to seek redress from the courts when they believe they are aggrieved by a governmental action.

Indeed, the judicial review provisions of this bill would set a dangerous precedent for any- body concerned with civil liberties, civil rights, workers’ rights and any other issue that may come before our judiciary.
Simply put, this legislation curtails access to the courts by American citizens by limiting where challenges can be brought, by whom, and on what issues. This legislation interferes with how judges run their courtrooms. It arbitrarily denies courts to litigate injunctive issues and stays after 60 days unless affirmatively renewed by the court. A dangerous precedent and very bad policy. Our Constitution clearly delineates three branches of government. This conference report tramples on that tenant of our Constitution.

It is time to eliminate the paralysis that has heretofore prevented the U.S. Forest Service from conducting badly needed thinning projects that are needed to protect communities and wildlife. To judge suits over forest thinning projects more important than all other civil cases, let alone criminal cases, is seriously misguided. To make this policy law is absurd. I have been here long enough to remember when conservatives did not trust the federal government and did not endorse expanded and unchecked federal powers.

It is unfortunate, it really is, that the sponsors of this bill chose to inject this controversial attack on the independence of our judiciary in a measure of this nature. This is not a poison pill, and do a disservice to our addressing issues such as forest insect infestation and forest fires in a prudent and responsible fashion.

Mr. TANCREDO. Mr. Speaker, I rise today in support of H.R. 1904, the Healthy Forest Restoration Act. I would like to thank leadership for allowing this long overdue bill to come to the floor today, and most importantly, I would like to thank Forest Subcommittee Chairman SCOTT MCMINN, whose hard work and dedication this bill has brought to us to this point today.

Mr. Speaker, there are many reasons to cut through the current procedural and bureaucratic thicket that has engulfed the U.S. Forest Service. It is time to eliminate the "analysis paralysis" of administrative appeals and litigation that has heretofore prevented the U.S. Forest Service from conducting badly needed thinning projects that are needed to protect communities and wildlife.

The fires of the last few years have ravaged the west. My district was no exception, where the fires of the last few years have ravaged the west. My district was no exception, where the last few years have ravaged the west. My district was no exception, where the last few years have ravaged the west. My district was no exception, where the last few years have ravaged the west. My district was no exception. The fires of the last few years have ravaged our forests.

Mr. HERGER. Mr. Speaker, I rise in strong support of H.R. 1904, the "Healthy Forests Restoration Act of 2003." For the Northern California Congressional District I represent, this bill is long overdue. My District comprises 5 national forests, and wildfires are an annual and growing threat. Each day, month and year, that good forest management is stymied, communities are placed in greater danger.

Mr. Speaker, in my view, this bill doesn't go far enough to address our monumental and compounding forest health crisis. With 190 million acres in the west and only 2 million acres being treated annually, we have to do much, much more. But it takes an important first step forward in the face of tremendous resistance from the radical environmentalists. And I want to commend my colleagues—Chairman RUPP, Chairman GOODLATTÉ, Chairman MCMINN and Congressman WALDEN—for their staunch leadership and dedication in fashioning a collaborative bill that is able to win a majority of the House and Senate. President Bush also deserves a great deal of credit and thanks for his efforts in bringing our growing forest health crisis to the attention of the American public, and to the forefront of our environmental policy debate.

An extraordinarily cumbersome environmental review process, which can delay forest health projects for years, has elevated the review process to an end run and professional judgment. The Forest Service Chief, Dale Bosworth, testified to Congress that his agenda spends 40% of its time on planning and process activities. Litigation and an appeals process that is ripe for abuse have left the Forest Service to stop community-supported forest health projects. A General Accounting Office study indicated that 59% of all projects eligible for funding are appeal or stay projects. And today, forest fires are literally burning up. Lives are being lost. Catastrophic fires are causing billions in property damage and costing the taxpayer billions in suppression and rehabilitation costs. Public health and safety demands that something be done.

For too long radical environmental groups have hijacked our forests to advance their own so-called "environmental agenda." Their hand-iwork has contributed to an immense forest health crisis where lives and property are threatened, billions of taxpayer dollars are spent on destructive fires—and instead of on common sense forest health projects that could prevent them—and millions are wasted on endless environmental reviews and litiga-

tion. It's high time for the rest of us to take our forests back. This bill will not solve this enormous and compounding crisis. But it takes an important step forward by streamlining environmental reviews and preventing abuses of the appeals process, which would allow urgently needed management to move forward to prevent catastrophic fires in our at-risk forests. It will give forest professionals the tools they desperately need, and provide positive momentum for continuing active management throughout all of our forests to restore them to a healthy condition, and address a very serious and growing threat to lives and property. I urge my colleagues to support it.

Mr. MATHESON. Mr. Speaker, I rise today in support of the Healthy Forests bill. This legislation will help restore Utah's forests that have been devastated by fire, drought, and insect infestations. I am hopeful that this legislation will prevent a repeat of this year's severe wildfire season and stop fires from spreading so quickly and affecting our communities. This legislation focuses its resources on hazardous fuel reduction, and is close to home by prioritizing efforts to prevent fires within a mile and a half of at-risk communities. This bill also provides grants for states and local communities to perform the fuel reduction activities that will benefit them the most.

Not only will this legislation help prevent forest fires, but it will address the infestation of the bark beetle that has affected much of southern Utah. This bill requires the Forest Service to develop a plan to combat insect infestation and allows for the expenditure of proceeds that would help eliminate this problem that has turned Cedar Mountain in the Dixie National Forest into a skeleton of what it once was.

The passage of this bill is critical to protecting the health and safety of our forests. We've seen too much devastation and damage in recent years to allow the situation to go unchanged. I am committed to this legislation as an important first step toward remedying our forests.

The SPEAKER pro tempore (Mr. BASS). All time has expired. Without objection, the previous question is ordered on the conference report.

There was no objection. The SPEAKER pro tempore. The question is on the conference report.

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

Mr. GOODLATTÉ. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered. The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the conference report will be followed by 5-minute votes on H. Res. 453, on which the yeas and nays were ordered, and S. 1156, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 286, nays 140, not voting 8, as follows:

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[Roll No. 656]
Ms. JACKSON-LEE of Texas and Messrs. CROWLEY, EVANS, ABERCROMBIE, DEUTSCH, LANTOS, OWENS, DELAHUNT, COSTELLO and JEFFERSON changed their vote from “yea” to “nay.”

Mr. STRICKLAND changed his vote from “nay” to “yea.”

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

CONDEMNING TERRORIST ATTACKS IN ISTANBUL, TURKEY

CONGRESSIONAL RECORD—HOUSE
November 21, 2003

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 453, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 8, as follows:

YEAS—426

H. Res. 453, as amended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 453, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 8, as follows:

Announcement by the Speaker pro tempore.

The Speaker pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 453, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 8, as follows:

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

CONDEMNING TERRORIST ATTACKS IN ISTANBUL, TURKEY

ON NOVEMBER 15, 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 453, as amended.

The Clerk read the title of the resolution.
VETERANS HEALTH CARE, CAPITAL ASSET, AND BUSINESS IMPROVEMENT ACT OF 2003

The SPEAKER pro tempore (Mr. Bass). The pending business is the question of suspending the rules and passing the Senate bill, S. 1156. The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the Senate bill, S. 1156, as on which the yeas and nays are agreed to.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 2, not voting 9, as follows:

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Rollen No. 658

YEAS—423

Abercrombie (HI)                        Clay (OH)                        Gilchrest (MD)
Ackerman (NY)                           Cole (NY)                        Gingrich (GA)
Akin (GA)                               Conyers (GA)                     Goodlatte (GA)
Andreu (FL)                             Cooper (NY)                      Goode (GA)
Andrews (MD)                             Cornyn (TX)                      Goodlatte (VA)
Anderson (GA)                           Cummings (MD)                     Goss (VA)
Arendt (WI)                             Crapo (WY)                        Granger (IA)
Armstrong (GA)                          Curens (NC)                        Graves (GA)
Ashworth (GA)                           Curbelo (FL)                       Grijalva (AZ)
Aspinall (AZ)                           Cullen (NY)                        Gutierrez (TX)
Ass upgraded to Yeas 658

NAYS—2

Nay:    Stupak (MI)                      Nathan A. Smith (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

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

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "A resolution condemning the terrorist attacks in Istanbul, Turkey, on November 15 and 20, 2003, expressing condolences to the families of the individuals murdered and expressing sympathy to the individuals injured in the terrorist attacks, and expressing solidarity with Turkey and the United Kingdom in the fight against terrorism."

A motion to reconsider was laid on the table.
PERSONAL EXPLANATION

Mr. GREEN of Texas. Mr. Speaker, I regret I was unavoidably detained and missed the three votes earlier today.

Had I been present, I would have voted in the following manner: rollover call 656, approving H.R. 1004, the Healthy Forests Restoration Act of 2003, I would have voted “yea.”

On rollover call 657, approving H.R. 453, I would have voted “yea.”

On rollover call 658, approving S. 1156, I would have voted “yea.”

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1, MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003

Ms. PRYCE of Ohio, from the Committee on Rules, submitted a privileged resolution (Rept. No. 108-539) waiving points of order against the conference report to accompany the bill (H.R. 1) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, to amend the Internal Revenue Code of 1986 to allow certain individuals for amounts contributed to health savings security accounts and health savings accounts, to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, and for other purposes, which was referred to the House Calendar and ordered to be printed.

WAIVING REQUIREMENT OF CLAUSE 6(A) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 459 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 459

Resolved. That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of November 21, 2003, providing for consideration or disposition of a conference report to accompany the bill, H.R. 1, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, yesterday the Committee on Rules met and passed this resolution waiving clause 6(a) of rule XIII, requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules against certain resolutions reported from the Committee on Rules. The resolution applies the waiver to a special rule reported on before the legislative day of Friday, November 21, 2003, providing for consideration or disposition of the conference report to accompany the bill, H.R. 1, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

Mr. Speaker, as my colleagues are aware, the conference committee has completed its work and the conference report has been filed. In the spirit of bipartisanism, the conference report has been filed. In the spirit of bipartisanism, the request of the minority, the Committee on Rules met this morning, as opposed to last night, to give members of the minority an opportunity to come to the Committee on Rules at a convenient time so that the witnesses could come to the Committee on Rules at a convenient time to talk about this extraordinarily important conference report which delivers to America’s seniors a voluntary, universal, and guaranteed prescription drug benefit.

This morning, the Committee on Rules received testimony for more than 4 hours on this conference report from many Members in anticipation of reporting a rule to bring this very important and historic legislation before the House. Adoption of this same-day rule and a subsequent rule will simply allow us to consider the historic prescription drug and Medicare modernization plan today, hopefully moving us on and ending this measure to the President of the United States for his signature and sending a strong message to the American people that this Congress is committed to ensuring our seniors have access to affordable medications that will keep them healthy and active.

Mr. Speaker, I strongly urge my colleagues to support this rule and allow the House to complete its work on this landmark legislation. America’s seniors have waited far too long. It is time for us to act.

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

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman from Ohio for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, the rules of this body require that before considering a conference report, a copy of the report and the joint explanatory statement must be available to Members for 3 business days. The Medicare drug conference report and accompanying explanatory statement were filed Friday morning this week. But here we are, Mr. Speaker, debating a special rule waiving the House rule prohibiting the same-day consideration of the Medicare conference report that is more than 1,000 pages long. This defies common sense. This tramples on the rights of the Members of this body.

How are we to make the best informed decisions for our constituents and the Nation about monumental legislation when we do not have the required opportunity to examine this report? What should be bipartisan conference committees are, in fact, clandestine meetings held behind closed doors. Democratic House Members were deliberately excluded from the conference committee. The only African Americans on the Committee on Ways and Means were banned from a place at the negotiating table speaking for our African American citizens. That includes the ranking member of the Committee on Ways and Means, who was appointed to the conference by the Speaker of the House. Key policy bargains were made out of sight of Members and hidden from public inspection.

What is it that we and the American people are not supposed to read the fine print? Does this plan hand billions of dollars to the wealthy drug companies and insurance industry? Does this plan hurt seniors more than it helps? Will seniors end up paying more and receiving less? What will the impact be on minority seniors? They were not represented at the table. Is this bill a Trojan horse of privatizing and dismantling Medicare? If this bill is the answer to seniors’ cries for help combating the skyrocketing prices charged for medications, was it allowed to carefully review the hundreds of pages of this report? News reports and a quick glance at the bill indicate that nothing is done to freeze or control out-of-control drug prices.

Just this morning, Thomas Scully, administrator of the Centers for Medicare and Medicaid Services, told a senior Senator of the other body that he misunderstood this plan and needs to read the bill. That is a wonderful suggestion. Mr. Speaker, too bad that we will not have that chance as the Senate has. Medicare is much too precious to kill because we will never, ever in our lifetimes and probably anybody else’s in my voice’s range be able to institute another program like this in America. I remind my colleagues of the Medicare Catastrophic Coverage Act which was passed without providing Members and seniors sufficient opportunity to read the pages and pages of fine print. They were not allowed to see it.

American seniors were outraged by the legislation, so outraged that Congress was forced to repeal the law the very next year.
Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), chairman of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule, and obviously with the present theme being the debate on what is clearly one of the most important issues that we will face in our entire careers here. We all know that 38 years ago the Medicare program was established, and it has met the very important needs of many retirees, many of our seniors. But we are also well aware of the fact that there have been more than a few problems with the Medicare program, and for years and years people have talked about bringing about reform of Medicare. There has been a lot of talk; and in just a few hours, we are going to finally have an opportunity to vote “yes” on this conference report which will effectively address many of those concerns which have existed for many, many years.

We all know, Mr. Speaker, that this measure will include a number of other very important items. Back in 1987, I had the privilege of introducing in this House legislation calling for the establishment of what we then called MSA, medical savings accounts, the opportunity for people to put dollars aside, tax deductible, so that they could plan for their future health care needs purchasing either health insurance or direct health benefits. Health needs that they had could be addressed with these dollars. We have already proceeded with bipartisan support in putting into place pilot programs, and there has been a great deal of success. Why? Because we diminish the need caused by the need caused for Federal programs by allowing people to again privately plan and privately save with some incentive as they look toward those health care needs in the future.

We also know, Mr. Speaker, with this plan are doing something that is unprecedented, and it is a need which Democrats and Republicans alike have said needs to be met. We know that in the last Presidential campaign, both Vice President Gore, who was the candidate, and now President George Bush, when he was a candidate, talked about the need to ensure that we for our seniors provide an opportunity for them to have access to affordable prescription drugs. One of the things that is often said, our majority leader points out, I have said it for a long period of time, 38 years ago when the Medicare program was established, the only prescription drug available was aspirin and call me in the morning.” We know that if today we were putting into place a Medicare program, there would clearly be a prescription drug component included in that program. That is why, Mr. Speaker, I believe we are taking this very bold and important step to enhance the availability of prescription drugs for our retirees.

Mr. Speaker, having said that, we know that we included 400 billion in our budget, but there are many who have projected that this program could in fact spiral out of control, that it could become another massive new entitlement program which would get us into a great deal of fiscal trouble for the future. I am very pleased at the direction of the Speaker, who, as we all know, has been intimately involved in working on health care issues for years.

He was very involved, of course, in the medical savings account issue earlier. He has headed task forces on this issue. He instructed me and my colleagues on the Committee on Rules to work on a cost-containment vehicle that would help us take steps to diminish the impact of this program spiral out of control so that there would be a degree of accountability here in this institution. That is why I say, Mr. Speaker, this legislation that we are going to be voting on later this evening includes this unprecedented cost-containment requirement that will ensure the fiscal integrity of Medicare for more than just a generation of Americans.

The legislation protects Medicare in two ways. First, it reasserts the Medicare trustees keep a constant vigil over the ebbs and flows of revenues in their different systems. We need that kind of monitoring mechanism to make sure that the programs are working and to make sure that the cost stays within our expectations. More important than that, Mr. Speaker, however, this legislation defends against the creation of another out-of-control entitlement program. As Members know, this is one of the most serious and deep-seated unintended consequences of the good intentions of so many of our programs here, that the costs run way, way beyond what are anticipated. There are already too many entitlement programs, we know, over which we have very little or, in fact, no fiscal control. We know them as mandatory programs. This legislation is different because it sets up an early warning system that alerts us to unexpected and unintended spending increases and gives us a mechanism for applying the brakes if spending is driven out of control by events and circumstances we could not have foreseen.

Under this legislation, the Medicare trustees are required to notify the Congress if 45 percent or more of Medicare outlays are projected to be funded through general revenue.

Two such notifications in consecutive years require both Presidential and congressional action. Within 15 days of his annual budget submission, the President then has to propose legislation to resolve the funding difficulties. Continuing under expedited procedures, the House then has 3 legislative days to introduce the measure, and any such legislation introduced on the President’s behalf, or any legislation introduced by a Member with the same purpose, must be certified by the chair- man of the Committee on the Budget to ensure that it adequately address the problem.

At this point, Mr. Speaker, it would be wise for some of us to take the path of least resistance and let the difficult solutions die in the committee process. I want to underscore to the Members that this legislation does not allow that to happen. It does not allow us to just push it off to the committee process. By July 30 of any year after a Medicare Funding Warning is issued, it is in order, under this legislation’s special provisions, to move to discharge any committee that is holding up any legitimate attempt to address the funding gap. The motion would have to be in order with the support of one-fifth, one-fifth, of the House Members; that is, 87 Members can stand up.

After the legislation has been discharged, the measure would have to be considered on the floor without days and must result in a vote. Mr. Speaker, this mechanism ensures that we are not going to in any way abrogate our constitutional duty to watch over the Federal Treasury even in the case of measures considered to be entitlement spending.

I want to congratulate the gentlewoman from North Carolina (Mrs. MYRICK), my Committee on Rules colleague, for working very closely with us on this issue, and I believe that taking this step, putting this mechanism into place which has never been put in place before, to help us ensure that we do not see the spending spiral out of control will go a long way towards addressing the major concern that we have a prescription drug program for our seniors and at the same time must result in a vote. Mr. Speaker, this mechanism ensures that we are not going to in any way abrogate our constitutional duty to watch over the Federal Treasury even in the case of measures considered to be entitlement spending.

And I want to say that as we proceed with work on the conference report, and the rule that will allow for consideration of the conference report, we want to ensure that every Member has an opportunity to be heard. We will have an hour on this rule, an hour on the second rule, and then a traditional hour on the conference report; and we have been working on an arrangement which will allow an opportunity to at least double the amount of time on the conference report.

I believe we have a very good measure here. I think that it is deserving of strong bipartisan support since both Democrats and Republicans have consistently said that we do need to
address this need of both reforming Medicare and at the same time making sure that seniors have access to affordable prescription drugs.

So I thank my friend for yielding me this time for me to provide this explanation. STANDING ORDER: Proceed to strong passage of this rule, the next rule, and the conference report itself.

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

I feel compelled to say that two-thirds of this bill could have been paid for by the money that the United States owes the Medicare Trust Fund today.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), ranking member of Committee on Ways and Means, who stood at the door and knocked.

Mr. RANGEL. Mr. Speaker, let me congratulate the chairman of the Committee on Rules for the splendid job he has done in explaining, as he sees it, a 1,000-page bill to this House, and why we should shelve this down the throats of the people of this House of Representatives without being privy to what he is privy to.

I do not know how in the world anybody can get to this well and say we are talking about a bipartisan bill when they had the Sergeant of Arms blocking out Democrats from the House from getting anywhere near the preparation of this bill.

Some people claim that they know what is in it. The eloquence of the chairman of the Committee on Rules was overwhelming. Why will he not allow the rest of the House to take a look at this 1,000-page bill so that they can be just as eloquent as he.

Let me tell the Members one thing. There are people in this House today that believe that in that 1,000-page bill to this House, give us a chance to see what we truly believe is going to be good for the American people and our seniors. If you do that, maybe you are right. If you are afraid, you will not give us any more time.

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

This bill has been online on the Committee on Ways and Means Web site and the Committee on Rules Web site since last night. This is no secret to anyone, least of all the American public, and anyone is free to look it up and read it at their leisure.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LINDER), my friend and colleague of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I would like to say something about the rule. It is a fair rule. It is a rule that was used often as long as I have been here toward the end of a session to get pieces of legislation to the floor. The rule gives an extra hour for those opposing this bill to say something about it, and it is going to hear lots of arguing and lots of whining. But in the event we get through this rule and the rule on Medicare reformation and get to the bill, I think the public is going to know an awful lot about what is in it.

Frankly, the substance of this agreement was known last Sunday, several days ago. And the 3-day rule layover that we are avoiding this time is normal for the end of year.

I just want to make one comment about something that I heard twice in a 4-hour hearing today in the Committee on Rules, and we will hear it later on the floor. On two occasions, it was said that former Speaker Gingrich said in a speech to the Blue Cross organization, or Blue Shield, that he wanted Medicare to wither on the vine. That was made into a commercial by AFL–CIO and run across the country. And Brooks Jackson on July 15, 1996, did an expose on that. He showed the entire speech, and he showed that what they had done was cut up a piece. What Newt Gingrich was talking about was not Medicare or its beneficiaries, but the bureaucracy that runs it. He said that given the opportunity to make free choices, the seniors voluntarily go out of the Health Care Financing Administration, and it will wither on the vine. When Brooks Jackson did that expose, he said what the unions were doing was dishonest.

I want to make this point before the debate starts because I want you to know that we know you are dishonest.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I just heard the epitome of hypocrisy from the gentleman from California when he tried to interrupt the gentleman from New York (Mr. RANGEL) and he would not let the gentleman from New York (Mr. RANGEL) into the room and the likes of the leadership. If this is not hypocrisy, what is? The movie “Thelma and Louise,” watch it. Louise turns to Thelma and says, “You get what you settle for.” And how right she was.

This prescription drug bill is the worst example of accepting what we are given. The administration is telling seniors that they should settle. They have convinced them that they are getting half a loaf, which is, of course, better than no bread at all. But, seniors, beware. They are not getting a slice even, they are not getting a half a loaf. These are the crumbs off the table. Our seniors are fighting for crumbs while the special interests are getting fat, and are they happy this week.

Today, the leaders on the other side are here to try to pass a bill that provides a weak prescription drug benefit, fails to lower drug costs because the bill prohibits the government to try to help negotiate down the cost of the drugs. They specifically put that into the legislation. And it privatizes Medicare. It changes Medicare as we know it, pushing millions of seniors into HMOs. And this is fiscally irresponsible. Do the Members know what HMOs have done in New Jersey? They have shoved 79,000 people out of those two HMOs since 1999. That is what awaits our seniors.

You cannot ignore that. Democrats have led the charge for years to add a prescription drug benefit, but we are not going to settle. We will compromise. We will discuss, but at least invite us to the table to compromise. This is America, not the Soviet Union.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from the great State of Texas (Mr. Sessions), my friend and colleague from the Committee on Rules.

Mr. SESSIONS. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. PRYCE) for yielding me this time. There is a lot of talk today about what is occurring with procedures and whether it is right or wrong, but I want to stand up today and talk about the bill. I want to talk about the bill and the things that it does for not only families like mine, but also for millions of other families across this great Nation.

What this bill does is it modernizes Medicare and so much more because it
then gets into health care for families. It talks about the opportunity for families to be able to save money on a tax-exempt, tax-free basis. Why is that important to my family? That is important to me because I have got a beautiful family. There is my wife of 29 years, I have got a son who is 14 years old, who plays football and wrestles, and he sometimes gets hurt, and I have a 9-year-old Down’s syndrome son who spends an extensive amount of time needing help with his health care profession. Not always do we get an answer back from the insurance company that they want to cover the needs of my family. Sometimes the needs of my family go well beyond those needs of what insurance pays for. But my family, like millions of other families, will now be helped because of the extreme generosity of the gentleman from California (Mr. THOMAS) and the gentleman from Louisiana (Mr. TAUSIN) who have written this bill and allowed it to save up to $5,000 a year. Even if it is just $2,000 a year, if that is what we have got left over, then we can put that money in there, and it means that this money can grow, tax free, and then be used, tax free, on health care. It means that my family and myself will now be able to supplement those things that may not be covered under our health care. It means that we will be able to be decision-makers to get the right things if we need something that goes beyond what insurance pays for.

I cannot tell the Members how important that is because there are millions of other families that are less fortunate than mine who many times go without the ability to have the services that are necessary for their children.

This is a way that people can help. They can help their children. They can help their families. They can make sure that they supplement those things that insurance provides, and that is good.

We have heard today that all this is about is about rich people or about rich organizations. Let me tell my colleagues, when you have someone who is sick or hurt in your family and you find out that insurance does not cover everything you need, and then you look at the tab that is out there, you will look and say, thank goodness for what Republicans have done.

I am proud of what this bill does. It modernizes health care today the way it ought to be, where we can participate, where we can do the right things. So I am proud of what the gentlewoman from Ohio (Ms. PRYCE) is standing up for today, to stand in this House to confirm this rule, to make sure that this Republican body can deliver to Americans and their families and senior citizens not only the health care that they need, but as a result of listening to the needs of those families, deliver prescription drugs and those things that America has been asking for.

And then we will have a President who will sign this bill and do the right thing. And in the scheme of things, us doing the right things to help people today and to make sure families can be prepared for tomorrow is part of the oath and obligation that I took when I said I will uphold this Constitution and make sure that the people I represent get the best from what we can come up with.

Mr. Speaker, I support this rule. I support this bill. I encourage every Member of this House to understand what this is about. It is not about politics. It is not about ourselves. It is about our families, our children, and our future.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I appreciate that the gentleman from Texas is proud of this legislation, but I want to tell him, I am ashamed of this legislation, and I am ashamed of what we are able to do; I do not do it.

Secondly, he said his constituents are going to be helped. They are not going to be helped; they are going to be hurt. When he says this is a good bill, it is not a good bill. It is a bad bill. Mr. Speaker, the congressman’s constituents are calling to ask the gentleman from New York (Mr. RANGEL) said his constituents, calling are saying, and they are calling me because they are scared to death about what you are going to do, because they think that Medicare is going to lose their choice of doctors or their choice of hospitals, and they are not going to get any kind of decent prescription drug benefit.

Let me tell my colleagues why they are right. There is no question that you are not going to get any kind of drug benefit under this bill unless you go private. You have to have an HMO. If you do not join an HMO and lose your choice of doctor or your choice of hospital, then you are not going to get the drug benefit. They are scared because they do not believe that they do not want to have to trade and lose their doctor in order to get some kind of drug benefit.

Secondly, they are upset because there is no benefit here. There is nothing here for them to benefit from. They are going to have to pay more out, shell more out of their pocket than they are going to get back in terms of a prescription drug benefit. If we look at what this bill does, first of all, we do not know which the premium is going to be. It is going to be $72, $95 month. You have to pay a deductible of $275 a month. After you pay out $2,200, for the next $3,000 or so, you get no benefit at all, no drug benefit. You have to pay 100 percent out-of-pocket while you can afford to pay probably a very high premium.

So they figure, I am going to lose my choice of doctor. I may lose my choice of hospital. And at the same time, I am not getting any benefit because of this doughnut hole and what you are causing me to pay out.

Then they say, they are expecting there is going to be some kind of controls on the price of prescription drugs, but you have a clause in the bill that says that we cannot even negotiate price. So the costs of prescription drugs will continue to rise, as all of these other terrible things are happening.

Then they say, my constituents say to me, Congressman, is it true that this bill does not even take effect until 2006 with the drug benefit? The answer is yes. That is what the bill says. Read the bill; 2006, before the drug benefit kicks in. You know what my constituents say? That is a joke. What kind of a joke is this? You are going to have some election in 2004 and then you are all going to run for election and say what a great thing this is and this is not even going to kick in. They want a prescription drug benefit now. Why can it not start January 1 of 2004?

Lastly, the reason they are really scared is because of the privatization. I heard the gentleman from California (Mr. DREIER) say “privatize” three times. That is what this is all about: privatizing, not just the prescription drug benefit, but Medicare as a whole. Because even though we are going to have these demonstration programs in certain parts of the country, the bottom line is they are going to impact the whole country and ultimately, by the year 2010, you are going to force people to take a voucher, try to force people to take these programs in the private sector and buy their Medicare as a whole, if they cannot find it or they do not like what they are offering for that voucher, set that amount of money, then they are not going to be able to be able to be able to do that, and what is that going to mean to additional Medicare, fee-for-service Medicare.

Privatize Medicare, privatize the drug benefit, it does not even start until 2006, and you lose your doctor. That is why they are scared to death.

Ms. PRYCE of Ohio. Mr. Speaker, I must take 1 minute to say that the gentleman has misspoken. Our most needy seniors, the seniors who need it most will be getting help with their prescription drugs. The prescription medicine has to offer, by next spring if we pass this bill. But if we delay, if we continue to defeat our efforts, the Republican efforts to bring prescription drugs to the American people, we will never provide them help. We have to start and we have to pass this bill today.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. GINGREY), someone who should know a lot about this.

Mr. GINGREY. Mr. Speaker, I thank the gentlewoman from Ohio for yielding me this time, and I promise to tone down the rhetoric just for a couple of minutes.

Mr. Speaker, I rise today in support of the rule for the Medicare agreement. Today, we face a Medicare reality, a reality that requires change, reform, and willing leadership.

Though not a perfect solution, the Medicare agreement is a big step in the right direction, a step in the right direction by providing our seniors with

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assistance to pay for the rising cost of prescription medications, medications that will help them live longer and help their lives; a step in the right direction by supplying appropriate reimbursement updates for hospitals, and updating the Medicare possession that will allow physicians to properly serve their patients and curb the trend of reduced access.

I urge my colleagues to take this step to help our seniors, our hospitals, and our physicians and adopt this rule so we can pass the Medicare conference report.

Ms. Slaughter. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Rhode Island (Mr. Langevin).

Mr. Langevin. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I rise in strong opposition to the proposed rule to consider the Medicare Modernization and Prescription Drug Act of 2003. We are about to vote on legislation that will have an enormous impact on every single American. While we know very little about the details, since we were only given this bill late last night, what we do know is that it offers a completely inadequate benefit, does nothing to contain the rapidly increasing cost of prescription drugs, and takes steps toward privatizing Medicare. When our seniors find out about the truth of what this bill will do to their health plans, they will be outraged. This is shameful, because it does not have to be this way.

We are poised to make the most significant changes to Medicare in history, and we are proposing to vote on it while the ink is still drying, a 600-page bill that we have scarcely been able to read. This is no way to make good public policy.

Mr. Speaker, as President Woodrow Wilson once said, ‘Whenever any business affecting the public is conducted, wherever any plans affecting the public are laid, over that place a voice must speak with the divine prerogative of the people’s will the words ‘let there be light.’’ Mr. Speaker, there is no light in our House today, and the Members of this House and the people that we represent deserve better.

I urge all of my colleagues, regardless of their position on this bill, to vote against this rule.

Ms. Pryce of Ohio. Mr. Speaker, I reserve the balance of my time.

Ms. Slaughter. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Oregon (Mr. DeFazio).

Mr. DeFazio. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Would every Member who is on the floor and who has read all 691 pages of this bill ever, and we are not going to do that. We cannot certify that those U.S.-manufactured, FDA-approved drugs that took a little vacation in Canada are safe. This is simply legislation that is not going to provide the benefits that seniors need at an extraordinary cost to the Medicare program.

Ms. Pryce of Ohio. Mr. Speaker, I continue to reserve my time.

Ms. Slaughter. Mr. Speaker, the gentleman is absolutely correct. There is a great list of good Canadians from taking bad medicines.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington State (Mr. Baird).

Mr. Baird. Mr. Speaker, at the beginning of this debate, the distinguished chairman of the Committee on Rules pointed out that this is one of the most important bills we have faced possibly in our careers. Indeed, he is correct. Yet, we are given less than 24 hours to consider this. The most important bill in our careers, 24 hours to consider it.

It is part of a very troubling pattern, and I call my colleagues’ attention to this. In the last 7 legislative days in this Congress, we have either authorized or appropriated more than $1.26 trillion of the people’s money. The defense authorization bill we were given 3 hours to read before the vote. The Medicare bill, we may have a total of about 28 hours, clock hours, if we read around the clock to read this. The intelligence authorization bill, 8 hours. A total of $1.26 trillion, and we are going to have an omnibus appropriation bill shortly.

I would like to yield, if I may, to the gentlewoman from Ohio. I have asked one of the pages to take her a piece of text from this legislation, and I would like her to explain this to me. If we have had adequate time to study it, then we should know what is in it.

The text reads as follows, and I will invite the gentlewoman to explain what it means.

On page 13, actually of the interpretive paper from the Republican party, it reads, ‘Plans would be permitted to substitute cost-sharing requirements for costs up to the initial coverage limit that were actuarially consistent with an average expected 25 percent coinsurance for costs up to the initial coverage limit. They could also apply tiered copayment, provided such copayment were actuarially consistent with the average 25 percent cost-sharing requirement.’

I yield to the gentlewoman from Ohio (Ms. Pryce) to explain what that means.

Ms. Pryce of Ohio. Mr. Speaker, I thank the gentleman from Washington (Mr. Baird) for yielding. This was just put in front of me. I would defer to the chairman of the Committee on Ways and Means or a member of the Committee on Ways and Means or the Committee on Ways and Means, but because this is their jurisdiction and certainly not the jurisdiction of the Committee on Rules.
Ms. BARR. Mr. Speaker, reclaiming my time. I believe the gentlewoman from Ohio (Ms. PRYCE) has pointed out we have had adequate time to study the legislation. I presume she is going to vote on it. This is a summary provided by her Republican party, yet she fails to be able to explain it.

I would invite anyone here present with us today from the majority party, or who plans to vote from the minority party, to please explain what it is we are voting on. I would invite the next person to offer that explanation.

Ms. PRYCE of Ohio. Mr. Speaker, I will continue to reserve my time. We do not have any more speakers at this point.

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

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, my good friend has really laid it out for us. We are not yet debating the bill. I thank the distinguished gentlewoman from New York (Ms. SLAUGHTER) from the Committee on Rules, both of them in fact, we are debating the process. I think it is important because this is historic.

I sat for 2½ hours in the Committee on Rules to say this is a good plan. And I want to thank the Committee on Rules for giving me the 2½ hours to sit, and then the opportunity to express my opposition and challenges to this legislation. I have been taught as a child that it is all about who shows up. Not about whether you can finish or whether or not you are the best, but who shows up. Who shows up in school, who stays in school.

Let me tell about this legislation and what I went to the Committee on Rules about. I asked them to reserve what we call points or order. Because I believe this bill is fatally flawed. It has killer bees in the midst. It has a lot of roses in it. And people are talking about hospitals and not about who shows up. Not about whether you can finish or whether or not you are the best, but who shows up. Who shows up in school, who stays in school.

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Mr. COOPER. Mr. Speaker, this is a very sad day for this House. I bring a unique perspective, I think, to this legislation because I represent probably more hospitals than any other Member of this body. Because Nashville, Tennessee, is the headquarters town for the most hospitals in the United States. We also have a leading academic medical center and many non-profit hospitals with some 300 health care companies headquartered in our city. We are Health Care U.S.A.

I have also been a professor of health care policy at Vanderbilt Business School; the last 7 years studying these issues. And in my prior service in Congress, I was one of the leaders in trying to craft bipartisan health care policy, getting Democrats and Republicans to work together, to do the right thing for our Nation’s seniors and for all of our citizens.

This bill, which we were finally allowed to see a few short hours ago, is a travesty. First of all, very few, if any, Members really know what is in it. There has been enough time. And our seniors deserve better than a marital law rule. Why not at least the regular 3 days, so Americans can see what is in this bill? What is the other side afraid of? What are they afraid of?

Sunshine is the best policy. Sunshine is the best disinfectant for what may or may not be in this bill.

Now, I had a head start, I have been trying to follow proceedings closely over the last several months of the conference from which all Democrats have been excluded in the House. But I have tried to pick up bits and pieces here or there. I have tried to read everything available on this. And the best I can tell, the policies in this bill come up wrong.

Now, our hospitals in Nashville are proud of the 3 to 5 percent of the bill that covers their activities, but the rest of the bill, the other 95 percent, has severe policy shortcomings that I am afraid the other side feels cannot stand the Federal Government’s test and the light of day, cannot stand full debate.

So our seniors deserve better, Mr. Speaker. Let us give them a better bill. Let us take the time to do it right.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

And in light of the comments of the gentlewoman from Tennessee (Mr. COOPER), the last speaker, I would say that everyone here today knows this is not the final product. The final product this legislation is being finalized. If that is not the case, I am not sure why we are voting on this now.

And in light of the comments of the gentlewoman from Tennessee (Mr. COOPER), the last speaker, I would say that everyone here today knows this is not the final product. The final product this legislation is being finalized. If that is not the case, I am not sure why we are voting on this now.
my office just a few hours ago. I have not read it all. It is 681 pages, and I just got it.

If there is any Republican here who has already read it, then they have been through some kind of speed reading, and I have not been through. But I have gotten through a few pages. Page 54 is a good place to start. Surely to goodness, no one here has read page 54, because if they have, they would not be asking for this bill to be brought up immediately. They would not be asking to read it, because page 54 says what? It says the Federal Government shall be prohibited from negotiating with the big drug manufacturers to bring down the high cost of medicine. And they call this a seniors bill? Give me a break.

And if that is not enough, my colleagues can turn to page 18 of the bill. Page 18 of the bill tells us what seniors are going to get, or, really, what seniors are not going to get. This is clearly a bill by the big drug manufacturers and the big insurance companies, not to benefit our seniors, not to bring down the high cost of medicine, but to benefit the big drug manufacturers and the big insurance companies.

Make no mistake about it, seniors, it is important the Members here understand, understand what the seniors get in this bill. There is a $420 yearly premium, $35 a month. There is a $250 deductible, and then, from $250 to $2,250. Medicare pays 75 percent of the bill leaving the senior to pay 25 percent. That part sounds pretty good. But then from $2,250 all the way up to $5,100, guess what? The senior is back stuck paying the full price for the prescription drug while still being required, under this bill, to pay a $35-a-month premium.

This legislation boils down to this: Of the first $5,100 worth of medicine, seniors are going to still be stuck paying $4,025, while Members of Congress, who wrote and approved this bill, only pay $1,275.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Arkansas (Mr. Ross) says that the AARP does not speak for seniors of America. The AARP represents 35 million seniors, dues-paying, card-carrying voting seniors. These seniors care what we do, and they are watching what we do, and we better do right by them.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, a little over a year ago, the President of the United States, Secretary of Defense Donald Rumsfeld, Under Secretary of Defense Paul Wolfowitz, and others like him, testified to me, they not only did the Iraqis have weapons of mass destruction, but that they had their finger on the trigger and were getting ready to use them. Now, 7 months after we have occupied Iraq, the only thing harder to find than a Republican who will tell me where those weapons of mass destruction are is a Republican who will tell me how they are going to pay for this bill.

They are left on the verge of their budget, their spending, their tax cuts, they have increased our Nation's debt by $1,229,407,000.

This bill alone will add another $400 billion to our staggering $6.8 trillion debt.

But if you have noticed, not one of my Republican colleagues will say how they are going to pay for it, because they do not want you to know that a few seniors will benefit from this, but all of us will end up paying interest on it. And we are already squandering $1 billion of your money a day on that interest.

This is nothing but an auction to the insurance companies and the pharmaceutical companies of this Nation, for campaign contributions to the Republican party. And I want one Republican to hold up one prescription and just tell me how much less it is going to be 1 year from today, 2 years from today, because that is what seniors really want. They do not want another bueraucracy. They do not want $400 billion worth of debt.

The people who are seniors now are the Greatest Generation, and the last thing the Greatest Generation wanted is the country they fought for in World War II and Korea to be bankrupted by some political prank now.

So I ask the gentleman from Ohio (Ms. PRYCE) how are you going to pay for it, and please name one drug that will be cheaper 1 year from today.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I would just like to remind the gentleman that last year's Democrat prescription drug bill cost $1 trillion, $1 trillion, almost three times what this bill costs.

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

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

Mr. Speaker, whether you support this bill or not, the Members should be very concerned that we are about to cast a vote on a major, major piece of legislation that only a small handful of House Members have actually read because it was not finalized and filed until 1:30 this morning.

They should be very concerned that this marshal law rule waives the House rule that requires the conference report layover for 3 days before coming to the floor for a vote. Of course, it was not supposed to be this way.

Just a few weeks ago, 44 members of the Republican Study Committee demanded that the Republican leadership allow Members 3 days to read the conference report after it was filed and before forcing them to vote on it. It was a reasonable demand since that is what the rules of the House say.

The gentleman from Illinois (Mr. HASTERT) agreed to it as has been publicly reported. Here is how the November 7, 2003, edition of Roll Call reported it: "At a GOP conference meeting that was called exclusively to update Members on the Medicare talks, Hastert assured his troops that they would now get regular briefings on the Medicare bill and would have 3 days to look over the conference report before having to vote on it, according to several Members who attended."

"The Speaker wants to make sure that Members are comfortable making this historic change to Medicare, said Hastert spokesman John Feehery."

The gentleman from Georgia (Mr. NORWOOD) said, "The thing I'm happiest about is we get 3 days with the language."

Now, we all know the Speaker of the House is an honorable man, but apparently the Republican leadership is willing to renege on his commitment and to ensure Members do not get 3 days with the language. Because while various summaries, press releases, and drafts may have been posted on Web sites of today, the final language of that conference report was not filed until early this morning. And 3 days from Friday morning to Monday morning, not Friday afternoon.

For that reason, Mr. Speaker, I urge Members to join me in opposing the important parliamentary vote known as the previous question. If it is defeated, I will amend the Republican Medicare bill, but it is the only way to uphold the commitment of the Speaker of the House and to allow Members and the public to examine this 700-page $400 billion Medicare bill before voting on it.

I urge Members to vote 'no' on the previous question.

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

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I remind my colleagues that this body is about to embark on a monumental endeavor. We are about to consider the most significant benefit America's seniors have ever seen since the creation of the Medicare program nearly 40 years ago. We are about to give seniors the best tool that medicine has to offer, prescription drugs. A tool that they have been denied, that our government has denied them. We are about to give that to them. Mr. Speaker. That is not even to mention the most significant and deliberative reform that Medicare has ever seen.
I urge my colleagues to support American seniors, to support the future of the Medicare program, and to support this Congress in one of the most promising endeavors I have ever been a part of in my years in this esteemed body. I urge in taking a bold step closer to consideration of this extraordinary legislation. I ask the Democrats, stop defeating these attempts, stop delaying help to our seniors, and stop destroying their trust in their government.

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

The SPEAKER pro tempore (Mr. Bass). The question is on ordering the yeas and nays.

The yeas and nays were ordered.

Mr. Speaker, H. Res. 458 is a rule that waives clause 6(a) of rule XIII with respect to consideration of certain resolutions.

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 458 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reportable by the Speaker on the day of November 21, 2003, for consideration or disposition of any of the following:

1. A bill or joint resolution making further continuing appropriations for the fiscal year 2004 or any amendments thereto;

2. A bill or joint resolution making general appropriations for the fiscal year ending September 30, 2004, any amendment thereto, or any conference report thereon.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

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

Mr. Speaker, H. Res. 458 is a rule that waives clause 6(a) of rule XIII with respect to same-day consideration against certain resolutions reported from the Committee on Rules. Specifically, this rule waives the requirement for a two-thirds majority vote in the House to consider a rule on the same day it has been reported by the Committee on Rules. This rule's waiver applies to any special rule reported on the legislative day of November 21, 2003, providing for the consideration or disposition of any of the following:

A. A bill or joint resolution making further continuing appropriations for fiscal year 2004 or any amendments thereto; or

B. A bill or joint resolution making general appropriations for the fiscal year ending September 30, 2004, any amendment thereto or any conference report thereon.

I urge my colleagues in the House to join me in approving H. Res. 458. Its passage will help expedite the consideration of other continuing resolutions, if that becomes necessary, or even conference reports on the last few remaining fiscal year 2004 appropriations bills, including the Foreign Operations bill, Transportation-Treasury bill, the Agriculture bill, the VA-HUD bill, the Commerce-Justice bill, the Interior-Columbia bill, and the Labor-HHS bill.

I believe that we are in the waning days of this year's legislative session with only a relatively small number of must-do legislative items left to finish. Approving this same-day waiver rule will help provide for prompt consideration of these important funding bills.

Mr. Speaker, the Committee on Rules approved this rule last night, and I urge my colleagues to join me in supporting its passage.

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

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

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

Mr. FROST. Mr. Speaker, marshaling law rules like this one are symptomatic of the failure of this Republican government to do what is right for America, from Medicare and the economy to foreign policy and homeland security, that keeping the public in the dark has become their chief priority.

So today, Republican leaders are yet again waiving the rules of the House. Later today they plan to do it in order to force through their plan to end Medicare as we know it, which is how the chief author of the Republican Medicare bill, Newt Gingrich, described it.

But first, Republican leaders want to pass this marshal law rule so that they can rush through a spending bill before Members, the press, and the public have the chance to find out what is really in it.

Mr. Speaker, they will not even tell us which spending bill they plan to hide from us today. All we know is that it will either spend tens of billions of dollars in taxpayer money, or that it will leave tens of billions of dollars in taxpayer money. Either way, it will become law before it has even been read by anyone except for a handful of Republicans at the White House and in the Congress. But since these are the same Republicans who have exploded the budget deficit to nearly $500 billion, raising the debt tax on all Americans, no one has much faith in them anymore.

Mr. Speaker, after nearly a decade of controlling the Congress, the Republican Party's fundamental goal is simply protecting its own power by hiding from the public the damage they are doing to America. Of course, if you think that the Republicans, you can understand why they are so desperate to keep it hidden. In the nearly 3 years since George Bush became President, Republicans have created a whole host of problems for the American people.

On national security, the Bush administration has plunged this Nation into its worst foreign policy crisis since the end of the cold war because they would not trust the American people with the truth about Iraq and because they could not work with our allies around the world. And while U.S. taxpayers are spending hundreds of billions of dollars on Iraq, our homeland defense needs here in the United States remain dangerously unmet.

On domestic policy, of course, Republicans are going for the right wing gold. Later today they will try to finalize Newt Gingrich's dream of forcing Medicare to wither on the vine, shattering Medicare's nearly 40-year-old promise to American citizens. That dream, Mr. Speaker, will fit into a study in the public dishonesty that is fundamental to the Republican government.

Over and over again, Republicans will repeat their poll-tested sound bytes. They will save Medicare reform and hope that millions of seniors do not notice the Republicans are forcing them out of traditional Medicare and into HMOs and insurance companies. They will talk about choice and ignore the fact that millions of seniors will lose the ability to choose their doctors. And they will decry skyrocketing prescription prices and hope no one notices that they are actually protecting drug company profits by making it illegal for Medicare to negotiate lower prices for senior citizens.

Mr. Speaker, Republicans will wax poetic about the generosity of their drug benefit, hiding the fact that premiums and benefits will actually be set by HMOs and insurance companies; and that they would not trust the American people with the truth about Medicare.

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Mr. Speaker, Republicans will wax poetic about the generosity of their drug benefit, hiding the fact that premiums and benefits will actually be set by HMOs and insurance companies; and that they would not trust the American people with the truth about Medicare.
As a result, instead of using the budget surplus to help address priorities like skyrocketing prescription prices and strengthening Social Security and Medicare, Republicans have created a fiscal crisis and raised the debt on us citizens.

Along the way, nearly 3 million jobs have been lost, giving George W. Bush the worst job performance of any President since The Great Depression. Millions of families no longer share in the prosperity of the nineties. Of course, you would never know the facts if you just listened to Republican rhetoric. But talking points cannot cancel out the truth. And the truth is, Mr. Speaker, that Americans continue to be unemployed at historically high rates. More than 2 million workers have been unable to find a job in this economy for more than 6 months, and many of them will lose their unemployment insurance over the holidays if this Republican Congress does not act this year before we adjourn.

Mr. Speaker, Americans are smarter than Republican leaders give them credit for. They know the difference between rhetoric and reality. So I urge my Republican friends to look past their leader's rhetoric and join me in providing real help to Americans suffering through this economy.

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

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

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank my friend from Texas for yielding me this time.

Mr. Speaker, this rule will allow us to consider an additional continuing resolution which will allow us to go home over the holidays, and at this time, there is no indication from the majority that they are prepared to bring up an extension of the unemployment insurance benefits for thousands of our fellow citizens who will be running out of unemployment insurance benefits during that period of time. So, Mr. Speaker, I would hope that we would not approve the previous question so that we could bring up this unemployment insurance extension.

Let me just remind my colleagues that 1 year ago we were in a similar position, and I did not bring to a vote an extension of the unemployment insurance benefits, and at Christmas time, we had to tell hundreds of thousands of Americans that they ran the risk of losing the Federal benefits that they needed during this recession. We are faced with the situation again.

Two days after Christmas, the current Federal 13-week unemployment extension program is scheduled to expire. If we do not do anything about it, 80-90,000 people in this Nation, every week, are brought back into the Federal extended benefits, and not entitled to any Federal extended benefits; 1.4 million Americans during that 6-month period, until July of next year, are anticipated would be without benefits.

The American taxpayers, those who have exhausted their State unemployment benefits without finding employment have reached the highest level on record, the highest level on record, 43 percent. Two million workers have been unemployed for more than 6 months, nearly triple the amount compared to the beginning of 2001. We have 2.4 million fewer jobs today compared to 2½ years ago.

Mr. Speaker, the majority leader recently said, I see no reason to be extending unemployment compensation since every economic indicator is better than in 1993 when the Democrats ended the Federal unemployment program. Mr. Speaker, nothing could be further from the truth. The unemployment figures just came out: 7.6 million more out of work, exhausting their benefits, contrary to what the gentleman from Texas (Mr. DE�LAY) has said, will reach an all-time high, almost 44 percent, and even with this modest increase in jobs the last couple of months, the U.S. economy still has 2.4 million fewer jobs today than 2½ years ago.

I want to refer to Michigan. The unemployment figures just came out: 7.6 is the unemployment rate, a 3-year high, an 11-year high, actually, and higher than when the temporary unemployment compensation program was set up.

This is not a test on procedure. This is a test whether my colleagues will stand with those who are unemployed, looking for work or turn a cold shoulder to them. There is nothing compassionate about this kind of act, Mr. Speaker, or anything else.

So I urge all my colleagues, Democrats and Republicans, to vote no on the previous question and stand up for those millions of Americans, millions of Americans who have already exhausted all their benefits.
Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume just to observe the lesson I just learned from the gentleman from Michigan. When President Clinton ran for President, he said we had the worst economy in 50 years, and just a few months later turned everything around. Things were so wonderful that he could stop unemployment compensation. I had not realized he had done it so quickly.

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

Mr. MCDERMOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

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

Mr. MCDERMOTT. Mr. Speaker, several times this week the House has used emergency procedures to pass partisan legislation.

Yesterday, the Congress found time to give tax credits to Wal-Mart, but the Republican majority refuses to consider what is truly an emergency to millions of families, the fact that they do not have jobs, and millions of these workers have to run out of unemployment insurance.

Last year, the same thing happened. The Republican Congress left town about Christmastime without extending the temporary program that provides unemployment benefits, leaving hundreds of thousands of unemployed workers to worry over the holidays about whether they were going to get the unemployment benefits that they had been expecting.

We have heard it has been reported that the majority leader said, “I see no reason to be extending unemployment compensation since every economic indicator is better than in 1993 when the Democrats ended the Federal unemployment program.” Mr. Speaker, the esteemed majority leader does not know what he is talking about.

Washington State’s unemployment is still among the highest in the Nation. It has grown for two solid years as we felt the brunt of the Bush recession. If the Congress does not extend the Federal program that provides unemployment compensation and fix a technical flaw in the Federal-State extended benefits program, over 83,000 workers in my State will spend Holy Days jobless, at Christmastime, receiving unemployment benefits.

I know the economy created 100,000 jobs last month, but 150,000 jobs must be created each month to maintain the employment rate because our population continues to grow.

Two days after Christmas, the temporary Federal unemployment benefits program is scheduled to expire, denying benefits to nearly 90,000 workers every single week. The unemployment picture is not much better than it was last year, Mr. Speaker. According to the Department of Labor, there is still only one job opening for every three unemployed workers. In other words, of the 9 million unemployed American workers, 6 million of them have no chance of finding a job in the current economic climate.

I urge my colleagues to vote against the previous question so that Congress can consider an emergency that faces millions of families in the Nation’s unemployment problem.

It is Thanksgiving for heaven’s sakes, and we are not even going to provide them a turkey at Thanksgiving or at Christmastime. That is really Scrooge, and very hard-hearted.

I urge my colleagues to vote against the previous question.

STATE OF WASHINGTON,
EMPLOYMENT SECURITY DEPARTMENT,

Hon. Jim McDermott,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MCDERMOTT: This letter is in response to your request (dated November 7, 2003) for unemployment projections and data.

Washington State’s Seasonally Adjusted Total Unemployment Rate (SATUR) remained at 7.5 percent for the month of September. This percentage is 116 percent of the same rate two years ago, keeping the State of Washington in a period of Extended Benefits (EB). The next issuance of the SATUR, scheduled for November 21, 2003. Our forecast for October still shows that the State of Washington will again be above the required 11 percent of the same period for either of the past two years, and will remain in EB status for that period as well. Statistics due out on December 19, 2003 are indicating that the 11 percent criteria will not be met. Thus, there will be no out of EB for weeks after January 10, 2004.

Tables 1 and 2, enclosed, provide SATUR forecasts through calendar year 2005. As shown, the State of Washington Forecast Council estimates that the State of Washington’s SATUR will remain above 6.5 percent through 2005.

Table 3 provides a count of claimants exhausting all benefits, by entitlement, for the first six months of 2003. Unemployment statistics are very cyclical and we believe the exhaustion rate for the first six months of 2004 will be very similar to those of 2003. Claimants exhausting Regular UI benefits become eligible for the TEUC program and claimants exhausting Extended Benefits (EB) are eligible for the EB program. If the TEUC program were not continued, we estimate that close to 54,000 claimants would be without benefits in the first six months of 2004. Additionally, if the EB program were to end in January 2004 due to the “look-back” provision, an additional 28,508 claimants exhausting the TEUC program would be without benefits.

Table 4 provides a summary of total dollars paid out to claimants by month during the first six months of 2003. Similar to exhaustion rates, we believe that payment totals will be very similar in 2004. We estimate that we would pay $282 million out under the TEUC program and close to $83 million under the EB program.

Also enclosed for your information is an additional fact sheet on current unemployment insurance data.

Please let me know if you have any additional questions, or if we can be of further assistance.

Sincerely,

ANNETTE M. COPELAND,
Assistant Commissioner.

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

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, Congress has one last opportunity to provide unemployment benefits for Americans who have lost their jobs and been unemployed for nearly six months.

It is quite astounding. We at this point have what is called a jobless recovery. In my State, tens of thousands of people are unable to find employment with their benefits exhausted or nearly exhausted. Across America it is millions.

I know budgets are tight around here. I know that Congress can afford to borrow money to pay Iraqis for no-show jobs, but the President says we can’t even afford to spend down the $20 billion balance in the Unemployment Trust Fund, taxes paid by employers and employees, for just such a situation. So we cannot afford that. We cannot afford to spend that. We can borrow money to send Iraqis, but we cannot spend down the trust fund for unemployed Americans.

Is he saying it is their fault they are unemployed? Is he saying he does not care they are unemployed? Is he saying he does not care they might lose their home; they cannot feed their kids; they cannot afford essentials; they cannot even buy gas for the car to go out and look for work; that they are having their phones shut off?

I am getting those kinds of calls. We have the highest unemployment rate in the United States in Oregon. It is 10.5 percent, which is over 20 percent higher than it was a year ago. There are a lot of people who want to work and cannot find jobs. The least this Nation could do would be to help them with a modest extension of unemployment benefits.

Now, this is not the first time this has happened. Last week, Congress skipped out of town, the President did not raise any concern, and unemployment benefits expired for millions of Americans. This year, we are confronted with the same situation. Two days after Christmas, Merry Christmas. 90,000 workers will lose their extended unemployment benefits and have no income, and yet they cannot find a job. And it will be 90,000 workers a week. In 6 months, 2.2 million Americans will have lost everything, probably their homes, maybe their families, because this kind of breaks up families.

This is, of course, a family-friendly Republican majority and White House, but they just do not seem to care about these people wanting and needing jobs. Their jobs are being exported and have disappeared in the jobless recovery, or whatever. They cannot find work. In my State, it will be 43,000 people by February who will lose benefits.

Now, there is $20 billion, that is 20,000 million dollars, in the Unemployment Trust Fund. We do not even have to borrow the money to give Americans a little bit of help to stay in their homes and keep their families together. We do
Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I think my colleague for yielding to me at this time, and I rise in opposition to this bill.

While Congress dithers in what is probably the waning days of the first session of the 108th Congress, it is inexcusable that we are considering adjournment without first passing an extension of unemployment benefits for the millions of American workers who are currently jobless. In my home State of Oregon, the unemployment rate is still 7.6 percent, nearly 2 percentage points higher than the U.S. average. Even that number, though, is misleading, since it only counts the workers who are still looking for work. It does not include those people who have been off work, who no longer receive unemployment benefits.

Mr. Speaker, to me it is inexcusable and unconscionable that the bill offered by our colleague, the gentleman from Maryland (Mr. CARDIN), is not being brought to the floor right now. Instead, the Republican leadership has chosen to force a vote on a CR because they are unable to fund the government by passing appropriation bills on time and in regular order.

Let me tell you just a little bit about these people who are looking for work. Mr. Speaker. These are people who are out of work through no fault of their own. They go out every single day and look for a job. One gentleman said to me that it is like playing musical chairs. I think I have this wonderful resume, I meet all of the criteria, and I go in and there are 200 people that all have the same qualifications to meet that job. So he said it is a little bit like playing musical chairs with 200 people in the room and only one chair.

One woman told me she had to sell her home. She has been looking for work every day. She has sold her home and is living off the profits of her home. She does not know what she is going to do when those run out.

Another gentleman said, I have been trying to get myself, every day I am out looking for work. He said, I just feel like if I can just hold on for a little longer that job is going to be there.

This tide over the 90,000 Americans per week who will lose their unemployment benefits by the end of this year. Congress can and should pass an extension that will allow workers who are seeking employment to provide for their families as the holiday's approach. Let us get on with this. Let us extend those unemployment benefits.
the floor for a vote only adds to this perception. May we remind you that perception often become reality?

We are perfectly aware that our protests will most likely fall on deaf ears. But, for the sake of this institution and the United States, we urge you to ensure that the Republican Leadership keeps the promise made by the Speaker. We look forward to a response at your earliest convenience.

Sincerely,

MASTIN FROST.

JIM McGOVERN.

LOUISE M. SLAUGHTER.

G. K. HASTINGS.

Mr. Speaker, I just wanted to point out on the Medicare bill, getting back to that, that by not having time to review it and perhaps correct some of the technicalities, whether one thinks this is a good benefit or not, I am sure that many of my colleagues on the right take the same view as I do about privacy, and particularly privacy of our personal financial records.

I am sure that most of them are unaware that private contractors will now be able to willy nilly get tax returns from anybody who may be required to pay a higher premium under the income-adjusted premiums. This means that for the first time in the history of the Internal Revenue Code, we are making available personal tax information to private enterprise operators at will, and I am not sure my colleagues want to do that.

I hope our friends on the right will think about it and think about what unscrupulous operators can do with private personal tax information, which has been one of the bedrock principles of privacy in this country. And I would like to think that the Republicans would not support that. But they do not know what is in this bill. The chairman does not know what is in the bill. And I would submit that the members of the Committee on Rules do not know what is in the bill.

To vote in that kind of ignorance is an affront to the principles, if you have any, which you might stand for.

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

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas, Mr. Speaker, I thank the ranking member and the dean of our Texas delegation for yielding me this time.

Mr. Speaker, as a matter of law, it is interesting to note, always come up in the later part of the session because we always want to get finished. We did a bill on Medicare so we could pass a 600-page document without having to digest it. Now we have a continuing resolution, a bill.

But I really want to talk about the prescription drug provision in Medicare, because that is what will come up later. Our Houston Chronicle wrote an interesting story today which talks about the "scribbled prescription" in the bill that we are going to consider as an "intended cure could be worse than Medicare disease." It talks about the provisions of this bill we are going to consider tonight is stinky because it does not begin until 2006; and that there is such a donut hole in the middle that people will lose, if they have $300 a month in prescription drugs, because of payroll taxes, fall into that donut hole. So it is stinky.

The critics point out that providing a drug component to Medicare encourages businesses to dump their retirees. I had a constituent call me the other day from a utility company who said that the benefit was horrendous. But prescription drugs would be cut. And I said unless you have a collective bargaining agreement, that could happen.

A concern I have, as they quote in the Chronicle editorial, is that the AARP, the most powerful senior citizen organization, has endorsed this proposal. Again, I am quoting the Houston Chronicle, "But, as the plan before Congress offers such limited help for seniors with high prescription costs, many wonder so many people believe AARP's decision was motivated more by its own political dealmaking than concern for its 35 million members' best interests." And that is a direct quote.

Mr. Speaker, when I first came to Congress, a prescription drug bill was the goal, to pass something; but this bill actually goes in the wrong direction. It prohibits Medicare from negotiating for lower prices. HMOs do it, the Veterans Administration does it; and companies do it; and yet now we are prohibiting Medicare from doing it by law. That ought to outrage our seniors, including those 35 million AARP members.

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

Mr. FROST. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. Is there an objection?

There was no objection.

The SPEAKER pro tempore. Is there a demand for the previous question?

Mr. FROST. Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question. The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

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

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

Mr. Speaker, if the previous question is defeated, I will offer an amendment to the rule. My amendment will provide that immediately after the House passes this resolution, it will take up legislation to extend the federal unemployment insurance that is set to expire for new enrollees just 2 days after Christmas.

This legislation would continue the extended unemployment insurance program through the first 6 months of next year. The bill would also increase to 26 weeks the amount of benefits provided under that program, up from 13 weeks. This would provide new help to the 1.4 million workers who have already exhausted their extended benefits and have yet to find work.

This measure is identical to the text of H.R. 3244, the Rangel-Cardin unemployment extension; and it also contains the text of H.R. 3554, sponsored by the gentleman from Washington (Mr. McDermott), which would fix a flaw in current law that penalizes people in states with exceptionally high long-term unemployment rates by preventing them from receiving the unemployment benefits they deserve.

Here is why it is needed, Mr. Speaker. Americans continue to be unemployed at alarmingly high rates. The percentage of Americans exhausting their unemployment benefits without finding a new job has reached its highest level on record. More than 2 million workers have been unemployed for more than 6 months. These Americans need relief, and they need it immediately. If we do not fix this today, over 400,000 jobless Americans will not be eligible for unemployment compensation after the first of the year.

Mr. Speaker, it appears likely that Congress will adjourn sine die within the next few days. This will very likely be the only opportunity we have to help unemployed Americans this year. Let us not abandon them today.

Let me make very clear that a "no" vote on the previous question will not prevent consideration of legislation for unemployment benefits. But, as the plan before Congress offers such limited help for seniors with high prescription costs, many wonder so many people believe AARP's decision was motivated more by its own political dealmaking than concern for its 35 million members' best interests. And that is a direct quote.

Mr. Speaker, when I first came to Congress, a prescription drug bill was the goal, to pass something; but this bill actually goes in the wrong direction. It prohibits Medicare from negotiating for lower prices. HMOs do it, the Veterans Administration does it; and companies do it; and yet now we are prohibiting Medicare from doing it by law. That ought to outrage our seniors, including those 35 million AARP members.
Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution. The SPEAKER pro tempore. The question is on ordering the previous question. The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

A FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agrees to the report of the conference committee. The House concurred in the Senate amendments, and the bill was ordered to the Senate.

The Clerk read the following:

S. 877

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 referred to as the "Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003.

Section 2. Congressional Findings and Policy.

(a) Findings. The Congress finds the following:

(1) Electronic mail has become an extremely important and popular means of commercial communication by billions of Americans on a daily basis for personal and commercial purposes. Its low cost and global reach make it extremely convenient and efficient, thereby providing opportunities for the development and growth of frictionless commerce.

(2) The convenience and efficiency of electronic mail are threatened by the extremely rapid growth in the volume of unsolicited commercial electronic mail. Unsolicited commercial electronic mail is currently estimated to account for over half of all electronic mail traffic, up from an estimated 7 percent in 2001, and the volume continues to rise. Most of these messages are irrelevant or deceptive in one or more respects.

(3) The receipt of unsolicited commercial electronic mail may result in costs to recipients who cannot avoid such mail, and who incur costs for the storage of such mail, or for the time spent accessing, reviewing, and discarding such mail, or for both.

(4) The receipt of unwanted messages also increases the convenience of electronic mail and creates a risk that wanted electronic mail messages, both governmental and commercial, will be overlooked, or discarded amidst the larger volume of unwanted messages, thus reducing the reliability and usefulness of electronic mail to the recipient.

(5) Some commercial electronic mail contains material that many recipients may consider vulgar or pornographic in nature.

(b) Policy. The growth and abuse of unsolicited commercial electronic mail imposes significant monetary costs on providers of Internet access services, businesses, and educational and nonprofit institutions that carry and receive such mail, as there is a finite volume of mail that such providers, businesses, and institutions can handle without further investment.

(c) Federal TRADE. The problems associated with the rapid growth and abuse of unsolicited commercial electronic mail are threatened by the extremely rapid growth and abuse of unsolicited commercial electronic mail, the growth of spam, and the rapid growth and abuse of unsolicited commercial electronic mail.

(d) Federal TRADE. Many senders of unsolicited commercial electronic mail purposely disguise the source of such mail.

(e) Federal TRADE. Many senders of unsolicited commercial electronic mail purposefully disguise the source of such mail.

(f) Federal TRADE. The inclusion of a reference to a commercial entity or a link to the website of a commercial entity in an electronic mail message does not, by itself, cause such message to be treated as a commercial electronic mail message for purposes of this Act if the contents or circumstances of the message indicate a primary purpose other than commercial advertising or promotion of a commercial product or service.

(g) Federal TRADE. The term "domain name" means any alphanumeric designation which is registered with or assigned by any domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(h) Federal TRADE. The term "electronic mail address" means a message subject to clause 8 of rule XX, further proceedings on this motion will be postponed.

CONTROLLING THE ASSAULT OF NON-SOLICITED PORNGRAPHY AND MARKETING ACT OF 2003

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 877) to regulate interstate commerce by imposing limitations and requirements on the transmission of unsolicited commercial electronic mail via the Internet, as amended.

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 referred to as the "Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003.

SEC. 2. CONGRESSIONAL FINDINGS AND POLICY.

(a) Findings. The Congress finds the following:

(1) Electronic mail has become an extremely important and popular means of communication by billions of Americans on a daily basis for personal and commercial purposes. Its low cost and global reach make it extremely convenient and efficient, thereby providing opportunities for the development and growth of frictionless commerce.

(2) The convenience and efficiency of electronic mail are threatened by the extremely rapid growth in the volume of unsolicited commercial electronic mail. Unsolicited commercial electronic mail is currently estimated to account for over half of all electronic mail traffic, up from an estimated 7 percent in 2001, and the volume continues to rise. Most of these messages are irrelevant or deceptive in one or more respects.

(3) The receipt of unsolicited commercial electronic mail may result in costs to recipients who cannot avoid such mail, and who incur costs for the storage of such mail, or for the time spent accessing, reviewing, and discarding such mail, or for both.

(4) The receipt of unwanted messages also increases the convenience of electronic mail and creates a risk that wanted electronic mail messages, both governmental and commercial, will be overlooked, or discarded amidst the larger volume of unwanted messages, thus reducing the reliability and usefulness of electronic mail to the recipient.

(5) Some commercial electronic mail contains material that many recipients may consider vulgar or pornographic in nature.

(b) Policy. The growth and abuse of unsolicited commercial electronic mail imposes significant monetary costs on providers of Internet access services, businesses, and educational and nonprofit institutions that carry and receive such mail, as there is a finite volume of mail that such providers, businesses, and institutions can handle without further investment.

(c) Federal TRADE. The problems associated with the rapid growth and abuse of unsolicited commercial electronic mail are threatened by the extremely rapid growth and abuse of unsolicited commercial electronic mail, the growth of spam, and the rapid growth and abuse of unsolicited commercial electronic mail.

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(c) Regulations regarding primary purpose. The term "domain name" means any alphanumeric designation which is registered with or assigned by any domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(h) Federal TRADE. The term "electronic mail address" means a message subject to clause 8 of rule XX, further proceedings on this motion will be postponed.

(7) FTC ACT. The term "FTC Act" means the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(8) Head of information. The term "head of information" means the source, destination, and routing information attached to an electronic mail message, including the origin domain name and to an electronic mail address, and any other information that appears in the line identifying, or...
purporting to identify, a person initiating the message.

(9) INITIATE.—The term "initiate", when used with respect to a commercial electronic mail message, means to originate or transmit such message or to procure the origination or transmission of such message, but shall not include actions that constitute routine or ancillary such message. For purposes of this paragraph, more than 1 person may be considered to have initiated a message.

(10) INTERNET.—The term "Internet" has the meaning given that term in the Internet Tax Freedom Act (47 U.S.C. 151 nt).

(11) ELECTRONIC MAIL SERVICE.—The term "Internet access service" has the meaning given that term in section 231(e)(4) of the Communications Act of 1934 (47 U.S.C. 231(e)(4)).

(12) PROCURE.—The term "procure", when used with respect to an electronic mail message, means to originate or transmit such message, and means to cause any other person to initiate such a message on one's behalf.

(13) PROTECTED COMPUTER.—The term "protected computer", when used with respect to a commercial electronic mail address, means an authorized user of the electronic mail address to which the message was sent or delivered, the recipient of a commercial electronic mail message has 1 or more electronic mail addresses in addition to the address to which the message was sent or delivered, the recipient shall be treated as a separate recipient with respect to each such address. If an electronic mail address is reassigned to a new user, or if an address is reassigned, a recipient shall not be treated as a recipient of any commercial electronic mail message sent or delivered to that address before it was reassigned.

(14) ROUTINE CONVEYANCE.—The term "routine conveyance" means the transmission, routing, relaying, handling, or storing, through an automatic technical process, of an electronic mail message for which another person has identified the recipients or whose primary purpose is—

(A) to facilitate, complete, or confirm a commercial transaction that the recipient has previously agreed to enter into with the sender;

(ii) to provide warranty information, product recalls, or safety or security information with respect to a commercial product or service used or purchased by the recipient;

(iii) to provide—

(I) notification concerning a change in the terms or features of;

(II) notification of a change in the recipient's standing or status with respect to;

(iii) at regular periodic intervals, account balance information or other type of account or service statement;

(IV) a subscription, membership, account, loan, or comparable ongoing commercial relationship involving the ongoing purchase or use of products or services offered by the sender;

(v) to provide information directly related to an employment relationship or related benefits; such information is currently involved, participating, or enrolled; or

(vi) to deliver goods or services, including product updates or upgrades, that the recipient is entitled to under the terms of a transaction that the recipient has previously agreed to enter into with the sender.

(15) MODIFICATION OF DEFINITION.—The Commission by regulation pursuant to section 13 may modify the definition in subparagraph (A) to expand or contract the categories of messages that are treated as transactional or relationship messages for purposes of this Act to the extent that such modification is necessary to accommodate changes in electronic mail technology or practices and accomplish the purposes of this Act.

SEC. 4. PROHIBITION AGAINST PREATORY AND ABUSIVE COMMERCIAL E-MAIL.

(a) OFFENSES.

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1037. Fraud and related activity in connection with electronic mail

"(a) IN GENERAL.—Whoever, in or affecting interstate or foreign commerce, knowingly (i) accesses a protected computer without authorization, and intentionally initiates the transmission of multiple commercial electronic mail messages, with the intent to deceive or mislead recipients, or any Internet access service, as to the origin of such messages, (ii) materially falsifies header information in multiple commercial electronic mail messages and intentionally initiates the transmission of such messages, (iii) registers, using information that materially falsifies the identity of the actual registrant, for 5 or more electronic mail accounts, or more than 10 domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from any combination of such accounts or domain names, or (iv) falsely represents oneself to be the registrant or the legitimate successor in interest to the registrant of 5 or more electronic mail addresses, or (v) falsely represents oneself to be the registrant or the legitimate successor in interest to the registrant of 5 or more Internet domain addresses, or (vi) conceals the transmission of multiple commercial electronic mail messages from such addresses, or conspires to do so, shall be punished as provided in subsection (b).

(b) PENALTIES.—The punishment for an offense under subsection (a) is—

(1) a fine under this title, imprisonment for not more than 3 years, or both, if—

(A) the offense is committed in furtherance of any felony under the laws of the United States or of any State; or

(B) the defendant has previously been convicted under this section or section 1030, or under the law of any State for conduct involving or otherwise related to commercial electronic mail messages or unauthorized access to a computer system;

(2) a fine under this title, imprisonment for not more than 5 years, or both, if—

(A) the offense is an offense under subsection (a)(4) and involved 20 or more falsified electronic mail or online user account registrations, or 10 or more falsified domain names or registra-

(b) UNITED STATES SENTENCING COMMISSION.

(1) DIRECTIVE.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the sentencing guidelines and policy statements to provide appropriate penalties for violations of section 1037 of the United States Code, as added by this section, and other offenses that may be facilitated by the sending of
of large quantities of unsolicited electronic mail.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall consider providing sentencing enhancements for—

(A) those convicted under section 1037 of title 18, United States Code, who—

(i) alter or conceal an electronic mail address of the users of a website, proprietary service, or other Internet or computer system, for the purpose of enabling others to initiate, electronic mail to another person, without the authorization of such person; and

(ii) know that the electronic mail messages involved in the offense contain, for purposes of this paragraph (4), header information that is accompanies by, a valid physical postal address of the recipient, a person alleging a violation of this Act or other provision of law, except where the recipient has granted affirmative consent.

(2) HEADERS.—The prohibitions in subparagraphs (A), (B), and (C) do not apply to the initiation of transaction or other transfer involving electronic mail messages from the sender, has granted affirmative consent to the sender to receive such messages.

(3) TEMPORARY INABILITY TO RECEIVE MESSAGES OR PROCESS REQUESTS.—A return electronic mail address or other mechanism does not function to receive any commercial electronic mail messages from the sender, has received; and

(i) remains capable of receiving such messages or communications for no less than 30 days after the transmission of the original message.

(A) IN GENERAL.—It is unlawful for any person to initiate the transmission of a commercial electronic mail message that contains false or misleading header information that is accompanied by, a valid physical postal address of the recipient) for any purpose other than compliance with this Act or other provision of law, except where the recipient has granted affirmative consent.

(2) OPT BACK IN.—A prohibition in clause (i), (ii), or (iii) of subparagraph (A) does not apply if there is affirmative consent by the recipient to receive the message provides—

(i) clear and conspicuous identification that the message is an advertisement or solicitation;

(ii) clear and conspicuous notice of the opportunity under paragraph (3) to decline to receive further commercial electronic mail messages from the sender; and

(iii) a valid physical postal address of the sender.

(2) USE OF ADDRESS HARVESTING.—(A) It is unlawful for any person to initiate the transmission of any commercial electronic mail message to a protected computer unless the message contains false or misleading header information that is accompanies by, a valid physical postal address of the recipient.

(5) INCLUSION OF IDENTIFIER, OPT-OUT, AND PHYSICAL ADDRESS IN COMMERCIAL ELECTRONIC MAIL.—

(A) It is unlawful for any person to initiate the transmission of any commercial electronic mail message to a protected computer unless the message contains false or misleading header information that is accompanies by, a valid physical postal address of the recipient.

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(5) INCLUSION OF IDENTIFIER, OPT-OUT, AND PHYSICAL ADDRESS IN COMMERCIAL ELECTRONIC MAIL.—

(A) It is unlawful for any person to initiate the transmission of any commercial electronic mail message to a protected computer unless the message contains false or misleading header information that is accompanies by, a valid physical postal address of the recipient.
the message pursuant to subsection (a)(5); pursuant to paragraph (2), any such marks or notices prescribed by the Commission under this section (a).

(c) Supplementary rulemaking authority. —The Commission shall by rule, pursuant to section (a).

(1) modify the 10-business-day period under subsection (a)(4)(A) or subsection (a)(4)(B), or both, if the Commission determines that a different period would be more reasonable after taking into account—

(A) the purposes of subsection (a);

(B) the interests of the Recipient of commercial electronic mail; and

(C) the burdens imposed on senders of lawful commercial electronic mail and and
d(1) IN GENERAL. —No person may initiate in or after communion, the transmission, to a protected computer, a commercial electronic mail message that is unlawful under subsection (a) from a protected computer or computer network that such person has accessed without authorization.

(b) REQUIREMENT TO PLACE WARNING LABELS ON COMMERCIAL ELECTRONIC MAIL CONTAINING SEXUALLY ORIENTED MATERIAL. —

(1) IN GENERAL. —No person may initiate in or after communion, the transmission, to a protected computer, of any commercial electronic mail message that includes sexually oriented material and—

(A) fail to include in subject heading for the electronic mail message the marks or notices prescribed by the Commission under this subsection; or

(B) fail to provide that the matter in the message that is initially viewable to the recipient, when the message is opened by any recipient and absent any further actions by the recipient—

(i) to the extent required or authorized pursuant to paragraph (2), any such marks or notices;

(ii) the information required to be included in the message pursuant to subsection (a)(5); and

(iii) instructions on how to access, or a mechanism to access, the sexually oriented material.

(2) PRIOR AFFIRMATIVE CONSENT. —Paragraph (1) does not apply to the transmission of an electronic mail message that has given prior affirmative consent to receipt of the message.

(3) PRESCRIPTION OF MARKS AND NOTICES. —Not later than 120 days after the date of the enactment of this Act, the Commission in consultation with the Attorney General shall prescribe clearly identifiable marks or notices in or associated with commercial electronic mail that contains sexually oriented material, in order to inform the recipient of that fact and to facilitate the deletion of that electronic mail. The Commission shall publish in the Federal Register and provide notice to the public of the marks or notices prescribed under this paragraph.

(4) DEFINITION. —In this subsection, the term "sexually oriented material" means any material that depicts sexually explicit conduct (as that term is defined in section 2256 of title 18, United States Code), unless the depiction constitutes a small and insig-
nificant part of a larger whole of which is not primarily devoted to sexual matters.

(f) Violation is unfair or deceptive act or practice. —Except as provided in subsection (b), this Act shall be enforced by the Commission as if the violation of this Act were an unfair or deceptive act or practice proscribed under section 18a(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) Enforcement by certain other agencies. —Compliance with this Act shall be enforced—

(1) under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

and

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 610 and 611), and bank holding companies, by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) insured State branches of foreign banks, by the Board, or its National Office; the Federal Deposit Insurance Corporation; and

(D) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision;

(2) under the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the Board of the National Credit Union Administration with respect to any federally insured credit union;

(3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) by the Securities and Exchange Commission with respect to investment companies;

(4) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) by the Securities and Exchange Commission with respect to investment advisers registered under that Act;

(5) under State insurance law in the case of any person engaged in avoiding or procuring insurance, by the applicable State insurance authority of the State in which the person is domiciled, subject to section 104 of the Gramm-Blad Law Act (15 U.S.C. 781) for the persons that in any State in which the State insurance authority elects not to exercise this power, the enforcement authority pursuant to this Act shall be exercised by the Commission in accordance with subsection (a);

(7) under part A of title VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(8) under the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) provided in section 406 of that Act (7 U.S.C. 226, 227), by the Secretary of Agriculture with respect to any activities subject to that Act;

(9) under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association; and


(c) Exercise of certain powers. —For the purpose of the exercise by any agency referred to in subsection (b), in subsection (a), or in subsection (b), the Commission shall be deemed to be an "agency" for purposes of sections 5(a)(1) and 11(b)(B) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1) and 45(b)(B)).

(1) Violation is unfair or deceptive act or practice. —Except as provided in subsection (b), this Act shall be enforced by the Commission as if the violation of this Act were an unfair or deceptive act or practice proscribed under section 18a(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) Enforcement by certain other agencies. —Compliance with this Act shall be enforced—

(1) under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;
Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of this Act or subpart C of this Act or any regulation issued under this Act, or any regulation issued under subparagraph (B) of section 5(a), or section 5(b)(1)(A), neither the Commission nor the Federal Communications Commission shall be required to allege or prove the state of mind required by such section or subparagraph.

(2) A VAILABILITY OF INJUNCTIVE RELIEF WITHOUT SHOWING OF KNOWLEDGE.—Notwithstanding any other provision of this Act, in any proceeding to subpart C of this part, (a), (c), (d) of this section to enforce compliance, through an order to cease and desist or an injunction, with section 5(a)(2), subparagraph (B) or (C) of section 5(a)(4), or section 5(b)(1)(A), neither the Commission nor the Federal Trade Commission shall be required to allege or prove the state of mind required by such section or subparagraph.

(3) STATUTORY DAMAGES.—
(A) IN GENERAL.—For purposes of paragraphs (1)(B)(ii), (ii) the amount determined under subparagraph (A) of section 5(a)(1); or
(B) in the case of a violation of section 5(a)(1), the amount determined under subparagraph (A) of section 5(a)(1), treated as a separate violation.

(D) REDUCTION OF DAMAGES.—In assessing damages under subparagraph (A), the court may reduce the amounts specified in this paragraph if—

(1) the defendant has established and implemented, with due care, commercially reasonable practices and procedures to effectively prevent such violations; or
(ii) the violation occurred despite commercially reasonable efforts to maintain compliance with such procedures.

(3) ATTORNEY FEES.—In the case of any successful action brought under paragraph (1), the State shall be entitled to recover reasonable attorney fees as determined by the court.

(4) RIGHTS OF FEDERAL REGULATORS.—The Court shall serve prior written notice of any action or proceeding against any defendant named in the complaint of the Commission or the other agency for any violation of this Act alleged in the complaint.

(5) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), (2), (3), or (4) of section 5(a) of this Act, the attorney general, official, or agency of the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin further violation of section 5 of this Act by the defendant; or
(B) to obtain damages on behalf of residents of the State, in an amount equal to the greater of—

(i) the actual monetary loss suffered by such residents; or

(ii) the amount determined under paragraph (2).

(6) VENUE; SERVICE OF PROCESS.—
(A) VENUE.—Any action brought under paragraph (1), (2), (3), (4), or (5) of section 5(a) of this Act, or section 5(b)(1)(A), or section 5(b)(1)(B)(ii), the amount determined under subparagraph (A) of section 1963 of title 18, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) maintains a physical place of business.

(7) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDENT.—In the Commission or any other appropriate Federal agency under subsection (B) has instituted a civil action or an administrative action for violation of this Act, no State attorney general, or official or agency of the State, may bring an action under section 5(b)(1) or section 5(b)(1)(A) of this Act, during the pendency of that action against any defendant named in the complaint of the Commission or the other agency for any violation of this Act alleged in the complaint.

(8) REQUIREMENTS FOR CERTAIN CIVIL ACTIONS.—Except as provided in subsections (a)(2), (a)(4)(B), (a)(4)(C), (b)(1), and (d) of section 5, and paragraph (2) of this subsection, in a civil action brought by a State attorney general, or an official or agency of a State, against any person to recover money damages for a violation of this Act, the court shall not grant the relief sought unless the attorney general, official, or agency establishes that the defendant acted with actual knowledge, or knowledge fairly implied on the basis of objective circumstances, of the act or omission that constitutes the violation.

(g) ACTION BY PROVIDER OF INTERNET ACCESS SERVICE.—

(1) ACTION AUTHORIZED.—A provider of Internet access service shall be entitled to recover money damages for violation of section 5(a) or section 5(b), or a pattern or practice that violated paragraph (2), (3), (4), or (5) of section 5(a), may bring a civil action in any district court of the United States with jurisdiction over the defendant—

(A) to enjoin further violation by the defendant; or

(B) to recover damages in an amount equal to the greater of—

(i) the actual monetary loss incurred by the provider of Internet access service as a result of such violation; or

(ii) the amount determined under paragraph (5).

(2) SPECIAL DEFINITIONS.—In any action brought under paragraph (1), this Act shall be applied as if the definition of the word “person” in section 5(a) is so modified as to include a court, after “behalf” the words “with actual knowledge, or by consciously avoiding knowledge, whether such person is engaging, or will engage, in a pattern or practice that violates this Act”.

(3) STATUTORY DAMAGES.—

(A) IN GENERAL.—For purposes of paragraph (1)(B)(i), the amount determined under this paragraph is the amount calculated by multiplying the number of violations (with each separately addressed unlawful act or practice) by not more than $1,000,000. The court may increase the amount determined under subparagraph (A) by up to $300,000.

(B) LIMITATION.—For any violation of section 5, other than section 5(a)(1), the amount determined under subparagraph (A) may not exceed $1,000,000.

(C) AGGRAVATED DAMAGES.—The court may increase a damage award to an amount equal to not more than three times the amount otherwise available under this paragraph if—

(i) the court determines that the defendant committed the violation willfully and knowingly; or

(ii) the defendant’s unlawful activity included one or more of the aggravating violations set forth in section 5(b).

(D) REDUCTION OF DAMAGES.—In assessing damages under subparagraph (A), the court may consider whether—

(i) the defendant has established and implemented, with due care, commercially reasonable practices and procedures to effectively prevent such violations; or

(ii) the violation occurred despite commercially reasonable efforts to maintain compliance with such practices and procedures.

(4) ATTORNEY FEES.—In any action brought pursuant to paragraph (1), the court may, in its discretion, require that the defendant pay reasonable attorneys’ fees, against any party.

SEC. 8. EFFECT ON OTHER LAWS.

(a) FEDERAL LAW.—Nothing in this Act shall be construed to impair the enforcement of section 223 or 231 of the Communications Act of 1934 (47 U.S.C. 223 or 231, respectively), chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

(b) STATE LAW.—

(1) IN GENERAL.—This Act supersedes any state law, regulation, or rule of a State or political subdivision of a State that expressly regulates the use of electronic mail to send
commercial messages, except to the extent that any such statute, regulation, or rule prohibits falsity or deception in any portion of a commercial electronic mail message or otherwise regulated thereto.

(2) STATE LAW NOT SPECIFIC TO ELECTRONIC MAIL.—This Act shall not be construed to preempt the applicability of—

(A) State laws that are not specific to electronic mail, including State trespass, contract, or tort law; or

(B) other State laws to the extent that those laws relate to acts of fraud or computer crime.

(c) NO EFFECT ON POLICIES OF PROVIDERS OF INTERNET ACCESS SERVICE.—Nothing in this Act shall be construed to have any effect on the lawfulness or unlawfulness, under any other provision of law, of the adoption, implementation, or enforcement by a provider of Internet access service of a policy of declining to transmit, route, relay, handle, or store certain types of electronic mail messages.

SEC. 9. DO-NOT-E-MAIL REGISTRY.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Commission shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce a report that—

(1) sets forth a plan and timetable for establishing a nationwide marketing Do-Not-E-mail registry;

(2) includes an explanation of any practical, privacy, security, reliability, or other concerns that the Commission has regarding such a registry; and

(3) includes an explanation of how the registry would be applied with respect to children with e-mail accounts.

(b) AUTHORIZATION TO IMPLEMENT.—The Commission may establish and implement this Act, the requirement of such other Acts, or rules or regulations promulgated thereunder, except as provided in paragraph (c), to allow subscribers to indicate a desire not to receive future mobile service commercial messages from the time of enrollment in such service, and in any billing mechanism; and

(4) determine how initiators of mobile service commercial messages may comply with the provisions of this Act, considering the unique technical aspects, including the functional and character limitations, of devices that receive such messages.

(c) OTHER FACTORS CONSIDERED.—The Federal Communications Commission shall consider the ability of an initiator of an electronic mail message to reasonably determine that the electronic mail message is a mobile service commercial message.

(d) MOBILE SERVICE COMMERCIAL MESSAGE DEFINED.—In this section, the term “mobile service commercial message” means a commercial electronic mail message that contains text, graphics, or images for visual display that is transmitted directly to a wireless device that—

(1) is utilized by a subscriber of commercial mobile service (as such term is defined in section 332(c)(5) of the Communications Act of 1934 (47 U.S.C. 332(c)(5)) in connection with such service; and

(2) is capable of accessing and displaying such a message.

SEC. 10. STUDY OF EFFECTS OF COMMERCIAL ELECTRONIC MAIL.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Commission, in consultation with the Department of Justice and other appropriate agencies, shall submit a report to the Congress that contains an analysis of the effectiveness and enforcement of the provisions of this Act and the need (if any) for the Congress to modify such provisions.

(b) AUTHORIZATION.—The Commission shall include in the report required by subsection (a)—

(1) an analysis of the extent to which technological and marketplace advances, including changes in the nature of the devices through which consumers access their electronic mail messages, may affect the practicability and effectiveness of the provisions of this Act;

(2) analysis and recommendations concerning how to address commercial electronic mail problems in or on transmitted through or to facilities or computers in other nations, including initiatives or policies positions that the Federal government could pursue through international negotiations, fora, organizations, or institutions; and

(3) analysis and recommendations concerning options for protecting consumers, including children, from the receipt and viewing of commercial electronic mail that is obscene or otherwise not appropriate.

SEC. 11. IMPROVING ENFORCEMENT BY PROVIDING REWARDS FOR INFORMATION ABOUT VIOLATIONS; LABELING.

The Commission shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce—

(1) a report, within 9 months after the date of enactment of this Act, that sets forth a systematic method by which information about violations of this Act, including—

(A) procedures for the Commission to grant a reward to the person that first provides information to the Commission concerning violations of this Act, including procedures to allow the electronic submission of complaints to the Commission; and

(B) procedures to minimize the burden of submitting a complaint to the Commission concerning violations of this Act, including procedures to allow the electronic submission of complaints to the Commission; and

(2) a report, within 18 months after the date of enactment of this Act, that sets forth a plan for requiring commercial electronic mailing services that receive such messages for electronic mail to be identifiable from its subject line, or, by inserting “,” or any person outside the United States if the recipient is within the United States after “United States’.

SEC. 12. RESTRICTIONS ON OTHER TRANSMISSIONS.

Section 227(b)(1) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)) is amended, in the matter preceding subparagraph (A), by inserting “,” or any person outside the United States if the recipient is within the United States’ after “United States’.

SEC. 13. REGULATIONS.

(a) IN GENERAL.—The Commission may issue rules to implement the provisions of this Act, including—

(1) sets forth a plan and timetable for making adoption of the provisions made by sections 4 and 12. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code.

(b) LIMITATION.—Subsection (a) may not be construed to authorize the Commission to establish a requirement pursuant to section 5(a)(5)(A) to include any specific words, characters, marks, or labels in a commercial electronic mail message, or to include the identification required by section 5(a)(5)(A) in any particular part of such a mail message (such as the subject line or body).

SEC. 14. APPLICATION TO WIRELESS.

(a) EFFECT ON OTHER LAW.—Nothing in this Act shall be interpreted to preclude or override the applicability of section 227 of the Communications Act of 1934 (47 U.S.C. 227) or the rules prescribed under section 3 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6302). To the extent that a requirement of such Acts, or rules or regulations promulgated thereunder, is consistent with the requirements of this Act, the requirement of such other Acts, or rules or regulations promulgated thereunder, shall take precedence.

(b) FCC RULEMAKING.—The Federal Communications Commission, in consultation with the Federal Trade Commission, shall promulgate rules within 270 days to protect consumers from unwanted mobile service commercial messages. The rules shall, to the extent consistent with subsection (c)—

(1) provide subscribers to commercial mobile services the ability to avoid receiving mobile service commercial messages unless the subscriber has provided express prior authorization, except as provided in paragraph (3);

(2) allow recipients of mobile service commercial messages to indicate electronically a desire not to receive future mobile service commercial messages from the initiator;
I rise in strong support of S. 877, the compromise which has been worked out on the antispam legislation.

First, I want to thank the gentlewoman from New Mexico (Mrs. Wilson) for her many years of work she has put into this legislation. I thank the chair of the Committee on Energy and Commerce.

I also thank the leadership of our committee, the ranking member, the gentleman from Michigan (Mr. Dingell) and the gentleman from Louisiana (Mr. Tauzin) for their strong commitment to this effort which the gentlewoman from New Mexico (Mrs. Wilson) and I began almost 5 years ago. She had a terrible personal experience with spam, and I heard from constituents some of the same stories, and my wife and I have received some of that same unsolicited spam on our own personal e-mail account.

This legislation will set the fair and clear standards for e-mail marketing that consumers and the Internet need desperately. It is at stake, and the time to act is now. Congress is delivering the enforcement tools we need.

Importantly, this compromise has clear definitions of commercial e-mail which the FTC can enforce and any individual consumer's request to not receive further commercial e-mail from a sender will have the force of the law. Spammers who lie and deceive with false header information and deceptive subject lines will be lawbreakers, and will be prosecuted as such.

After we enact this legislation, spammers will no longer be able to harvest e-mail addresses from Web pages across the Internet without the threat of prosecution. There are so many good things in this bill that it is hard to go over all of them in 2 minutes.

We will come after spammers from all angles. State attorneys general are empowered, and Internet service providers are empowered to seek damages up to $250 per e-mail or $6 million total.

After the success of the FTC's Do-Not-Call list, the Do-Not-Spam registry implementation is feasible. I thank the gentleman from Louisiana (Mr. Tauzin) and our ranking member, and I also thank the many cosponsors of our original bill, H.R. 2515, on the antispam effort.

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

Mr. Speaker, I rise in support of the House-modified version of Senate 877, and wish to thank my fellow chairman, the gentleman from Louisiana (Mr. Tauzin), as well as the gentleman from Michigan (Mr. Dingell) and the gentleman from Massachusetts (Mr. Markey) in working out this compromise which deals with a very vexatious question, and I think provides a win/win situation for everybody except the few bad actors that flood the electronic media with spam.

The Internet has revolutionized commerce and communications by permitting businesses to reach consumers in a digital, global marketplace and has allowed individuals to communicate through the speed and convenience of electronic mail. Unfortunately, the massive growth of unsolicited e-mail or spam has undermined the util-

...
more effective civil and criminal enforcement against spammers who send unwanted sexually explicit materials. This bill even requires special labels for this most offensive category of e-mail. The gentlwoman from Pennsylvania (Ms. Hart) deserves special recognition for her work to get this provision into law.

Overall, the bill provides consumers with more information and choices to stop receiving all forms of unwanted commercial e-mail while providing law enforcement officials and providers of Internet access with the tools to go after spammers.

While S. 877 accomplishes these vital goals, there are some activities that it deliberately does not reach. Specifically, the legislation concerns only commercial and sexually explicit e-mail and is not intended to intrude on the burgeoning use of e-mail to communicate for political, news, personal and charitable purposes.

Moreover, this legislation, while preempting State spam specific laws with a uniform national standard, also preserves a role for State law enforcement officials to help combat this growing electronic menace. The bill also allows for some flexibility to deal with fraud and computer crimes to remain in effect. However, there is specific language in the bill limiting this authority to law enforcement officials of agencies of the State, and it is not the intent of Congress to allow out-of-state sources of this truly State function to the plaintiff's bar.

The House-modified legislation also contains other necessary amendments to the bill passed by the other body and reflects a thoughtful, bipartisan and bicameral approach to address the growing scourge of spam while preserving and promoting the commercial vitality of the Internet. I urge my colleagues to support this legislation.

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

Mr. Markey. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, this is a very important bill, and it would not have been possible without the good work of the gentleman from Louisiana (Mr. Tauzin) and his staff, David Cavicke, along with the gentleman from Michigan (Mr. Dingell) and his staff, David Schooller and Gregg Rothschild, working with the majority. I think we have come to an excellent result. It builds upon the work that the gentlwoman from New Mexico (Mrs. Wilson) and the gentleman from Texas (Mr. Green) have been making for years in this area. I think that the public is really going to be a beneficiary from this product this evening. I would be remiss, of course, not to single out the gentleman from Wisconsin (Mr. Sensenbrenner) as well and his staff for their excellent work on this bill.

In addition to the provisions mentioned by other Members, this legislation now contains a modified version of the wireless spam amendment that I had offered for inclusion. The legislation preserves important authority of the Federal Communications Commission and FTC where it serves consumer interests. It also requires the FTC to initiate a rule-making for wireless spam so that no loopholes are created out of reach. To ensure that wireless consumers have greater protection than that accorded in the underlying bill.

As we attempt to tackle the issue of spam that is sent to our desktop computers, we must also recognize that mobile phones in the United States run the risk of being inundated by wireless spam. Unsolicited wireless text messages have plagued wireless users in Europe, South Korea and Japan over the past few years as wireless companies in such countries have offered wireless messaging services.

In Japan alone, NTT DoCoMo estimates that its wireless network processes some 800 million wireless spam messages per week. As cumbersome and annoying as spam on a desktop computer is, at least a consumer can turn off their computer and walk away. Wireless spam is even more intrusive because spam to wireless phones is the kind of spam that follows you wherever you go, and according to the U.S. wireless carriers, is already on the rise.

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

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

Mr. Speaker, I thank the gentleman from Massachusetts for thanking the majority staff. I wish I could introduce Mr. Cavicke because he has done such a great job on this bill, but he is not a Member.

Mr. Speaker, I yield 2 minutes to the gentlewoman from New Mexico (Mrs. Wilson) to speak on the bill.

Mrs. Wilson of New Mexico. Mr. Speaker, 3 years ago, it was a nuisance, and now it is a nightmare. It is disrupting people's legitimate use of the Internet and their ability to communicate without having a lot of junk to go through every morning.

I think today is a great victory for consumers and for parents. Parents should not have to worry about the kinds of things coming into their kids' inboxes. For the first time, Americans who use the Internet and get e-mail will have the right to say take me off your list. I do not want this in my house. That is a tremendous right to be given to citizens in this Nation.

I am glad we have a strong bill with strong enforcement that requires labels for sexually explicit material, and allows users to opt out without having things that are required to be viewed in order to do so.

E-mail has been called the "killer app" of the Internet, the killer application. Right now, we are saying that the people who use it are going to have the right to take it back and own it without an encumbrance by spammers.

Mr. Goodlatte. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. Goodlatte).

Mr. Goodlatte. Mr. Speaker, I thank the gentleman from Wisconsin, chairman of the Committee on the Judiciary, and the gentleman from Louisiana, chairman of the Committee on Energy and Commerce, for their leadership in pulling these two committees together. We have been working on this bill 2 minutes.
for a long time. It is that kind of teamwork that has resulted in this legislation today as well as a great deal of cooperation on the other side of the aisle. We really appreciate what it takes to write good legislation.

Spam is not just a nuisance anymore. Over half of the e-mail sent today is spam. Unsolicited e-mail, such as advertisements, solicitations, or chain letters is the junk mail of the Information Age. At best these unwanted messages burden consumers by slowing down their computers. At worst these messages bombard American families with unsolicited, sexually explicit materials and fraudulent information. It is time to can spam.

The bill before us makes it a criminal offense to send a commercial e-mail that falsifies the sender’s identity. In addition, the House amendments which have been incorporated into this bill strengthen the provisions that punish spammers for failing to place warning labels on sexually explicit materials.

This bill makes the necessary changes to the Senate’s “can spam act” to establish clear, uniform guidelines for those who send commercial e-mail. It provides for stronger penalties for deceptive conduct. The bill provides State attorney generals, ISPs, the FTC, and the Department of Justice with the appropriate tools to enforce the bill against bad actors.

I urge my colleagues to support this important legislation.

Mr. MARKEY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL), the ranking Democrat on the Committee on Energy and Commerce.

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

Mr. DINGELL. Mr. Speaker, we can work well together around here. I am sure that a lot of people are surprised. I want to pay a congratulation and compliment to my distinguished friend, the gentleman from Louisiana (Mr. TAUZIN), the chairman of the committee, and also to the distinguished gentleman from Wisconsin (Mr. GENENH finger) for his labors. I want to thank my good friend, the gentleman from Massachusetts (Mr. MARKEY), for his leadership in this valiant effort and understand that it is important to pay particular tribute to both the distinguished gentleman from Texas (Mr. GREEN) and the wonderful gentlewoman from New Mexico (Mrs. WILSON) for their outstanding leadership, for the courage and for the dedication with which they stood hocked on this difficult issue and these difficult negotiations. Congratulations to all of them.

I am also pleased that the House has adopted the Senate provision creating a new spam registry. I expect the FTC to take their charge seriously under this provision and to do all that is necessary to implement such a registry at the earliest possible time.

Finally, I am pleased that the House has added a new provision to grant even stronger protections from spam to users of wireless cell phones. The gentleman from Massachusetts deserves the thanks of all of us for that. In connection with this provision, I commend the hard work of the ranking Democrat on the Subcommittee on Telecommunications and the Internet.

Mr. Speaker, I want to be clear that I do not expect this bill to solve totally the growing problem of unwanted spam. It must be recognized that the people who engage in this practice are most diligent, most able, and have a huge financial incentive to do it. It is quite possible that we will have to visit the matter again. It is regrettable that we do not have the deterrence against spam, citizen suits; but we can address that at a future time. It also has the regrettable practice in it of preempting stronger State laws, something which I do not favor. It is, however, a distinct improvement over the Senate-passed bill, and the hard work that has brought us to agreement on the part of those who have worked so hard on this with which I am delighted.

Mr. Speaker, I thank the distinguished gentleman from Michigan for his statement and his kind friendship.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. UPTON), chairman of the Subcommittee on Telecommunications and the Internet.

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

Mr. UPTON. Mr. Speaker, today on the heels of our recent efforts to ensure that the do-not-call list was implemented, we are taking another major step forward in our efforts to protect consumers from unwanted commercial solicitations. With passage of this bill tonight, we are one more step closer to giving American consumers a Federal law which will for the first time allow them to just say no to unwanted commercial e-mails, otherwise known as spam. And we back it up with strong enforcement by the FTC, State attorneys general, and Internet service providers as well.

As the father of two young kids, I am particularly pleased that this bill requires warning labels on commercial e-mails which contain sexually oriented material and it protects our kids from being unwittingly exposed to such garbage that might pop up in the family’s inbox. As chairman of the Subcommittee on Telecommunications and the Internet, I am particularly pleased to have worked with the distinguished gentleman from Michigan (Mr. DINGELL); certainly the gentleman from North Carolina (Mr. BURRE); and my chairman, the gentleman from Louisiana (Mr. TAUZIN), on provisions which direct the Federal Communications Commission to implement added protections against spam for cell phones and other wireless devices. What a nightmare that would happen. On our staff I want to particularly thank Will Nordwind, who spent countless hours as we negotiated this the last number of months.

Mr. Speaker, I want to relate a small family story. When my dad came back from World War II, my mom fixed his first dinner. It was Spam. Dad said, no way. Battle of the Bulge, we had enough of that. No more are we going to have that junk. My family thankfully is spared that for at least 50 years.

Similarly, American consumers have not been spared from that awful stuff called spam because this is spam on the Internet.
I can remember when e-mails came first off, everyone loved to get an e-mail. I thought we were finally making some headway. But 10 and behold, my wife was out of town, and I did not realize she was deleting it. Every morning she would get up at 5:30 or 6 in the morning. She like sitting all day long. Today just from last night, I had 150 spams.

Pass this bill. End this stuff. I cannot call it what I really think. God bless America.

Mr. MARKEY. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I know we are getting down to the last few minutes, but, like my colleague from Michigan, I ate a lot of Spam. I am holding up my gift of Spam from my cosponsor. Like him, the only way I could ever survive Spam was with A-1 steak sauce. I remember the story that my first time, somebody show up at my first meeting and I am like, I am tired of spam and I said, thank goodness I had not have it in years. But I do remember it tasted pretty good in college when I needed it.

But now as my colleague from Michigan said, spam will not have a bad name for people who use the Internet. Again, I would like to thank the gentlemen from New Mexico (Mrs. Wilson) for providing me a can of Spam. I am not going to cook it. I am going to put it on the wall so hopefully I will not have to.

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

Mr. Speaker, after hearing about that stuff that the gentleman from Texas was waving around, let me say that we Yankees knew that Spam was bad 50 years ago. It has taken a long time for you rebels to do that.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I also thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Michigan (Mr. DUFFY), and the general public, really, for helping us move this bill forward. I am pleased we were able to work out a deal on this legislation. It has taken some time, but the product is well worth it. The American public has been flooded with millions of pieces of unsolicited e-mail every day. This legislation will help us provide the teeth in the law to stop this. But it is the content of certain e-mails, particularly e-mails containing sexually explicit material which is especially problematic.

I compliment the gentleman from New Mexico (Mrs. Wilson) for working together with us on language that is similar to the Pennsylvania law that I sponsored to help label and help us rid our computers of these sexually explicit e-mails. I am pleased this was put into the bill. We want our children to use the Internet and e-mail, but many parents fear what the children may see. Parents are stuck in the middle. They want their kids to use the educational tool of the Internet, they want them to be very capable of utilizing it, and it will help them in their schoolwork on one hand, but on the other hand sitting behind one of his children, in fact, he said to me, I could not believe what came up on the screen.

It is important for us to make sure that we control it but we allow freedom to the consumer. I want to support my colleagues. I look forward to a spam-free e-mail.

Mr. MARKEY. Mr. Speaker, I yield myself 2 minutes.

The reality is that this whole movement began as people several years ago saw what the impact would be of unwanted spam on their home or work computers. As the gentleman from Michigan (Mr. UPTON) pointed out, he had in one day 150 unwanted spam messages on his home computer. What that legislation does is to help every American to deal with that problem. What I ask the Members to do as well is to deal with another issue that quite likely is going to rise to a level of being a problem that eclipses even computer spam and that would be cell phone spam.

Imagine if you reach a point where there are 150 unwanted rings on your phone, your cell phone, this zone of privacy which we all have as these marketers are calling cell phone all day long. What this legislation does is it ensures that the Federal Communications Commission and the Federal Trade Commission take the actions which give protections against this being the new battleground. It is already a full-scale epidemic in Europe, in Japan, in South Korea.

It is heading our way. Probably by the time the FCC has a chance to put the regulations on the books, maybe a year from now, we will have already seen its growth so those protections against these cell phones just ringing all day long becomes the epidemic that really just drives people crazy. So the bill will require the FCC to consider certain provisions with an eye towards assessing the problems and perhaps the unique capabilities of limitations on wireless devices. We have to be sure that wireless consumers and carriers can functionally implement the new legal requirements. But the Federal spam legislation ought to reflect the particular characteristics of wireless technology and use and this bill will allow the FCC to promulgate rules requiring a consumer “opt-in” for wireless email messages while examining the nature of a consumer’s relationship with their wireless phone and service to take into account the unique service and technical characteristics that many warrant unique rules reflect- ing consumer and carrier rights and obligations.

The wireless spam provision of the bill offers wireless consumers relief by requiring an “opt-in” for spam to wireless consumers. This reflects the fact that wireless is a mobile phone and is more intrusive to consumers and the fact that some wireless payment plans currently charge users for the amount of text messages they receive.

This provision would require “express prior authorization” from the consumer before an entity could send spam to their wireless device. My intent is that this “express prior authorization” be implemented in a way that a
Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume. And I yield myself that time in order to conclude the debate for the Democratic side, and I would like to point out how important this bill is.

Congress many times acts in areas where most Americans say “How does that affect me?” This legislation will now affect every computer in the United States in the way in which it affects the user of that computer, and it will affect even the phone in the way that that cell phone is used or, to be more explicit, the way in which marketers abuse those phones and computers. So this is a great day, and the gentlewoman from New Mexico (Mrs. Wilson) and the gentleman from Texas (Mr. Green) did a great job in bringing it to our attention, and the gentleman from Louisiana (Chairman Tauzin) and the gentleman from Michigan (Mr. Dingell), in putting together an environment in which we can negotiate this bill out in a bipartisan fashion.

The litany of saints is long, and I mentioned many of them earlier. I would like to add the gentleman from Michigan (Mr. Conyers), the ranking member of the Committee on the Judiciary. He and his staff contributed significantly to this legislation. To the gentleman from North Carolina (Mr. Burr), I want to congratulate him and his excellent work on this legislation. The consumers will be the beneficiary. I want to mention the gentleman from Silicon Valley, California (Ms. Eshoo) for all of her wonderful work on this legislation. The gentleman from New Jersey (Mr. Holt), who had a deep interest in the wireless aspects of this legislation, I think he deserves credit for what is happening here today. The gentleman from Louisiana (Chairman Tauzin), David Cavicke did a great job, and I think I should mention Howard Waltzman as well on the chairmen’s staff. And I think I should also mention the gentleman from Michigan’s (Mr. Upton) staff, Will Nordwind, who has been working on this for several months, as well with the chairman. And I would conclude by thanking my own staff, Colin Crowell, who throughout this year had a plan to include a wireless cell phone antispam provision in the legislation, and today we see the fruition of all of his excellent work, and I think that consumers will be the beneficiary for the generation ahead. So I conclude by complimenting the chairman.

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

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

In concluding, let me, first of all, again signal the extraordinary cooperation that exists between the Committee on the Judiciary and the Committee on Energy and Commerce as we conclude this debate and also to echo
thanks and congratulations the gentleman from Massachusetts (Mr. Markey) has extended to so many of our staff and the members who have worked on this.

This is a consumer protection piece of legislation. Very often when we come to these consumer protection pieces of legislation, we will see this extraordinary bipartisanism and this ability of committees that often have conflicting versions of bills work them out as we have today. This is a huge consumer protection piece of legislation.

And I want to say something that I hope all the Federal judges of America will pay attention to tonight very carefully. This legislation specifically authorizes the Federal Trade Commission to create a Do Not Spam Registry. No one should have any doubt about it. It is as clear, it is explicit. When this legislation passes the Congress and is signed into law, the FTC will explicitly have the authority, and a Do Not Spam Registry will be available in our future.

I want to particularly thank the gentleman from New Mexico (Mrs. Wilson), from the state that is not from North Carolina (Mr. Burton), the gentleman from Texas (Mr. Green). At the members of our committee have done an extraordinary job. And I particularly, again, want to single out the gentlelady from Massachusetts (Mr. Markey) with, again, the bipartisan spirit in which we worked together when we can and do work together so well. This is a good example where America will benefit because we are legislating as Americans and not as party members as we often do on this floor. And I want to thank the gentleman, again, for that respect and that spirit of cooperation that he always extended to the chair and to the management of our committee affairs.

Again, Mr. Speaker, this is an important day for consumers in America. Very soon a Do Not Spam Registry will be available to them. They will be able to call and have their names put on that registry. People who refuse to pay attention to that registry and spam them regardless will be subject to severe penalties. People who fraudulently say they are not on the Do Not Spam Registry will also be subject to severe penalties. People who do not notifying who they are, when they are caught, will pay a big price. Attorney Generals and the FTC are given enforcement authority under this compromise, and I think we are affording Americans with a brand new tool to protect themselves against the entry of material they do not want in their homes. It is a great step forward, and I urge adoption of this bill.

Mr. STUPAK. Mr. Speaker, for several Congresses now we have had hearings and markups in the Energy and Commerce Committee on the nuisance of spam, but no progress has been made. I am pleased that a bill has finally come forward that looks headed for passage into law.

Through all this time, the flood of unsolicited e-mails has only grown, ISPs have become more and more overwhelmed, and consumers more aggravated.

I know that this bill will come as a welcome relief to many who are fed up with opening their e-mail accounts only to have unwanted commercial e-mails clogging up their Internet mailboxes.

Consumers have to waste time deleting numerous spam e-mails, and even worse, if they do unsuspiciously open one of these e-mails, they are often faced with offensive pornography.

I commend the members of the Judiciary and Energy and Commerce Committees for their ongoing efforts to address this problem, and I am pleased to support this bill.

I do believe that the bill falls short in one area, in that it does not provide a private right of action for individual consumers to seek their own remedies. But this legislation does much to strengthen enforcement, provide protection from harmful pornographic e-mails, and to set up a Do Not Spam Registry, which I can only guess will be as popular as the Do Not Call Registry.

I hope that this bill will put control over Internet mailboxes back in the hands of consumers, so that they can choose to receive e-mails that they want, and to get rid of e-mails that they do not.

And to those businesses and individuals that violate these provisions and send out spam illegally, this bill will provide the Federal Trade Commission, state attorneys generals, and Internet Service Providers with the tools to crack down on these violators.

As the House attempts to wrap up its work for the session, there have been several bills coming to the floor that I do not believe have merit. This bill, however, shows that when we want to, Congress can truly act for the public benefit.

Mr. STEARMAN. Mr. Speaker, I am pleased to join Chairman Tauzin, Chairman Sensenbrenner, Messrs. Dingell and Burr, and
Mrs. Wilson in supporting a good consumer protection bill that I hope will help us, as consumers, light the scourgery that is spam.

No one disputes the great utility of e-mail, the fact that it has brought great efficiency and productivity gains, not only to our professional lives, but also to individual lives. Nonetheless, our daily routine of scouring through and reviewing our e-mail also tells us that e-mail as a communications medium is under assault from unwanted e-mail—most peddling goods or services ranging from the real to the absurd. We do not have a problem with e-marketing per se, after all, our consumer based economy is highly dependent on marketing. However, e-mail communications make accountability more difficult. Therefore, unscrupulous people use it to advance fraudulent and deceptive acts and even good commercial actors are tempted to take advantage of this lack of accountability.

Effective and narrowly tailored legislation, like the one before us today, can help bring greater accountability to e-mail solicitations. That greater accountability is achieved by making sure that fraud and deception is prosecuted and subjected to severe penalties. Legislation is only part of the solution, and in my view a smaller part. Rather, technology, consumer education, and industry cooperation, in my view, are the key tools in combating spam and injecting real and effective accountability. Finally, combating spam requires international cooperation. I think my bi-partisan bill, H.R. 3143, which strengthens the Federal Trade Commission’s ability to address the growing problem of transnational fraud, will go a long way in fighting spam that is not home grown.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the Senate bill, S. 877, as amended.

The question was taken.

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

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

The yeas and nays were ordered. The SPEAKER pro tempore. The yeas and nays were ordered.

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

CONFERECE REPORT ON H.R. 2622, FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003

Mr. OXLEY (during consideration of H. Res. 458) submitted the following conference report and statement on the bill (H.R. 2622) to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes:

CONFERENCE REPORT (H. REPT. 108-308)
(2) FRAUD ALERT; ACTIVE DUTY ALERT.—The terms 'fraud alert' and 'active duty alert' mean a statement in the file of a consumer that—

(A) notifies all prospective users of a consumer reporting agency that the consumer may be a victim of fraud, including identity theft, or is an active duty military consumer, as applicable; and

(B) is displayed in a manner that facilitates a clear and conspicuous view of the statement described in subparagraph (A) by any person requesting such a report.

(3) IDENTITY THEFT.—The term 'identity theft' means a fraud committed using the identifying information of another person, subject to such rules as the Commission may prescribe, by regulation.

(4) IDENTITY THEFT REPORT.—The term 'identity theft report' has the meaning given that term by the Commission, and, at a minimum, a report—

(A) that alleges an identity theft;

(B) that is a copy of an official, valid report filed by a consumer with a financial institution, State, or local law enforcement agency, including the United States Postal Inspection Service, or such other government agency determined by the Commission; and

(C) the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information if, in fact, the information filed is false.

(5) NEW CREDIT PLAN.—The term 'new credit plan' means a new account under an open end credit plan (as defined in section 103(c) of the Truth in Lending Act), or a new credit transaction not under an open end credit plan.

(d) PROCEDURES.—Each consumer reporting agency described in section 603(p) that maintains a file on the active duty military consumer and has received appropriate proof of the identity of the requester shall—

(1) disclose to the consumer that the consumer may request a free copy of the file of the consumer pursuant to section 621(d); and

(2) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A) is received.

(1) Initial Alerts.—Upon the direct request of a consumer, or an individual acting on behalf of, or as a personal representative of, a consumer, who asserts in good faith a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, a consumer reporting agency described in section 603(p) that maintains a file on the active duty military consumer and has received appropriate proof of the identity of the requester shall—

(A) request the consumer to provide to the agency, or to another consumer reporting agency, any information necessary to verify the identity of the requester, the agency shall—

(i) require the consumer or another consumer reporting agency to verify the identity of the requester, and if the agency has received appropriate proof of the identity of the requester, the agency shall—

(ii) include a fraud alert in the file of that consumer, and also provide that alert along with any credit score generated in using that file, for a period of not less than 90 days, beginning on the date of the request, unless the consumer or such representative requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose; and

(iii) refer the information regarding the fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

(b) Access to Free Reports.—In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

(1) disclose to the consumer that the consumer may request a free copy of the file of the consumer pursuant to section 621(d); and

(2) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A) is received.

(c) Active Duty Alerts.—The term 'active duty alert' means a fraud alert described in subparagraph (A) by a consumer as part of a transaction not initiated by the consumer, unless the consumer or such representative requests that such exclusion be rescinded before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose; and

(d) Extended Alerts.—

(1) In General.—Upon the direct request of a consumer, or an individual acting on behalf of, or as a personal representative of, a consumer, who submits an identity theft report to a consumer reporting agency described in section 603(p) that maintains a file on the consumer, if the agency has received appropriate proof of the identity of the requester, the agency shall—

(A) include a fraud alert in the file of that consumer, and also provide that alert along with any credit score generated in using that file, during the 7-year period beginning on the date of such request, unless the consumer or such representative requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose; and

(B) refer the information regarding the fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

(e) Referrals of Alerts.—Each consumer reporting agency described in section 603(p) that receives a referral of a fraud alert or active duty alert from another consumer reporting agency pursuant to this section shall, as though the agency received the request from the consumer directly, follow the procedures required under—

(1) paragraphs (1)(A) and (2) of subsection (a), in the case of a referral under subsection (a); and

(2) paragraphs (1)(A), (1)(B), and (2) of subsection (b), in the case of a referral under subsection (b) of section 603(c); and

(f) Duty of Reseller to Reconvey Alert.—A reseller shall include in its report the fraud alert or active duty alert placed by another consumer reporting agency pursuant to this section to another consumer reporting agency.

(g) Duty of Other Consumer Reporting Agency to Provide Contact Information.—If a consumer contacts any consumer reporting agency that is not described in section 603(p) to communicate a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, the agency shall provide to the consumer on
how to contact the Commission and the consumer reporting agencies described in section 603(p) to obtain more detailed information and request alerts under this section.

SEC. 118. TRUNCATION OF CREDIT CARD AND DEBIT CARD ACCOUNT NUMBERS.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by adding at the end the following:

'(g) TRUNCATION OF CREDIT CARD AND DEBIT CARD ACCOUNT NUMBERS.—

'(1) IN GENERAL.—Except as otherwise provided in this subsection, no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card number or the expiration date upon any receipt provided to the cardholder at the point of the sale or transaction.

'(2) LIMITATION.—This subsection shall apply only to receipts that are electronically printed, and shall not apply to transactions in which the sole means of recording a credit card or debit card account number is by handwriting or by an imprint on the card.'
of application and business transaction records in the control of the business entity, whether maintained by the business entity or by another person on behalf of the business entity, evidencing any transaction alleged to be a result of identity theft to—

"(A) the victim;

(B) any Federal, State, or local government law enforcement agency or other person specified by the victim in such a request; or

(C) any law enforcement agency investigating the identity theft and authorized by the victim to receive a request for records provided under this subsection.

(2) VERIFICATION OF IDENTIFICATION AND CLAIME.—Before providing information under paragraph (1), the business entity shall request from the victim—

(i) a copy of a police report evidencing the identity theft;

(ii) a properly completed affidavit of fact that is acceptable to the business entity for that purpose.

(3) PROCEDURES.—The request of a victim under paragraph (1) shall—

(A) be in writing;

(B) be mailed to an address specified by the business entity, if any; and

(C) be promptly completed.

(4) N O RESELLER FILE .—A business entity may decline to provide information under paragraph (1) if, in the exercise of good faith, the business entity determines that—

(A) a request does not require disclosure of the information;

(B) after reviewing the information provided pursuant to paragraph (2), the business entity does not have a high degree of certainty knowing the true identity of the individual requesting the information;

(C) the request for the information is based on a representation of fact by the individual requesting the information relevant to the request for information; or

(D) the information requested is Internet navigable information that provides information about a person's visit to a website or online service.

(5) LIMITATION ON LIABILITY.—Except as provided in section 621, sections 616 and 617 do not apply to a consumer reporting agency or to a consumer reporting agency under this section.

(6) LIMITATION ON CIVIL LIABILITY.—No business entity may be held civilly liable under any provision of Federal, State, or other law for disclosure, made in good faith pursuant to this subsection.

(7) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this subsection creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained pursuant to its business or under other applicable law.

(8) RULE OF CONSTRUCTION.—

(A) IN GENERAL.—Nothing in this subsection shall be construed as requiring the disclosure of financial information by a business entity to third parties unless the third parties are also required to provide the financial information under this Act.

(B) LIMITATION.—Except as provided in subparagraph (A), nothing in this subsection permits a business entity to disclose information, including information to law enforcement under subparagraphs (B) and (C) of paragraph (1), that the business entity is otherwise prohibited from disclosing under applicable Federal or State law.

(9) AFFIRMATIVE DEFENSE.—In any civil action brought to enforce this subsection, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating—

(A) the business entity has made a reasonably diligent search of its available business records; and

(B) the records requested under this subsection do not exist or are not reasonably available.

(10) AFFIRMATIVE DEFENSE.—In any civil action brought to enforce this subsection, it is an affirmative defense for a business entity to file an affidavit or answer stating—

(A) the business entity has made a reasonably diligent search of its available business records; and

(B) the records requested under this subsection do not exist or are not reasonably available.

(11) DEFINITION OF VICTIM.—For purposes of this subsection, the term 'victims' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the consent of that consumer, with the intent to commit, or to aid or abet, an identity theft or a similar crime.

(12) EFFECTIVENESS STUDY.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress assessing the effectiveness of this provision.

(13) E FFECTIVENESS STUDY.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress assessing the effectiveness of this provision.

(14) EFFECTIVE DATE.—The requirements of this subsection become effective 180 days after the date of enactment of this Act.

(15) NOTIFICATION.—In carrying out its obligations under this subsection, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinclusion of information under section 611(a)(5)(B).

(16) S ignificance of B lock.—For purposes of this subsection, if a consumer reporting agency respells a block, the presence of information in the file of a consumer prior to the blocking of information is not relevant to the consumer knew or should have known that the consumer obtained possession of any goods, services, or money as a result of the block.

(17) EXCEPTION FOR RESELLER FILE.—This section shall not apply to a consumer reporting agency, if the consumer reporting agency—

(A) is a reseller; or

(B) is not, at the time of the request of the consumer under subsection (a), otherwise furnishing or reselling a consumer report containing the information identified by the consumer; and

(C) informs the consumer, by any means, that the consumer may report the identity theft to the Commission to obtain consumer information regarding identity theft.

(18) RESELLER WITH FILE.—The sole obligation of the consumer reporting agency under this section, with regard to any request of a consumer under this section, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use, if—

(A) the consumer, in accordance with the provisions of subsection (a), identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft; and

(B) the consumer reporting agency is a reseller of the identified information.

(19) NOTICE.—In carrying out its obligation under paragraph (2), the reseller shall promptly provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer obtained information with respect to the file.
report to a national consumer reporting agency described in section 603(p), any information identified in the subject identity theft report as resulting from identity theft.

(4) PROHIBITION ON DISCLOSURE OF INFORMATION BY LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed as requiring a consumer reporting agency to prevent a Federal, State, or local governmental agency from accessing blocked information in a consumer file to which the agency could otherwise obtain access under this subpart.

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after the item relating to section 605 the following new items:

605A. Identity theft prevention; fraud alerts and active duty alerts.

605B. Block of information resulting from identity theft.

SEC. 153. COORDINATION OF IDENTITY THEFT COMPLAINT INVESTIGATIONS.

Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by adding at the end the following:

‘‘(f) COORDINATION OF CONSUMER COMPLAINT INVESTIGATIONS.—(1) IN GENERAL.—Each consumer reporting agency described in section 603(p) shall develop and maintain procedures for the referral to each other such agency of any consumer complaint received by the agency alleging identity theft, or requesting a fraud alert under section 605A or a block under section 605B.

(2) MODEL AGENCY PROCEDURE FOR REPORTING IDENTITY THEFT.—The Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall develop a model form and model procedures to be used by consumers who are victims of identity theft for contacting and informing creditors and consumer reporting agencies of the fraud.

(3) ANNUAL SUMMARY REPORTS.—Each consumer reporting agency described in section 603(p) shall submit an annual summary report to the Commission on consumer complaints received by the agency on identity theft or fraud alerts.’’.

SEC. 154. PREVENTION OF REPOLLUTION OF CONSUMER REPORTS.

(a) PREVENTION OF REINSERTION OF ERROROUS INFORMATION.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(a)) is amended by adding at the end the following:

‘‘(6) DUTIES OF UPHOLDER NOTIFY OF IDENTITY THEFT-RELATED INFORMATION.—(A) PROCEDURES.—A person that furnishes information to any consumer reporting agency shall have in place reasonable procedures to respond to any notification that it receives from a consumer reporting agency under section 605B relating to information resulting from identity theft, to prevent that person from furnishing such blocked information.

(B) PROHIBITION ON ALLEGED TO RESULT FROM IDENTITY THEFT.—If a consumer submits an identity theft report to a person that furnishes information to a consumer reporting agency at the direction of that person for requesting such reports stating that information maintained by such person that purports to relate to the consumer resulted from identity theft, the person may not furnish such information that purports to relate to the consumer to any consumer reporting agency, unless the person subsequently knows or is informed by the consumer that the purport information is incorrect.

(b) PROHIBITION ON SALE OR TRANSFER OF DEBT CAUSED BY IDENTITY THEFT.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

‘‘(1) IN GENERAL.—No person shall sell, transfer for consideration, or place for collection a debt that such person has been notified under section 605B has resulted from identity theft.

(2) APPLICABILITY.—The prohibitions of this subsection shall apply to all persons collecting a debt described in paragraph (1) after the date of a notification under paragraph (1).

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit—

(A) the sale, transfer or other disposition of a debt as a result of a mergers, acquisition, purchase and assumption transaction, or the transfer of substantially all of the assets of an entity.

(B) the securitization of a debt or the pledging of a portfolio of debt as collateral in connection with a borrowing.

(C) the repurchase of a debt as a result of a merger.

(4) EFFECTIVE DATE.—This subsection shall take effect 180 days after the date of enactment of the Fair and Accurate Credit Transactions Act of 2003.

SEC. 155. NOTIFICATION OF DEBT COLLECTORS WITH RESPECT TO FRAUDULENT INFORMATION.

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

‘‘(g) DEBT COLLECTOR COMMUNICATIONS CONCERNING IDENTITY THEFT.—If a person acting as a debt collector (as that term is defined in title VIII) on behalf of a third party that is a creditor or other user of a consumer report is notified that any information relating to a debt that is the subject of the consumer complaint to collect may be fraudulent or may be the result of identity theft, that person shall—

(I) notify the third party that the information may be fraudulent or may be the result of identity theft; and

(II) upon request of the consumer to whom the debt purportedly relates, provide to the consumer all information to which the consumer would otherwise be entitled if the consumer were not a victim of identity theft, but wished to dispute the debt under provisions of law applicable to that person.

(2) ANNUAL SUMMARY REPORTS.—Each consumer reporting agency described in section 603(p) shall submit an annual summary report to the Commission on consumer complaints received by the agency on identity theft or fraud alerts.

SEC. 156. STATUTE OF LIMITATIONS.

Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

‘‘618. Jurisdiction of courts; limitation of actions.

‘‘(a) Jurisdiction.—A person aggrieved by an action to enforce any liability created under this title may bring a civil action in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 2 years after the date of discovery of the violation that is the basis for such action.

(b) Limitation of actions.—Any action to enforce any liability created under this title may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 5 years after the date on which such action is required to be brought under subsection (a), or in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 5 years after the date on which the violation that is the basis for such action is discovered.

(c) Time periods specified in section 611—

(1) the date on which the violation that is the basis for such action is discovered;

(2) the date on which such action is required to be brought under subsection (a).’’

SEC. 157. STUDY ON THE USE OF TECHNOLOGY TO COMBAT IDENTITY THEFT.

(a) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of the use of biometrics and other similar technologies to reduce the incidence and costs to society of identity theft by providing convincing evidence of those systems.

(b) CONSIDERATION.—The Secretary of the Treasury shall consult with Federal agencies and the National Credit Union Administration, and representatives of financial institutions, consumer reporting agencies, Federal, State, and local government agencies that issue official forms or means of identification, State prosecutors, law enforcement agencies, and appropriate United States government agencies in formulating and conducting the study required by subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is appropriated to the Secretary of the Treasury for fiscal year 2004, such sums as may be necessary to carry out the provisions of this section.

(d) REPORT TO CONGRESS.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Secretary shall submit a report to Congress containing the findings and conclusions of the study required under subsection (a), together with such recommendations for legislative or administrative actions as may be appropriate.

CHAPTER 2—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS TO CREDIT INFORMATION

SEC. 201. FEEDBACK TO CONSUMER.

(a) IN GENERAL.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) by redesignating subsection (a) as subsection (f), and transferring it to the end of the section;

(2) by inserting before subsection (b) the following:

‘‘(f) FREE ANNUAL DISCLOSURE.—

(1) NATIONWIDE CONSUMER REPORTING AGENCIES.—

(A) IN GENERAL.—All consumer reporting agencies described in subsections (p) and (w) of section 603 shall make all disclosures pursuant to section 609 once during any 12-month period upon request of the consumer and without charge to the consumer.

(B) CENTRALIZED SOURCE.—Subparagraph (A) shall apply with respect to a consumer reporting agency described in section 603(p) only if the request from the consumer is made using the centralized source established for such purpose in accordance with section 211(c) of the Fair and Accurate Credit Transactions Act of 2003.

(C) NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCIES.—

(i) IN GENERAL.—The Commission shall prescribe regulations applicable to each consumer reporting agency described in section 211(b)(1) to require the establishment of a streamlined process for consumers to request consumer reports under subparagraph (A), which shall include, at a minimum, the establishment of such agency of a toll-free telephone number for such requests.

(ii) CONSIDERATIONS.—In prescribing regulations under clause (i), the Commission shall consider—

(I) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports;

(II) appropriate means to ensure that consumer reporting agencies can satisfactorily meet those demands, including the efficacy of a system of staggering the ability of consumers to obtain such consumer reports;

(III) the ease by which consumers should be able to contact the transfer of dialing agencies by mail; and

(IV) the ability of such agencies to provide such consumer reports.

(b) Folio Number and Date.—Subparagraph (A) of clause (i) of section 201(f)(1) of the Fair and Accurate Credit Transactions Act of 2003 is amended by inserting ‘‘and the date of the last time such report was submitted for consumer review under this section’’ after ‘‘and the date of the folio number’’.

(c) Time Period.—Subparagraph (a) of clause (i) of section 201(f)(1) of the Fair and Accurate Credit Transactions Act of 2003 is amended by inserting ‘‘and the date of the last time such report was submitted for consumer review under this section’’ after ‘‘and the date of the folio number’’.

(d) TIME PERIOD.—Subsection (f) of section 201 of the Fair and Accurate Credit Transactions Act of 2003 is amended by inserting ‘‘and the date of the last time such report was submitted for consumer review under this section’’ after ‘‘the date of the folio number’’.
reporting agency upon a request of a consumer that is made after receiving a consumer report under this subsection shall be completed not later than 45 days after the date on which the request is received.

(4) EXCEPTION FOR FIRST 12 MONTHS OF OPERATION.—This subsection shall not apply to a consumer reporting agency that has not been furnished consumer reports to third parties during the first 12 months following a continuing basis during the 12-month period preceding a request under paragraph (1), with respect to consumers residing nationwide:

(3) In subsection (a) as subsection (e):

(4) by inserting before subsection (e), as redesignated, the following:

(a) THREE DISCLOSURES IN CONNECTION WITH FRAUD ALERTS.—Upon the request of a consumer, a consumer reporting agency described in section 603(p) shall make all disclosures pursuant to section 609 without charge to the consumer, as provided in subsections (a) and (b) of section 605A, as applicable.

(b) In subsection (e), as redesignated, by striking "section (a)" and inserting "subsection (g)";

and

(6) in subsection (f), as redesignated, by striking "Except as provided in subsections (b), (c), (d), and (e) of this section" and inserting "Except as provided in subsections (a) and (b) of this section (in the case of a request from a consumer other than a request that is covered by any of subsections (a) through (d)), a consumer reporting agency may charge consumers for an additional amount to cover the reasonable cost of providing a summary of rights prepared under this paragraph; and

(c) SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED WITH DISCLOSURES.—A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section—

(A) the summary of rights prepared by the Commission under paragraph (1);

(B) in the case of a consumer reporting agency described in section 603(p), a toll-free telephone number established by the agency, the address, and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency;

(D) Use Making Rights.—The statement that the consumer may have additional rights under State law, that the consumer may wish to contact a State or local consumer protection agency or a State attorney general (or the equivalent thereof) to learn of such rights; and

(E) A statement that a consumer reporting agency may require the consumer to furnish or to provide documentation by which the consumer can establish a basis for disputing the accuracy of such consumer report; and

(F) The Commission shall consider

(i) the number of requests for consumer reports to, and the number of consumer reports generated by, the consumer reporting agency, in comparison with consumer reporting agencies described in subsections (b) and (c) of this section;

(ii) the overall scope of the operations of the consumer reporting agency;

(iii) the needs of consumers for access to consumer reports provided by consumer reporting agencies free of charge;

(iv) the costs of providing access to consumer reports by consumer reporting agencies free of charge;

(v) the effects on the ongoing competitive viability of such consumer reporting agencies if such free access is required.

§629. Corporate and technological circumstances prohibited

The Commission shall prescribe regulations, to become effective not later than 90 days after the date on which this section becomes effective, as follows:

(1) by means of a corporate reorganization or restructuring, including the merger, acquisition, dissolution, divestiture, or asset sale of a consumer reporting agency;

(2) by maintaining or merging public record and credit account information in a manner that is substantially equivalent to that described in paragraph (1), as amended by this section, to prevent a consumer reporting agency from circumventing or evading treatment as a consumer reporting agency described in section 603(p) for purposes of section 609(a)(1); and

(3) by the centralized source through which consumers may obtain a consumer report from each consumer reporting agency, using a single request, and without charge to the consumer, as provided in section 612(a) of the Fair Credit Reporting Act (as amended by this section); and

(b) SUMMARY OF RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES.—Section 609(c) of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended to read as follows:

(c) SUMMARY OF RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES.—Section 609(c) of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended to read as follows:

(c) SUMMARY OF RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES.—Section 609(c) of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended to read as follows:

(d) RULEMAKING REQUIRED.—(1) IN GENERAL.—The Commission shall prescribe regulations applicable to consumer reporting agencies described in section 603(p) of the Fair Credit Reporting Act, to require the establishment of—

(A) a centralized source through which consumers may obtain a consumer report from each consumer reporting agency, using a single request, and without charge to the consumer, as provided in section 612(a) of the Fair Credit Reporting Act (as amended by this section); and

(B) a mechanism to enable consumers to make such a request for a consumer report by mail or through an Internet website.

(2) CONSIDERATIONS.—In prescribing regulations under paragraph (1), the Commission shall consider—

(A) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports;

(B) appropriate means to ensure that consumer reporting agencies can satisfactorily meet those demands, including the efficacy of a system of state laws designed to provide access to consumer reports by consumer reporting agencies free of charge;

(C) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports.

(3) CENTRALIZED SOURCE.—The centralized source for a request for a consumer report from a consumer reporting agency required by this subsection shall provide for—

(A) a toll-free telephone number for such purpose;

(B) the use of an Internet website for such purpose; and

(C) a process for requests by mail for such purpose.

(4) TRANSITION.—The regulations of the Commission under paragraph (1) shall provide for an orderly transition by consumer reporting agencies described in section 603(p) of the Fair Credit Reporting Act to the centralized source for consumer report distribution required by section 621a(1)(B), as amended by this Act, in a manner that—

(A) does not temporarily overwhelm such consumer reporting agencies with requests for disclosures of consumer reports beyond their capacity;

(B) does not delay, defer, or otherwise impede consumer access to consumer reports on a timely basis for specific purposes, such as home purchases or suspicions of identity theft, during the transition period.

(5) SCOPE OF REGULATIONS.—Section 609(c) of the Fair Credit Reporting Act (as added by this Act) is amended by adding at the end the following:

(a) STATEMENT ON AVAILABILITY OF CREDIT SCORES.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following:

(iii) the number of requests for consumer reports to, and the number of consumer reports generated by, the consumer reporting agency, in comparison with consumer reporting agencies described in subsections (b) and (c) of this section; and

(ii) the overall scope of the operations of the consumer reporting agency;

(iii) the needs of consumers for access to consumer reports provided by consumer reporting agencies free of charge;

(iv) the costs of providing access to consumer reports by consumer reporting agencies free of charge;

(v) the effects on the ongoing competitive viability of such consumer reporting agencies if such free access is required.

(b) DISCLOSURE OF CREDIT SCORES.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g), as amended by this Act, is amended by adding at the end the following:

(1) (I) In general.—Upon the request of a consumer for a credit score, a consumer reporting agency shall supply to the consumer a statement indicating the information and credit score model that may be different from the credit score that may be used by the lender, and a notice which shall include—

(A) the current credit score of the consumer or the most recent credit score of the consumer that was previously calculated by the credit reporting agency for a purpose related to the extension of credit;

(B) the range of possible credit scores under the model used;

(C) all of the key factors that adversely affected the credit score of the consumer in the model used, the total number of which shall not exceed five factors subject to the following:

(D) the date on which the credit score was created; and
"(E) the name of the person or entity that provided the credit score or credit file upon which the credit score was created.

(2) Definitions.—For purposes of this subsection, the following definitions shall apply:

(a) Credit Score.—The term "credit score"—

(ii) means a numerical value or a categorization derived from a statistical tool or modeling system by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors, including default (and the numerical value or the categorization derived from such analysis) and who uses a consumer credit score, as defined in subsection (f), in connection with an application initiated or sought by a consumer for a closed end loan or the establishment of an open end line of credit to the consumer purpose that is secured by 1 to 4 units of residential real property (hereafter in this subsection referred to as the 'lender') shall provide the following to the consumer as soon as reasonably practicable:

(i) Information Required Under Subsection (f).

(ii) In General.—Any copy of the information identified in subsection (f) that was obtained from a consumer reporting agency or was developed and disclosed to a consumer shall be provided to a consumer reporting agency.

(iii) Notice Under Subparagraph (D).—In addition to the information provided to it by a third party that provided the credit score or scores, a lender shall provide the notice contained in subparagraph (D).

(ii) Disclosure of Credit Scores by Certain Mortgage Lenders.—

(1) In General.—Any person who makes or arranges a consumer credit score, as defined in subsection (f), in connection with an application initiated or sought by a consumer for a closed end loan or the establishment of an open end line of credit to the consumer purpose that is secured by 1 to 4 units of residential real property (hereafter in this subsection referred to as the 'lender') shall provide the following to the consumer as soon as reasonably practicable:

(i) Information Required Under Subsection (f).

(ii) In General.—Any copy of the information identified in subsection (f) that was obtained from a consumer reporting agency or was developed and disclosed to a consumer shall be provided to a consumer reporting agency.

(iii) Notice Under Subparagraph (D).—In addition to the information provided to it by a third party that provided the credit score or scores, a lender shall provide the notice contained in subparagraph (D).

(ii) Disclosure in Case of Automated Underwriting System.—

(1) In General.—If a person that is subject to this subsection uses an automated underwriting system to undertake a loan, that person may satisfy the obligation to provide a credit score by disclosing a credit score and associated key factors supplied by a consumer reporting agency.

(ii) Exception.—This subsection shall not be construed so as to compel a consumer reporting agency to develop or disclose a score if the agency does not—

(A) distribute scores that are used in connection with residential real property loans; or

(B) develop scores that assist credit providers in understanding the general credit behavior of a consumer and predicting the future credit behavior of that consumer.

(3) Timeframe and Manner of Disclosure.—The information required by this subsection shall be provided in the same timeframe and manner as the information described in subsection (a).

(4) Applicability to Certain Uses.—This subsection shall not be construed so as to compel a consumer reporting agency to develop or disclose a score if the agency does not—

(A) develop scores that are used in connection with residential real property loans; or

(B) develop scores that assist credit providers in understanding the general credit behavior of a consumer and predicting the future credit behavior of that consumer.

(5) Applicability to Credit Scores Developed by Another Person.—

(A) In General.—This subsection shall not be construed so as to compel a consumer reporting agency that distributes credit scores developed by another person or entity to provide a further explanation of them, or to process a dispute arising pursuant to section 611, except that the consumer reporting agency shall provide the consumer with the name and address and website for contacting the person or entity that developed the score or developed the methodology of the score.

(B) Exception.—This paragraph shall not apply to a consumer reporting agency that develops credit scores that are developed by another person or entity.

(6) Maintenance of Credit Scores Not Required.—This subsection shall not be construed so as to require a consumer reporting agency to maintain credit scores in its files.

(7) Compliance in Certain Cases.—In complying with this subsection, a consumer reporting agency may—

(A) supply the consumer with a credit score that is derived from a credit scoring model that is widely used by the agency that consumer reporting agency in connection with residential real property loans or with a credit score that assists the consumer in understanding the credit scoring assessment of the credit behavior of the consumer and predictions about the future credit behavior of the consumer; and

(B) a statement indicating that the information and credit scoring model may be different than that used by the lender.

(iii) Fair and Reasonable Fee.—A consumer reporting agency may charge a fair and reasonable fee for providing the information required under this subsection.

(9) Use of Enquiries as a Key Factor.—If a key factor that adversely affects the credit score of a consumer consists of the number of enquiries made with respect to a consumer re-
fund transfers, or similar methods of payments, but only to the extent that such company is engaged in such activities.”.

(e) TECHNICAL AND CONFORMING AMENDMENTS—

SEC. 1402. (a) The Fair Credit Reporting Act (15 U.S.C. 1681(b)), as so designated by section 214 of this Act, is amended—

(1) by striking “or” at the end of paragraph (2); and

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

“(3) with respect to the disclosures required to be made under subsection (c), (d), (e), or (g) of section 609, or subsection (f) of section 609 relating to the disclosure of credit scores for credit grantors; or

(B) with respect to sections 1207(a)(1) and 1207(b)(1)(B) of the Fair and Accurate Credit Transactions Act of 2003; and

(C) with respect to paragraphs (3)(A) and (4)(B)(i), by striking “2-year period” each place that term appears and inserting “5-year period”.

(d) PUBLIC AWARENESS CAMPAIGN.—The Commission shall actively publicize and conspicuously post on its website any address and the telephone number established as part of a notification system for opting out of prescreening under section 604(e) of the Fair Credit Reporting Act (15 U.S.C. 1681b(e)), and otherwise take such measures to increase public awareness regarding the availability of the right to opt out of prescreening.

(e) ANALYSIS OF FURTHER RESTRICTIONS ON OFFERS OF CREDIT OR INSURANCE.—

(1) IN GENERAL.—The Board shall conduct a study of—

(A) the ability of consumers to avoid receiving written offers of credit or insurance in connection with transactions not initiated by the consumer; and

(B) the potential impact that any further restrictions on providing consumers with such written offers of credit or insurance would have on consumers.

(2) REPORT.—The Board shall submit a report summarizing the results of the study required under paragraph (1) to the Congress not later than 12 months after the date of enactment of this Act, together with such recommendations for legislative or administrative action as the Board may determine to be appropriate.

(f) CONTENT OF REPORT.—The report described in paragraph (2) shall address the following issues:

(A) The current statutory or voluntary mechanisms that are available to a consumer to notify lenders and insurers that the consumer does not wish to receive written offers of credit or insurance.

(B) The extent to which consumers are currently utilizing existing statutory and voluntary mechanisms to avoid receiving offers of credit or insurance.

(C) The benefits provided to consumers as a result of receiving written offers of credit or insurance.

(D) Whether consumers incur significant costs or are otherwise adversely affected by the receipt of written offers of credit or insurance.

(E) Whether further restricting the ability of lenders and insurers to provide written offers of credit or insurance to consumers would affect—

(i) the cost consumers pay to obtain credit or insurance;

(ii) the availability of credit or insurance;

(iii) consumers’ knowledge about new or alternative products and services;

(iv) the ability of lenders or insurers to compete with one another; and

(v) the ability to offer credit or insurance products to consumers who have traditionally been underserved.

SEC. 214. AFFILIATE SHARING.

(a) LIMITATIONS ON THE USE OF PERSONAL INFORMATION.—

(1) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(A) by redesignating sections 624 (15 U.S.C. 1681 et seq.) of the United States Code as in effect on the date of enactment of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) in effect on the date of enactment of this Act; and

(B) by inserting after section 623 the following:

“SEC. 624. AFFILIATE sharing.

“(a) SPECIAL RULE FOR SOLICITATION FOR PURPOSES OF MARKETING.—

“(1) NOTICE.—No solicitation for marketing purposes shall be made to a consumer by a person—

(A) who is not a financial institution, as defined in section 101 of the Truth in Lending Act (12 U.S.C. 2901), or consumer financial services company, as defined in section 3(k) of the Consumer Financial Protection Act of 2010; or

(B) who is not engaged in the business of insurance;

(2) DISCLOSURE OF ADDRESS AND TELEPHONE NUMBER; FORMAT.—A statement under paragraph (1) shall—

(A) include the address and toll-free telephone number of the appropriate notification system established under section 604(e); and

(B) be presented in such format and in such type size and manner as to be simple and easy to understand, as established by the Commission, by rule, in consultation with the Federal banking agencies and the National Credit Union Administration.

(c) RULEMAKING SCHEDULE.—Regulations required by section 615(d)(2) of the Fair Credit Reporting Act, as amended by this section, shall be issued in final form not later than 1 year after the date of enactment of this Act.

SEC. 215. ENHANCED DISCLOSURE OF THE MEANS AVAILABLE TO OPT OUT OF PRESHUFFLED LISTS.

(a) NOTICE TO CONSUMERS.—Section 615(c)(2)(D) of the Fair Credit Reporting Act (15 U.S.C. 1681d(d)(2)) is amended to read as follows:

“(D) the consumer is provided an opportunity to—

(1) elect to receive offers of credit or insurance from a financial institution, consumer financial services company, or an insurance company that the consumer does not wish to receive written offers of credit or insurance;

(2) change the effective date of such election by resubmitting the request for such an election to the information or prescreening service from which the consumer received the request; and

(3) be informed about the identity of the information or prescreening service from which the consumer received the request, if the identity of such service is not known to the consumer at the time the consumer submits the request to opt out.

(b) DURATION OF ELECTION.—

(1) IN GENERAL.—The election of a consumer to avoid receiving offers of credit or insurance pursuant to paragraph (1) shall be effective for a period of at least 5 years, beginning on the date on which the person receives the election of the consumer, unless the consumer requests that such election be ended.

(2) NOTICE UPON EXPIRATION OF EFFECTIVE PERIOD.—At such time as the election of a consumer pursuant to paragraph (1) is no longer in effect, the person may notify the consumer that the person receives the in the manner described in paragraph (1) to make any solicitation for marketing purposes to the consumer, unless the consumer receives a notice as a participant or beneficiary of an employee benefit plan.

(c) DURATION OF ELECTION.—

(1) IN GENERAL.—The election of a consumer to avoid receiving offers of credit or insurance pursuant to paragraph (1) shall be effective for a period of 2 years, unless the consumer requests that such election be ended.

(2) NOTICE UPON EXPIRATION OF EFFECTIVE PERIOD.—At such time as the election of a consumer pursuant to paragraph (1) is no longer in effect, the person may notify the consumer that the person receives the in the manner described in paragraph (1) to make any solicitation for marketing purposes to the consumer, unless the consumer receives a notice as a participant or beneficiary of an employee benefit plan.

(d) DURATION OF ELECTION.—

(1) IN GENERAL.—The election of a consumer to avoid receiving offers of credit or insurance pursuant to paragraph (1) shall be effective for a period of 2 years, unless the consumer requests that such election be ended.

(2) NOTICE UPON EXPIRATION OF EFFECTIVE PERIOD.—At such time as the election of a consumer pursuant to paragraph (1) is no longer in effect, the person may notify the consumer that the person receives the in the manner described in paragraph (1) to make any solicitation for marketing purposes to the consumer, unless the consumer receives a notice as a participant or beneficiary of an employee benefit plan.

(e) DURATION OF ELECTION.—

(1) IN GENERAL.—The election of a consumer to avoid receiving offers of credit or insurance pursuant to paragraph (1) shall be effective for a period of 2 years, unless the consumer requests that such election be ended.

(2) NOTICE UPON EXPIRATION OF EFFECTIVE PERIOD.—At such time as the election of a consumer pursuant to paragraph (1) is no longer in effect, the person may notify the consumer that the person receives the in the manner described in paragraph (1) to make any solicitation for marketing purposes to the consumer, unless the consumer receives a notice as a participant or beneficiary of an employee benefit plan.

(f) DURATION OF ELECTION.—

(1) IN GENERAL.—The election of a consumer to avoid receiving offers of credit or insurance pursuant to paragraph (1) shall be effective for a period of 2 years, unless the consumer requests that such election be ended.

(2) NOTICE UPON EXPIRATION OF EFFECTIVE PERIOD.—At such time as the election of a consumer pursuant to paragraph (1) is no longer in effect, the person may notify the consumer that the person receives the in the manner described in paragraph (1) to make any solicitation for marketing purposes to the consumer, unless the consumer receives a notice as a participant or beneficiary of an employee benefit plan.
or service, but does not include communications that constitute requirements with respect to the exchange and use of information to make a solicitation for marketing purposes; or

(ii) become effective not later than 6 months after the date of submission of the previous report; and

(iii) examines the effects that changes described in clause (ii) have had, if any, on the degree to which such affiliate sharing practices reduce the need for financial institutions, creditors, and other users of consumer reports to rely on consumer reports for such decisions.

SEC. 215. STUDY OF EFFECTS OF CREDIT SCORES AND CREDIT-BASED INSURANCE SCORES ON AVAILABILITY AND AFFORDABILITY OF FINANCIAL PRODUCTS.

(a) Study Required.—The Commission shall jointly submit a report to the Congress on the effects of the use of credit scores and credit-based insurance scores on the availability and affordability of financial products and services, including credit cards, mortgages, auto loans, and property and casualty insurance.

(b) Public Participation.—The Commission shall seek public input about the methodology and research design of the study described in subsection (a), including

(i) a notice or other disclosure under this section; or

(ii) whether such entities share or may share information with affiliates for purposes of underwriting decisions or credit evaluations of consumers.

§ 215. STUDY OF EFFECTS OF CREDIT SCORES AND CREDIT-BASED INSURANCE SCORES ON AVAILABILITY AND AFFORDABILITY OF FINANCIAL PRODUCTS

(a) Study Required.—The Commission shall jointly submit a report to the Congress on the results of the initial study conducted in accordance with this subsection, together with any recommendations for legislative or regulatory action.

(b) Followup Reports.—The Federal banking agencies, the National Credit Union Administration, and the Congress shall frequently, but no less than three times following the submission of the initial report under paragraph (a), jointly submit a report to the Congress that, together with any recommendations for legislative or regulatory action,

(i) documents any changes in the areas of study referred to in paragraph (a) occurring since the date of submission of the previous report;

(ii) identifies any changes in the practices of financial institutions and other creditors and users of consumer reports in sharing consumer information with their affiliates for the purpose of making underwriting decisions or credit evaluations of consumers occurring since the date of submission of the previous report; and

(iii) examines the effects that changes described in clause (ii) have had, if any, on the degree to which such affiliate sharing practices reduce the need for financial institutions, creditors, and other users of consumer reports to rely on consumer reports for such decisions.

(c) Definitions.—For purposes of this section:

(1) Initial Report.—Before the end of the 24-month period beginning on the date of enactment of this Act, the Commission shall submit a detailed report on the study conducted pursuant to subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.
(2) CONTENTS OF REPORT.—The report submitted under paragraph (1) shall include the findings and conclusions of the Commission, recommendations to address specific areas of concern, and a description of the study, recommendations for legislative or administrative action that the Commission may determine to be necessary to ensure that credit and credit-based insurance information is used appropriately and fairly to avoid negative effects.

SEC. 216. DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS.

(a) In General.—Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by this Act, is amended by adding at the end the following:

‘‘§ 208. Disposal of records.

(a) Regulations.—

(1) In general.—Not later than 1 year after the date of enactment of this section, the Federal banking agencies, the National Credit Union Administration, and the Commission with respect to the entities that are subject to their respective enforcement authority under section 621, and the Securities and Exchange Commission, and in coordination as described in paragraph (2), shall issue final regulations requiring any person that maintains or otherwise possesses consumer information, derived from consumer reports for a business purpose to properly dispose of any such information or compilation.

(2) Coordination.—Each agency required to prescribe regulations under paragraph (1) shall—

(A) consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such agency are consistent and comparable with the regulations by, each such other agency; and

(B) ensure that such regulations are consistent with the regulations issued pursuant to Public Law 106-102 and other consumer laws.

(b) Clerical Amendment. —Nothing in this section shall be construed as requiring a financial institution to be in compliance with subparagraph (A) if, at the time the failure, the financial institution maintained reasonable policies and procedures to comply with this paragraph, or the financial institution reasonably believed that the institution is prohibited, by law, from contacting the consumer.

(c) Definitions. —For purposes of this section, the term ‘negative information’ means information concerning a customer’s delinquencies, late payments, insolvency, or any failure of default.

(d) Customer and Financial Institution. —The terms ‘customer’ and ‘financial institution’ have the same meanings as in section 509 Public Law 106-102.

(e) Model Disclosure Form. —Before the end of the 6-month period beginning on the date of enactment of this Act, the Board shall adopt the model disclosure form prescribed by the Commission, not later than the date prescribed by subsection (a) after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

TITLE III.—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

SEC. 311. RISK-BASED PRICING NOTICE.

(a) Duties of Users.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) as amended by this Act, is amended by adding at the end the following:

‘‘(h) Duties of Users in Certain Credit Transactions.—

(1) In general.—Subject to rules prescribed as provided in paragraph (6), if any person uses a consumer report in connection with an application for, or a grant, extension, or other provision of, credit on material terms that are materially less favorable than the most favorable terms available from a person under this subsection if

(A) the consumer applied for specific material terms and was granted those terms, unless such consumer reports were initially specified by the person, other than the consumer, as a condition of, credit on material terms that are materially less favorable than the most favorable terms available from a person under this subsection if

(B) the person has provided or will provide a notice to the consumer under subsection (a) in connection with the transaction.

(c) Rules Required.—The Commission and the Federal banking agencies, the National Credit Union Administration, and the Board shall jointly prescribe rules.

(d) Clerical Amendment.—Section 616 and 617 of the Fair Credit Reporting Act (15 U.S.C. 1681s-3a) are amended by adding after section 617(b), the following new paragraph:

‘‘(6) REQUIRED NOTICES.—No notice shall be required from a person under this subsection if—

(A) the consumer applied for specific material terms and was granted those terms, unless such consumer reports were initially specified by the person, other than the consumer, as a condition of, credit on material terms that are materially less favorable than the most favorable terms available from a person under this subsection if

(B) the person has provided or will provide a notice to the consumer under subsection (a) in connection with the transaction.

(e) Clerical Amendment.—The Board shall, in consultation with the Federal banking agencies, the National Credit Union Administration, and the Commission, require the model form prescribed by the Board, and shall be construed as requiring a financial institution to furnish negative information about the customer to a consumer reporting agency.

(f) Safe Harbor.—A financial institution shall not be liable for failure to perform the duties required by paragraph (4) if, at the time of the failure, the financial institution maintained reasonable policies and procedures to comply with this paragraph, or the financial institution reasonably believed that the institution is prohibited, by law, from contacting the consumer.

(g) Definitions.—

(i) Not Notice Effective for Subsequent Submissions.—After providing such notice, the financial institution may submit additional negative information to a consumer reporting agency described in section 603(p).

(2) Exception to Notice Requirement. —The notice required under paragraph (1) may be provided at the time of an application for, or a grant, extension, or other provision of, credit or the time of communication of an approval of an application for, or grant, extension, or other provision of, credit, as provided in the regulations prescribed under paragraph (6).

(c) Compliance. —A person that is required to provide a notice under subsection (a) cannot meet that requirement by providing a notice under subsection (b) or (c) of the Consumer Credit Protection Act of 1968 without charge; and

(d) Identification of Consumer Reporting Agency. —The term ‘financial institution’ includes any person, including a telephone number established by the agency in the case of a consumer reporting agency described in section 603(p).

(f) Rulemaking.—

(A) Rules Required.—The Commission and the Board shall jointly prescribe rules.

(B) Duties of Users. —A financial institution shall not be liable for failure to perform the duties required by paragraph (4) if, at the time of the failure, the financial institution maintained reasonable policies and procedures to comply with this paragraph, or the financial institution reasonably believed that the institution is prohibited, by law, from contacting the consumer.

(G) Definitions.—For purposes of this section, the following definitions shall apply:

(i) ‘Notice’.—The term ‘negative information’ means information concerning a customer’s delinquencies, late payments, insolvency, or any failure of default.

(ii) ‘Customer’ and ‘Financial Institution’. —The terms ‘customer’ and ‘financial institution’ have the same meanings as in section 509 Public Law 106-102.

(b) Model Disclosure Form. —Before the end of the 6-month period beginning on the date of enactment of this Act, the Board shall adopt the model disclosure form prescribed by the Commission, not later than the date prescribed by subsection (a) after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

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The page contains a detailed legislative text discussing the accuracy of information provided by credit reporting agencies and the responsibilities of credit reporting agencies and furnishers. Specific sections are highlighted, including clauses for the Federal Credit Reporting Act and the Fair Credit Reporting Act. The text outlines the procedures for investigating disputes, the responsibilities of furnishers and reporting agencies, and the importance of maintaining accurate and complete consumer reporting information. The document emphasizes the need for logical means of furnishing information, the right of consumers to dispute inaccuracies, and the timely resolution of disputes. It also mentions the potential impact on credit reports when information is disputed and the importance of maintaining consistent and comparable information with regulations.
(2) STATE ACTIONS—Section 621(c) of the Fair Credit Reporting Act (15 U.S.C. 1681c(c)) is amended—

(A) in paragraph (1)(B)(iii), by striking ‘‘section 603(p)’’, and inserting ‘‘section 603(p) or 617 of the Fair Credit Reporting Act (15 U.S.C. 1681s(c)) is amended by adding at the end the following:’’;

(B) in paragraph (5)—

(i) in each of subparagraphs (A) and (B), by striking ‘‘section 623(a)(1)’’; each place that term appears and inserting ‘‘described in any of paragraphs (1) through (3) of section 623(c)’’; and

(ii) by amending the paragraph heading to read as follows:—

‘‘(5) IMPEMENTATION ON STATE ACTIONS FOR CERTAIN VIOLATIONS.’’.—

(f) RULE OF CONSTRUCTION—Nothing in this section, the amendments made by this section, or any other amendment made by this Act shall be construed to affect any liability under section 616 or 617 of the Fair Credit Reporting Act (15 U.S.C. 1681s(c)) as amended.

SEC. 313. FTC AND CONSUMER REPORTING AGENCY ACTION CONCERNING CONSUMER CLAIMS.

(a) IN GENERAL—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

‘‘(f) REQUEST FOR REINVESTIGATION OF DISPUTED INFORMATION UPON NOTICE FROM A RESELLER.—Section 611(a) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)(A)) is amended by adding at the end the following:

‘‘(2) REQUIREMENT FOR REINVESTIGATION OF DISPUTED INFORMATION.—In preparing the report required under paragraph (2), the Board and the Commission shall consider the results of the study required under paragraph (1).

SEC. 314. IMPROVED DISCLOSURE OF THE RESULTS OF REINVESTIGATION.

(a) IN GENERAL—Section 611(a)(5)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(5)(A)) is amended by striking ‘‘shall’’ and inserting ‘‘shall for the period in which the relationship is established’’.

(b) FURNISHER REQUIREMENTS RELATING TO DISPUTED INFORMATION.

(1) REQUIREMENT FOR DISCLOSURE OF DISPUTED INFORMATION.—Section 623(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(1)) is amended by adding at the end the following:

‘‘(f) R ULE OF CONSTRUCTION.

(1) IN GENERAL.—If a person has requested a consumer report relating to a consumer from a consumer reporting agency described in section 630(p), the request includes an address for the consumer reporting agency substantially differs from the address in the file of the consumer, and the agency provides a consumer report in response to the request, the consumer reporting agency shall provide the requester with the existence of the discrepancy.

(2) REGULATIONS.—The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly, with respect to the entities that are subject to their respective enforcement authority under section 666, prescribe regulations providing guidance regarding reasonable policies and procedures that a user of a consumer report should employ when such user has received a notice of discrepancy under paragraph (1).

(b) REGULATIONS REQUIRED.—The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly, with respect to the entities that are subject to their respective enforcement authority under section 666, prescribe regulations providing guidance regarding reasonable policies and procedures that a user of a consumer report should employ when such user has received a notice of discrepancy under paragraph (1).

(2) PERIODIC REVIEW.—The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly, with respect to the entities that are subject to their respective enforcement authority under section 666, prescribe regulations providing guidance regarding reasonable policies and procedures that a user of a consumer report should employ when such user has received a notice of discrepancy under paragraph (1).
of an act or omission of the reseller, not later than 20 days after receiving the notice, correct the information in the consumer report or delete it; or

(3) if the reseller determines that the item of information is not incomplete or inaccurate as a result of an act or omission of the reseller, convey the notice of the dispute, together with all relevant information provided by the consumer, to each consumer reporting agency that provided the reseller with the information that is the subject of the dispute, using an address or a notification mechanism specified by the consumer reporting agency for such notices.

(3) RESPONSIBILITY OF CONSUMER REPORTING AGENCY TO NOTIFY CONSUMER THROUGH RESELLER.—The consumer reporting agency shall review a consumer dispute directly.

(4) RESELLER REINVESTIGATION.—No provision of this section shall be construed as prohibiting a reseller from conducting a reinvestigation of a consumer dispute directly.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 611(a)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(2)(B)) is amended in the subparagraph heading, by striking "FROM CONSUMER".

SEC. 317. REASONABLE REINVESTIGATION REQUIRED.

Section 611(a)(1)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)(A)) is amended by striking "shall reinvestigate free of charge in the manner required under paragraph (8)(A).

(b) REASONABLE REINVESTIGATION.—No provision of this section shall be construed as prohibiting or discouraging a reseller from conducting a reasonable reinvestigation to determine whether the disputed information is inaccurate.

SEC. 318. FTC STUDY OF ISSUES RELATING TO THE FAIR CREDIT REPORTING ACT.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Commission shall conduct a study on ways to improve the operation of the Fair Credit Reporting Act.

(2) AREAS FOR STUDY.—In conducting the study under paragraph (1), the Commission shall—

(1) the feasibility of increasing the number of points of identifying information that a credit reporting agency is required to match to ensure that a consumer is the correct individual to whom a summary of transactions relates before releasing a consumer report to a user, including—

(i) the extent to which requiring additional points of such identifying information to match would—

(I) enhance the accuracy of credit reports; and

(II) limit the use and sharing of medical information in the financial system.

(b) PROTECTION OF MEDICAL INFORMATION.

(1) LIMITATION ON CREDITORS.—A consumer reporting agency shall not furnish consumer reports for purposes or in connection with a credit transaction, and a creditor that furnishes medical information, other than account status or account activity and repetitious codes that do not identify, or do not provide information sufficient to infer, the specific provider or the nature of such services, products, or devices, as provided in section 609(d).

(2) LIMITATION ON CREDITORS.—Except as permitted pursuant to paragraph (3)(C) or regulations prescribed under paragraph (5)(A), a creditor shall not obtain or use medical information pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit.

(c) ACTIONS UNDER THE FAIR CREDIT REPORTING ACT.

(1) IN GENERAL.—An issuer of a credit or charge card, and any other person, except as necessary to carry out actions necessary for administrative verification of such agency or Administration under section 1179 of such Act, or described in section 502(e) of Public Law 106–102, or

(3) as otherwise determined to be necessary and appropriate, by regulation or order and subject to paragraph (6), by the Commission, any Federal banking agency or the National Credit Union Administration with respect to any person engaged in providing insurance or annuities.

(4) LIMITATION ON REDISCLOSURE OF MEDICAL INFORMATION.—Any person that receives medical information pursuant to paragraph (1) or (3) shall not disclose such information to any other person, except as necessary to carry out the purpose for which the information was initially disclosed, or as otherwise permitted by statute, regulation, or order.

(5) REGULATIONS AND EFFECTIVE DATE FOR PARAGRAPH (2).

(1) REGULATIONS REQUIRED.—Each Federal banking agency and the National Credit Union Administration shall, subject to paragraph (6) and after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs and which shall include permitting actions necessary for administrative verification purposes, consistent with the intent of paragraph (2), to use medical information for inappropriate purposes.

(2) FINAL REGULATIONS REQUIRED.—The Federal banking agencies and the National Credit Union Administration shall, subject to paragraph (6) and after notice and opportunity for comment, prescribe regulations required under subparagraph (A) in final form before the end of the 6-month period.
beginning on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003. "

(6) Coordination with other laws.—No provision of this subsection shall be construed as altering, amending, superseding, or otherwise affecting any other provision of Federal law relating to medical confidentiality.

(b) Restriction on sharing of medical information.—Nothing in subsection (a) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended—

(1) in paragraph (2), by striking "the term" and inserting "Except as provided in paragraph (3), this section is applicable only to information disclosed to any person related by common ownership or affiliated by corporate identity to a medical information furnisher

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

"(3) Restriction on sharing of medical information.—Except for information or any communication of information disclosed as provided in section 604(g)(3), the exclusions in paragraph (2) shall not apply with respect to information disclosed to any person related by common ownership or affiliated by corporate identity to a medical information furnisher.

(c) Definitions.—The term "medical information furnisher" means a consumer, that relates to

(1) means information or data, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to

(A) the past, present, or future physical, mental, or behavioral health or condition of an individual;

(B) the provision of health care to an individual;

or

(C) the payment for the provision of health care to an individual.

(2) does not include the age or gender of a consumer, demographic information about the consumer, including a consumer's residence address or e-mail address, or any other information about a consumer that does not relate to the physical, mental, or behavioral health or condition of a consumer, including the existence or value of any insurance policy.

(d) Effective dates.—This section shall take effect at the end of the 180-day period beginning on the date of enactment of this Act.

(e) FTC regulation of coding of trade names.—The Commission determines that a person described in paragraph (9) of section 623(a) has not met the requirements of such paragraph, the Commission shall take action to ensure the person's compliance with such paragraph, which may include issuing model guidance or prescribing reasonable policies and procedures, as necessary to ensure that such person complies with such paragraph.

(f) Technical and conforming amendments.—Section 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681a(i)) is amended, as added by section 411 of this Act, as amended—

(1) in paragraph (1), by inserting "medical information furnisher"

(2) in paragraph (2), by inserting "medical information furnisher"

(g) Effective date.—The amendments made by this section shall take effect at the end of the 15-month period beginning on the date of enactment of this Act.

V. Financial Literacy and Education Improvement

SEC. 511. SHORT TITLE.

This title may be cited as the "Financial Literacy and Education Improvement Act".

SEC. 512. DEFINITIONS.

As used in this title—

(A) "Chairperson" means the Chairperson of the Financial Literacy and Education Commission.

(B) "Commission" means the Financial Literacy and Education Commission established under section 3.

(C) "Financial literacy" means the knowledge, skills and abilities that consumers need to make informed economic decisions and become self-reliant participants in a free and dynamic market economy.

(D) "Educational institution" means an institution of higher education as defined in section 101(a)(36) of the Higher Education Act of 1965.

(E) "Secondary school" means a school that is operated or supervised by a State, local, or Tribal government and provides a complete educational program for students in the next lower grade level to the highest grade level of such educational program.

(F) "Financial products" means any consumer credit, or financial service, and includes, but is not limited to, cash advances, mortgage loans, home equity lines-of-credit and credit cards.

(G) "Financial service" means a service that involves the extension of credit or debt to the consumer.

(H) "Financial service provider" means any person that provides financial services under bona fide arms-length transactions.

(I) "Financial product" means any product that involves the extension of credit or debt to the consumer.

SEC. 513. ESTABLISHMENT OF FINANCIAL LITERACY AND EDUCATION COMMISSION.

(A) IN GENERAL.—There is established a Commission to be known as the "Financial Literacy and Education Commission".

(B) PURPOSE.—The Commission shall serve to improve the financial literacy and education of persons in the United States through development of a national strategy to promote financial literacy and education.

(C) MEMBERS.—(1) COMPOSITION.—The Commission shall be composed of—

(A) the Secretary of the Treasury;

(B) the respective head of each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, the Securities and Exchange Commission, each of the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs, the Federal Trade Commission, the General Services Administration, the Small Business Administration, the Commodity Futures Trading Commission, and the Office of Personnel Management; and

(C) at the discretion of the President, not more than 3 individuals appointed by the President from among the administrative heads of any other Federal agencies, departments, or other Federal Government entities, whom the President determines to be essential to improve financial literacy and education.

(D) CHAIRPERSON.—The Secretary of the Treasury shall serve as Chairperson.

(E) MEETINGS.—The Commission shall hold the first meeting, not later than 60 days after the date of enactment of this Act.

(Sec. 514. Duties of the Commission.)

(A) IN GENERAL.—The Commission, through the authority of the members referred to in section 513(c), shall take such actions as it deems necessary to streamline, improve, or augment the financial literacy and education programs, grants, and materials of the Federal Government, including curricula for all Americans.

(B) AREAS OF EMPHASIS.—To improve financial literacy and education, the Commission shall emphasize, among other elements, basic personal income and household money management and planning skills, including how to

(1) create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

(2) manage spending, credit, and debt, including credit card debt, effectively;

(3) increase awareness of the availability and significance of credit scores and factors in obtaining credit, the importance of their accuracy and how to correct inaccuracies, their effect on credit terms, and the common financial decisions that may have on credit scores;

(4) ascertain fair and favorable credit terms;

(5) avoid abusive, predatory, or deceptive credit offers and financial products;

(6) understand, evaluate, and compare financial products, services, and opportunities;

(7) understand resources that ought to be easily accessible and affordable, and that inform and empower the investor seeking to make wise and viable avenues of recourse when an investor believes his or her rights have been violated by unprofessional conduct of marketeers or other competitors;

(H) increase awareness of the particular financial needs and financial transactions (such as the sending of remittances) of consumers who are members of the Armed Forces of the United States, the Commission shall improve the development and distribution of multilingual financial literacy and education materials;

(I) improve financial literacy and education through all other related skills, including personal finance and related economic education,
with the primary goal of programs not simply to improve knowledge, but rather to improve consumers’ financial choices and outcomes.

(b) WEBSITE.—The Commission shall establish and maintain a website, such as the domain name “FinancialLiteracy.gov”, or a similar domain name.

(ii) TO PROVIDE.—The website established under paragraph (1) shall—

(A) serve as a clearinghouse of information about Federal financial literacy and education programs and materials, or campaigns; and

(B) provide a coordinated entry point for accessing information about all Federal publications, materials, or campaigns promoting enhanced financial literacy and education;

(C) offer information on all Federal grants to promote financial literacy and education, and, on request, apply for and receive a grant or contracts that are most appropriate under the circumstances;

(D) as the Commission considers appropriate, feature website links to efforts that have no commercial content and that feature information about financial literacy and education programs, materials, or campaigns; and

(E) information as the Commission finds appropriate to share with the public in the fulfillment of its purpose.

(c) TOLL-FREE HOTLINE.—The Commission shall establish a toll-free telephone number that shall be made available to members of the public seeking information about issues pertaining to financial literacy and education.

(d) CIVIL SERVICE AND MATERIALS.—The Commission shall—

(1) develop materials to promote financial literacy and education; and

(2) disseminate such materials to the general public.

(e) COORDINATION OF EFFORTS.—The Commission shall coordinate its efforts to coordinate and promote financial literacy and education efforts at the State and local level, including promoting partnerships among Federal, State, and local governments, nonprofit organizations, and private enterprises.

(f) NATIONAL STRATEGY.—

(1) IN GENERAL.—The Commission shall—

(A) not later than 18 months after the date of enactment of this Act, develop a national strategy to promote basic financial literacy and education among all American consumers; and

(B) make a report to implement the strategy developed under subparagraph (A).

(2) STRATEGY.—The strategy to promote basic financial literacy and education required to be developed under paragraph (1) shall provide for—

(A) participation by State and local governments and private, nonprofit, and public institutions in the creation and implementation of such strategy;

(B) the development of methods—

(i) to increase the general financial education level of current and future consumers of financial services and products; and

(ii) to enhance the general understanding of financial services and products; and

(C) review of Federal activities designed to promote financial literacy and education, and development of a plan to coordinate improvement of such activities; and

(D) the identification of areas of overlap and duplication among Federal financial literacy and education activities and proposed means of eliminating any such overlap and duplication.

(3) NATIONAL STRATEGY REVIEW.—The Commission shall, not less than annually, review the national strategy developed under this subsection, including any such changes and recommendations as it deemed necessary.

(g) CONSULTATION.—The Commission shall actively consult with a variety of representatives from nonprofit organizations and State and local agencies, as determined appropriate by the Commission.

(h) REPORTS.—

(1) IN GENERAL.—Not later than 18 months after the date of the first meeting of the Commission, and annually thereafter, the Commission shall issue a report, the Strategy for Assuring Financial Empowerment (“SAFE Strategy”), to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the progress of the Commission in carrying out this title.

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

(A) the national strategy for financial literacy and education, as described under subsection (f);

(B) information concerning the implementation of the duties of the Commission under subsection (a) through (g);

(C) an assessment of the success of the Commission in implementing the national strategy developed under subsection (f);

(D) an assessment of the availability, utilization, and impact of Federal financial literacy and education materials; and

(E) information concerning the content and public use of—

(i) the website established under subsection (b); and

(ii) the toll-free telephone number established under subsection (c);

(F) a brief survey of the financial literacy and education materials developed under subsection (d), and data regarding the dissemination and impact of such materials, as measured by improved financial decisionmaking;

(G) a brief summary of any hearings conducted by the Commission, including a list of witnesses who testified at such hearings;

(H) information about the activities of the Commission planned for the next fiscal year;

(I) a summary of all Federal financial literacy and education programs and materials, as developed under subsection (d), and data regarding the dissemination and impact of such materials, as measured by improved financial decisionmaking;

(J) such other materials relating to the duties of the Commission as the Commission deems appropriate.

(3) INITIAL REPORT.—The initial report required under paragraph (1) shall include information regarding all Federal programs, grants which seek to improve financial literacy, and the effectiveness of such programs.

(4) TESTIMONY.—The Commission shall annually provide testimony by the Chairperson to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 515. POWERS OF THE COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission shall hold such hearings, sit at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate to carry out this title.

(2) PARTICIPATION.—In hearings held under this subsection, the Commission shall consider inviting witnesses from, among other groups—

(A) other Federal Government officials;

(B) State and local government officials;

(C) consumer and community groups;

(D) nonprofit financial literacy and education groups; and

(E) the State, local, and Tribal governments.

(b) INFORMATION FROM FEDERAL AGENCIES.—

The Commission may secure directly from any Federal department or agency such information as the Commission deems necessary, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) ASSISTANCE.—

(1) IN GENERAL.—The Director of the Office of Financial Literacy of the Department of the Treasury shall provide assistance to the Commission, upon request of the Commission, without charge.

(d) COMPENSATION OF MEMBERS.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of compensation or status or pay.

SEC. 517. STUDIES BY THE COMPTROLLER GENERAL.

(a) EFFECTIVENESS STUDY.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress assessing the effectiveness of the Commission in promoting financial literacy and education among consumers.

(b) STUDY AND REPORT ON THE NEED AND MEANS FOR IMPROVING FINANCIAL LITERACY AMONG CONSUMERS.—

(1) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to assess the extent of consumers’ knowledge and understanding of credit reports, credit scores, and the dispute resolution process, and on methods for improving financial literacy among consumers.

(2) MEMBERS TO BE INCLUDED.—The study required under paragraph (1) shall include the following issues:

(A) The number of consumers who view their credit reports.

(B) Under what conditions and for what purposes do consumers primarily obtain a copy of their consumer report (such as for the purpose of ensuring the completeness and accuracy of the contents, to protect against fraud, in response to an adverse action based on the report, or in response to suspected identity theft) and approximately what percentage of the total number of consumers who obtain a copy of their consumer report do so for each such primary purpose.

(C) The extent of consumers’ knowledge of the data collection process.

(D) The extent to which consumers know how to obtain a copy of a consumer report.

(E) The extent to which consumers know and understand the factors that positively or negatively impact credit scores.

(2) REPORT REQUIRED.—Before the end of the 12-month period beginning on the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the findings and conclusions of the Comptroller General pursuant to the study conducted under this subsection, together with such recommendations for legislative or administrative action as the Comptroller General may determine, including recommendations on methods for improving financial literacy among consumers.
SEC. 518. THE NATIONAL PUBLIC SERVICE MULTIMEDIA CAMPAIGN TO ENHANCE THE STATE OF FINANCIAL LITERACY.

(a) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the "Secretary"), after review of the recommendations of the Commission, as part of the national strategy, shall develop, implement, and conduct a pilot national public service multimedia campaign to enhance the state of financial literacy and education in the United States.

(b) PROGRAM REQUIREMENTS.—

(1) PUBLIC SERVICE CAMPAIGN.—The Secretary, after review of the recommendations of the Commission, shall develop, in consultation with nonprofit, public, or private organizations, especially well-qualified in the distribution of public service campaigns, and have secured private sector funds to produce the pilot national public service multimedia campaign.

(2) DEVELOPMENT OF MULTIMEDIA CAMPAIGN.—The Secretary, after review of the recommendations of the Commission, shall develop, in consultation with nonprofit, public, or private organizations, especially those that are well qualified by virtue of their experience in the field of financial literacy and education, to develop the financial literacy national public service multimedia campaign.

(3) FOCUS OF CAMPAIGN.—The pilot national public service multimedia campaign shall be consistent with the national strategy, and shall promote the toll-free telephone number and the website developed under this title.

(c) MULTILINGUAL.—The Secretary may develop the multimedia campaign in languages other than English, as the Secretary deems appropriate.

(d) PERFORMANCE MEASURES.—The Secretary shall develop measures to evaluate the effectiveness of the pilot national public service multimedia campaign, as measured by improved financial decision making among individuals.

(e) REPORT.—For the fiscal year for which there are appropriations pursuant to the authorization in subsection (e), the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives, describing the status and implementation of the provisions of this section and the state of financial literacy and education in the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, not to exceed $3,000,000 for fiscal years 2005, 2006, and 2007, for the development, production, and distribution of a pilot national public service multimedia campaign under this section.

SEC. 519. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this title, including administrative expenses of the Commission.

TITLE VI—INVESTIGATING EMPLOYEE MISCONDUCT INVESTIGATIONS

SEC. 611. CERTAIN EMPLOYEE INVESTIGATION COMMUNICATIONS EXCLUDED FROM DEFINITION OF CONSUMER REPORT.

(a) IN GENERAL.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a), as amended by this Act, is amended by adding at the end the following:

"(x) EXCLUSION OF CERTAIN COMMUNICATIONS FOR EMPLOYEE INVESTIGATIONS.—

"(1) Communications described in this subsection.—A communication is described in this subsection if

"(A) but for subsection (d)(2)(D), the communication would be a consumer report;

"(B) the communication is made to an employer in connection with an investigation of—

"(i) suspected misconduct relating to employment; or

"(ii) compliance with Federal, State, or local laws and regulations, the rules of a self-regulatory organization, or any preexisting written policies of the employer;

"(C) the communication is not made for the purpose of investigating a consumer's credit worthiness, credit standing, or credit capacity; and

"(D) the communication is not provided to any person except—

"(i) to the employer or an agent of the employer;

"(ii) to any Federal or State officer, agency, or department, or any officer, agency, or department of a unit of general local government;

"(iii) to any self-regulatory organization with regulatory authority over the activities of the employer or employee;

"(iv) as otherwise required by law; or

"(v) pursuant to section 608.

"(2) SUBSEQUENT DISCLOSURE.—After taking any adverse action based in whole or in part on a communication described in paragraph (1), the employer shall disclose to the consumer a summary containing the nature and substance of the communication upon which the adverse action is based, except that the sources of information acquired solely for use in preparing what would be but for subsection (d)(2)(D) an investigatory consumer report need not be disclosed.

"(3) SELF-REGULATORY ORGANIZATION DEFINED.—For purposes of this section, the term 'self-regulatory organization' includes any self-regulatory organization (as defined in section 31(a)(26) of the Securities Exchange Act of 1934), any entity established under title I of the Sarbanes-Oxley Act of 2002, any board of trade so designated by the Commodity Futures Trading Commission, and any futures association registered with such Commission.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 603(d)(2)(D) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(D)) is amended by inserting "or "(x)" after "subsection (o)"

TITLE VII—RELATION TO STATE LAWS

SEC. 711. RELATION TO STATE LAWS.

Section 625 of the Fair Credit Reporting Act (15 U.S.C. 1681i), as so designated by section 214 of this Act, is amended by adding at the end the following:

"(1) cases

"(2) in subsection (b), by adding at the end the following:

"(5) with respect to the conduct required by the specific provisions of—

"(A) section 604(g);

"(B) section 605A;

"(C) section 605B;

"(D) section 606(a)(1)(A);

"(E) section 612(a);

"(F) subsections (e), (f), and (g) of section 615;

"(G) section 621(f);

"(H) section 623(a)(6); or

"(I) section 646.

"(3) in subsection (d)—

"(A) by striking paragraph (2);

"(B) by striking "(c)"— and all that follows through "do not affect" and inserting "(c) do not affect"; and

"(C) by striking "1996", and inserting "1996'.

TITLE VIII—MISCELLANEOUS

SEC. 811. CLERICAL AMENDMENTS.

(a) SHORT TITLE.—Section 601 of the Fair Credit Reporting Act (15 U.S.C. 1601 note) is amended by striking the "Fair Credit Reporting Act" and inserting "the Fair Credit Reporting Act".

(b) SECTION 604.—Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)) is amended in paragraphs (1) through (3), other than subparagraphs (E) and (F) of paragraph (3), by moving each margin 2 ems to the right.

(c) SECTION 605—

"(1) Section 605(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(1)) is amended by striking "(1) cases" and inserting "(1) Cases".

"(2)(A) Section 511 of Public Law 105-347 (112 Stat. 3211) is repealed by inserting "Judgments which" and inserting "judgments which".

(B) The amendment made by subparagraph (A) shall be deemed to have the same effective date as section 511 of Public Law 105-347 (112 Stat. 3211).

(d) SECTION 609.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended—

(1) in paragraph (2), by moving the margin 2 ems to the right; and

(2) in paragraphs (3)(C), by moving the margin 2 ems to the left.

(e) SECTION 617.—Section 617(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681a(1)) is amended by adding at the end

"(f) SECTION 621.—Section 621(b)(3)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681b(1)(B)) is amended by striking "(a)" and inserting "(2)".

(g) TITLE 31.—Section 5318 of title 31, United States Code, is amended by redesignating the second item designated as subsection (l) (relating to accountability of Federal personnel) as subsection (m).

(h) CONFORMING AMENDMENT.—Section 241(c) of Public Law 104-208 (110 Stat. 3009-445) is repealed.

(i) The Senate agreed to the same.

For consideration of the House bill and the Senate amendment, and modifications committed to conference:

MICHAEL G. OxLEY, Chairman, BARBEREYER, SPENCER BACHUS, MICHAEL CASTLE, ED ROYCE, ROBERT W. NEY, DAVE LICK, VENICE L. GILLMOR, STEVEN C. LATOURRETE, JUDY BIGGERT, PETE SESSIONS, BARNEY FRANK, PAUL E. KANJORSKI, MELVIN L. WATT, LUIS V. GUTIERREZ, DARLENE HOOLEY, DENNIS MOORE, Managers on the Part of the House.

RICHARD SHELBY, ROBERT S. BENNETT, WAYNE ALLARD, MICHAEL B. ENZI, PAUL SARBANES, CHRISTOPHER J. DODD, TIM JOHNSON, Managers on the Part of the Senate.

J OINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (H.R. 2622) to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the amendment agreed to by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The Committee of Conference met on November 21, 2003.
21, 2003 (the Senate Chairing) and resolved their differences. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are not below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferences, and minor drafting and clerical changes.

The Fair Credit Reporting Act was enacted in 1970, and substantially amended in 1996. The amendments made at that time were necessary to make the law relevant in an information age. Indeed, in the 1996 amendment were a number of provisions that explicitly preempt state laws. These preemptions expire on January 1, 2004. Since that time, the national credit markets have undergone significant change. Most of these changes were the result of technological innovations. Technology has expanded the availability of credit, and permitted instant credit decisions. Mortgage financing that once took weeks now takes hours, and home ownership rates are at historic highs. Consumer credit can be obtained at the point of sale for major items like automobiles. Technology and the prudently-regulated use of personal consumer information, under the FCRA has made much of this possible. We live in a mobile society in which 40 million Americans move annually. The FCRA permits consumers to transport their credit with them wherever they go. Both Committees of jurisdiction have developed detailed records regarding the benefits that our national credit reporting system has visited upon consumers of financial products.

Despite the myriad benefits of technology to the American consumer, there has been one downside. Namely, the free flow of information has enabled the explosive growth of a new crime—identity theft. Both Committees developed comprehensive hearing records regarding this crime, and the havoc it visits upon the lives of its victims. Law enforcement professionals are cognizant of the growth of this crime, and have worked with the affected industries to combat it. While criminal prosecutions and strict fraud detection protocols can curtail identity theft, and punish the wrongdoers, not enough had been done heretofore to aid the real victims of this crime—the consumer whose identity is assumed, and can spend months or years trying to rehabilitate their credit and reorder their affairs. The House bill and the Senate amendment contain a number of identical provisions. In other instances, the provisions in the respective Committees addressed the same issue in a slightly different manner. Both the House bill and the Senate amendment addressed the provisions of the FCRA that preempted state laws, and are due to expire on January 1, 2004. Both bills addressed identity theft, medical information privacy and promote greater consumer access to their credit reports.

The House bill, H.R. 2622, and the bill that served as the core of the Senate amendment (S. 1753) are each the result of an extensive deliberative and legislative process with a three-fold purpose: to assist the victims of identity theft; modernize the FCRA and, enhance the national credit reporting system. Readers should refer to the Committee Reports for the respective bills for further elaboration. The conference agreement contains provisions to accomplish these goals. It is the intent that this legislation will assist the victims of identity theft, and ensure the operational efficiency of our national credit reporting system creating a number of preemptive national standards.

For consideration of the House bill and the Senate amendment, and modifications committed to conference,

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 2622) to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes.

The Clerk read the title of the bill. (For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. F. ROYCE) each will control 20 minutes in the conference report and insert extra-aneous material thereon.

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

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I am proud to bring before the House today the conference report on H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003. This is a bipartisan bill that will foster economic growth and development throughout this country. When 9/11 hit our country, Congress responded quickly with the passage of the USA PATRIOT Act and the Terrorism Risk Insurance Act. When corporate scandals threatened to undermine the integrity of the stock market, we responded with the passage of the Sarbanes-Oxley Act. And today, as the laws governing our national credit markets are set to expire, we must respond swiftly and responsibly with the passage of this bipartisan solution to keep the American economy stable and growing and assure that the American consumer continues to enjoy the benefits of a robust national credit granting system.

One of the hallmarks of the modern U.S. economy is quick and convenient access to consumer credit. Though it would seem unimaginable a generation ago, consumers can now qualify for a mortgage over the telephone, walk into a showroom and finance the purchase of a car in one sitting, and get department store credit within minutes. As the distinguished Federal Trade Commission chairman Tim Murray has stated, the “miracle of instant credit” created by our national credit reporting system has given American consumers a level of access to financial services and products that is unrivaled anywhere in the world. The protection and growth of these services provided for in this legislation, are critical to the success of our economy.

Since the Fair Credit Reporting Act’s uniform national standards were established in 1970, and substantially amended in 1996, we have enacted some of the lowest mortgage rates and credit rates on record, with more competition and more offerings for consumers than ever before. This has led to the record level of credit available today to all Americans, regardless of income level. Over the past 30 years, the availability of nonmortgage credit to households in the lowest income bracket has increased by nearly 70 percent, including a nearly threefold increase in the number of low-income households owning credit cards just in this last decade. The increase of available credit, coupled with the declining price of this credit, has also fueled the record home-ownership levels we are experiencing today, again with the largest gains achieved by low- and moderate-income groups. These improvements in the credit and mortgage systems have saved consumers nearly $100 billion annually, according to some estimates.

In addition to providing a vital national credit system, this legislation is an extremely comprehensive consumer protection bill. The protections are designed to meet head-on the growing crime of identity theft which has accompanied the expanding credit market in our country. The FTC released a study in early September which revealed the damaging extent of this crime in our country. Ten million Americans were victimized by identity thieves last year alone, costing consumers and businesses over $55 billion, not counting the 300 million hours spent by victims to try to repair damaged credit records. The financial costs staggering, with over $20,000 stolen in the average fraud.

The Committee on Financial Services has worked tirelessly to explore and find solutions to this destructive crime. Over 100 witnesses have come before the committee since last April to discuss the renewal of the Fair Credit Reporting Act, and many of them focused their statements on the urgent
need to increase safeguards designed to protect consumers and businesses alike from this crime. With the bipartisan support in the House, as well as valuable input and assistance from our friends in the Senate, we have a bill before conference. Mrs. HOOLEY from Oregon, Mr. FRANK of Massachusetts, Mr. BACHUS from Alabama, Mr. BACHUS, and myself—that the uniform national standards for identity theft were limited to the subject matters that the bill’s provisions actually address, such as fraud alerts, blocking bad credit information, and protecting consumers at the point of sale. Thus, for example, this national uniformity would not affect State criminal statutes, or State laws governing the public display of social security numbers.

The conference committee further refined this standard, by providing that the new uniform national standards on identity theft created by this legislation apply with respect to the conduct required by those specific provisions.

I strongly urge my colleagues to vote for this Conference Report.

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

Mr. FRANK of Massachusetts. Mr. Speaker, I am glad to yield 2½ minutes to the gentleman from Oregon (Ms. HOOLEY), a member of this committee who really did extraordinarily good work here and who early on became our task force head on identity theft, and this bill is really path-breaking in what it does for identity theft.

Ms. HOOLEY of Oregon. Mr. Speaker, I thank my good friend, the gentleman from Massachusetts, for yielding me this time.

During floor debate of the Fair and Accurate Credit Transaction Act back in September, I told a story of a constituent who had her purse stolen and ended up spending hours trying to clean up her credit files as a result. It got so bad, in fact, that the police officer suggested it would be easier for her to change her name than to deal with the damage caused by the result of a theft. At that time, I continued on to say something that the law when a law enforcement official suggests changing your identity in order to protect yourself from identity theft.

Well, I am ecstatic to report to everyone that after 4 years’ struggle, the law is changing. Today the House and Senate conferees met and approved the Fair and Accurate Credit Transaction Act, a bill that will do many things to protect consumers and safeguard our Nation’s credit system.

This legislation has been a long time coming and is the result of a lot of hard work by a number of Members of Congress. I would especially like to thank the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Oregon (Ms. HOOLEY) for their incredible work; Senator SHELBY and Senator SARBANES for the leadership they have shown through a bipartisan conference process; and a special thanks to
the gentleman from Alabama (Mr. BACHUS) and the gentleman from Ohio (Mr. LATOURrette) for the long hours they put in on this piece of legislation. Because of these leaders’ work and the incredible staff that worked with us, we have a conference report that takes the best provisions from the Senate and the best provisions from the House to pass this piece of legislation.

I will share a few of the consumer protections it provides, and I will insert the remainder of this list in the CONGRESSIONAL RECORD.

First of all, it provides consumers with a free credit report, gives consumers the right to see their credit scores, provides consumers with broad new medical privacy rights, gives the consumers the ability to opt out of information sharing between affiliated companies for marketing purposes, and establishes a financial literacy commission. These are just a few.

I am proud of how this committee worked together. The gentleman from Ohio was the poster child of how this process should be run. I am proud of the substance of this conference report that is good for consumers and good for businesses. I urge all of my colleagues on both sides of this agreement to support our Nation’s consumers by voting “yes” for the conference report.

The agreement reached by conferees today will:

General Provisions:
Provide consumers with a free credit report every year from each of the three national credit bureaus, from a single centralized source;
Provide consumers the right to see their credit scores;
Provide consumers with broad new medical privacy rights;
Give consumers the ability to opt-out of information sharing between affiliated companies for marketing purposes;
Establish a financial literacy commission and a national financial literacy campaign;
Ensure that consumers are notified if merchants are using negative information to report to the credit bureaus about them; and
Extend the seven expiring provisions of the Fair Credit Reporting Act (FCRA), including requested fraud alert blocking.

Identify Theft Provisions:
Allow consumers to place “fraud alerts” in their credit reports to prevent identity thieves from opening accounts in their names; including special provisions to protect active duty military personnel;
Require creditors to take certain precautions before extending credit to consumers who have placed “fraud alerts” in their files;
Allow consumers to block information from being given to a credit bureau and from being reported by a credit bureau if such information results from identify theft;
Provide identify theft victims with a summary of their rights;
Provide consumers with one-call-for-all protections by requiring creditors to share information on identify theft, including requested fraud alert blocking;
Prohibit merchants from printing more than the last 5 digits of a payment card on an electronic receipt;
Require lenders to disclose their contact information on consumer reports.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Alabama (Mr. BACHUS), the chairman of the Subcommittee on Financial Institutions and Consumer Credit, who has done such a wonderful job on this bill.

Mr. BACHUS. Mr. Speaker, I thank the chairman for yielding me this time.

I am going to limit my time to thanking Members, because this legislation I think more than anything is a testimony of what we as Members do when we all work in the best interests of the American public.

This bill contains sweeping new protections against identity fraud. It also will enable consumers, which make up 70 percent of our economy, to have available more credit and more choices. And as important as that is, it does a third thing. It has many different tools to ensure that our credit information is accurately reported and that our private information and confidential information such as medical records are not shared.

At this time, I would like to thank the cosponsors. This bill was introduced by me; the gentlewoman from Oregon (Ms. HOOLEY), whom we have heard from; the gentlewoman from Illinois (Mrs. BIGGERT); and the gentleman from Kansas (Mr. MOORE). The gentlewoman from Oregon (Ms. HOOLEY), the gentlewoman from Illinois (Mrs. BIGGERT), and the gentleman from Kansas (Mr. MOORE) all had significant input into this legislation. The gentleman from Ohio (Mr. LATOURrette), a lot of the fraud provisions were drafted by him or the gentlewoman from Oregon (Ms. HOOLEY). The gentleman from Pennsylvania (Mr. KANJ ORSKI), the gentleman from Delaware (Mr. CASTLE), the gentleman from New York (Mr. MALONEY), the gentleman from Arizona (Mr. SHADEGG), the gentleman from Tennessee (Mr. FORD), the gentleman from Ohio (Mr. TIBERI), the gentleman from Texas (Mr. HINOJOSA), the gentleman from Texas (Mr. HENSARLING), the gentleman from New York (Mr. CROWLEY), the gentleman from Texas (Mr. SESSIONS), the gentleman from Arizona (Mr. ROSS), the gentleman from Utah (Mr. MATHESON), the gentleman from Alabama (Mr. DAVID), the gentleman from Louisiana (Mr. BAKER), the gentleman from New York (Mr. KING), the gentleman from Oklahoma (Mr. LUCAS), and the gentleman from Kentucky (Mr. LUCAS), the gentleman from Ohio (Mr. NEY), the gentlewoman from New York (Mrs. KELLY), the gentleman from North Carolina (Mr. JONES), the gentleman from New York (Mr. ISRAEL), the gentlewoman from New York (Ms. HART), the gentleman from North Carolina (Mr. McCARTHY), the gentlewoman from West Virginia (Mrs. CARPO), the gentlewoman from New York (Mrs. MCCARTHY), the gentleman from South Carolina (Mr. BARRETT), the gentleman from Florida (Mr. FEENEY), and the gentlewoman from Florida (Ms. HARRIS). All of these Members participated in this process, and the bill, which was passed almost unanimously by the Senate and the House, and I would like to credit the other body for working, I think, in a professional manner and improving what we thought was a wonderful bill. And then, in conference, I would finally like to salute the gentlewoman from Ohio (Chairman OXLEY), first, for giving me the opportunity of working on this legislation; and secondly, I would like to salute him and the gentleman from Massachusetts (Mr. FRANK), our conferees, Mr. SARBANES and Chairman SHELBY. All of the people I have named deserve particular praise for a wonderful piece of legislation.

Mr. Speaker, I rise in strong support of the conference report to H.R. 2622, the Fair and Accurate Credit Transactions Act (FACT Act). H.R. 2622 represents the culmination of my efforts, and those of my colleagues, to craft legislation to strengthen our economy and to provide consumers with meaningful identity theft protections. The FACT Act is the bipartisan product of a thorough review of the existing Fair Credit Reporting Act identity theft, and related issues. Indeed, the legislation was approved overwhelmingly in the House by a vote of 392–30 and in the Senate by a vote of 95–2.

I extend my deepest sense of gratitude to Chairman OXLEY who gave me the opportunity to introduce this landmark piece of legislation and then skillfully guided it through the legislative process. In my career as a legislator, it is only on a rare occasion when you get the chance to draft legislation in such a bipartisan and cooperative atmosphere. The Chairman deserves a lot of credit for establishing such a collegial process, and I think our legislative product is better because of his efforts.

As Chairman of the Subcommittee on Financial Institutions and Consumer Credit, I conducted 8 hearings on the FCRA and related issues over the past year, receiving testimony from nearly one hundred witnesses including consumer groups, businesses, law enforcement, and various government regulators. On June 26, 2003, I introduced H.R. 2622 with Representatives HOOLEY, BIGGERT, and MOORE. The FACT Act—a byproduct of our hearings and bipartisan cooperation—passed its version of FCRA legislation—S. 1753—by a vote of 95–2. This week, the conference report to H.R. 2622, was approved almost unanimously by the conferees from both the House and Senate. H.R. 2622 is supported by a broad coalition of interested parties, including large financial institutions, community banks, credit unions, retailers as well as the Administration.

H.R. 2622 will benefit consumers and our economy by ensuring the continuity of our national uniform credit system. Indeed, our economy depends on several national delivery systems—each represented by incredible amounts of investment and infrastructure. For example, the national interstate highway system and our telecommunications networks are all critical to our national economy. Today we can drive from state to state without worrying
about whether a road will come to an abrupt end at the state line. Our consumer credit system is similar to these examples—we do not really think about it, we just expect that it will work. Although not perfect, our consumer credit system makes life better, easier, and cheaper for consumers.

Just as our highway and telecommunications networks have improved and become more efficient over the years, so has our credit system. Creditors have always needed to obtain credit information to verify that a borrower would repay a loan. As a result of the framework established by the FCRA, creditors, no longer need to “eyeball” an applicant and review application materials for days or weeks. Rather, our national credit system has produced a virtually seamless system whereby consumers can apply for, and receive a decision on, credit within minutes. The national uniform system has also lowered costs and increased choice and convenience for American consumers. By far the most striking result of our national credit system is the dramatically increased availability of credit—or the “democratization” of credit. However, this system could be put in jeopardy if the state law uniform standards in the FCRA were permitted to expire on January 1, 2004. H.R. 2622 would ensure the continuity of our national credit system by making these standards permanent.

The conference report also directly addresses the problem of identity theft.

Sec. 151 of the conference report requires that the FTC and the federal banking regulators provide identity theft victims with a summary of their rights. It is important for the agencies to let consumers know that identity thieves target home computers because they contain a goldmine of personal financial information. In educating the public about how to avoid becoming a victim of identity theft, the FTC and the federal banking regulators should inform consumers about the risks associated with having an ‘always on’ Internet connection not secured by a firewall, not protecting against viruses or other malicious codes, using peer-to-peer file sharing software that might expose diverse contents of their hard drives without their knowledge, or failing to use safe computing practices in general.

Identity theft occurs when a criminal obtains enough information about an individual to allow the criminal to “assume” that individual’s identity for nefarious purposes. My Subcommittee heard from two identity theft victims. Their stories were truly nightmarish, and we need to work to prevent countless others from joining the ranks of identity theft victims. Not only does identity theft harm the direct victims, but it also has an impact on all consumers. Financial institutions lose millions of dollars each year as a result of identity theft. This increased cost on financial institutions is absorbed, at least in part, through increased costs of financial products and services to all consumers.

H.R. 2622 will also improve consumers’ access and understanding of their credit information by allowing consumers to request a free credit report annually from each credit bureau. In addition, consumers will have the opportunity to obtain their credit scores from credit bureaus. Transparency in the credit granting and reporting process will increase consumers’ financial literacy and improve their confidence in the financial services system in general.

I want to commend Chairman Oxley for the tremendous leadership he has shown in steering this complex bill through the legislative process. I also want to thank the Ranking Member of the Committee, Mr. Frank, for his support of this important piece of legislation. In addition, I want to thank Ms. Hoogiert, Mr. Moore, Mr. Latourette and the Members of the Financial Services Committee on each of their efforts. I also appreciate the efforts of Mr. Sanders, the Ranking Member on my subcommittee, for his work on this issue. Lastly, I want to mention my appreciation for the work of Administrative and Technical staff, particularly from Treasury Secretary John Snow and Treasury Assistant Secretary for Financial Institutions Wayne Abernathy.

Let me also take this opportunity to thank the staff members on the House Financial Services Committee who worked on this legislation. Both Chairman Oxley and Ranking Member Frank are to be commended for assembling such a talented group of staff to work on H.R. 2622. On the majority side, I would like to thank Bob Foster, Hugh Halpern, Robert White, Robert Weil, Robert Arter Moore, Charles Symington, and Warren Gannels.

In conclusion, I would like to note that I am proud of the work we have done in crafting H.R. 2622. This has been, by necessity, a long and thorough process. I believe H.R. 2622 presents a solid achievement in protecting the security of consumers’ personal information, enhancing the transparency of the credit reporting process, and ensuring continued access to a wide variety of financial products at low cost.

Mr. Speaker, our economy today is important to all of us. That goes without saying. But what a lot of people do not realize is that two-thirds of the economy is consumer spending. That is the driver in our economy today. And consumer spending today is contingent upon maintaining a national uniform credit reporting system. I urge all of my colleagues to support our economy by voting for H.R. 2622.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Thornberry). The Chair would remind all Members it is inappropriate to characterize the other body, even in positive terms.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2½ minutes to the gentleman from Vermont (Mr. Sanders), the ranking member of the subcommittee from which this bill came. Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this bill has a number of important and positive provisions. The idea that consumers will receive free credit reports is important. The provision strengthening identity theft is also important.

But basically, the positive provisions in this bill do not outweigh the negative. And, in my view, this bill should be defeated. It should be defeated because it preempts States throughout this country from going forward with stronger consumer protections. And to my mind, States, in fact, are the laboratories of democracy; and it is a bad idea, especially from our conservative friends, who have told us how bad it was for the Federal Government to have all this power, to now give power to the Federal Government and tell the State of Vermont, the State of California, that if you have specific needs dealing with consumer issues, you may not go forward. That is wrong. And for that reason alone, this legislation should be defeated, sent back, and strengthened in terms of consumer needs.

I would point out that virtually every consumer organization in America, the Consumer Federation of America, U.S. Public Interest Research Group, et cetera, oppose the preemptive aspects of this legislation.

Second of all, Mr. Speaker, one of the great rip-offs that is taking place in America now deals with credit cards which, at a time of very, very low interest rates, are charging people up to 25 or 29 percent interest. And one way they do it, Mr. Speaker, is they send out promotions and they say, come in and sign up: zero interest rate. What they forget to tell the consumer is that for any reason whatsoever, through a bait-and-switch scam, they can raise interest rates. So 5 years before, you were locked in at a student loan rate on an automobile payment, suddenly, you are going to be paying 15, 20 percent interest, and you do not know it.

This legislation rejected any effort to protect consumers in that way, not only outlawing this bait-and-switch scam, but even preventing strong disclosure. This legislation should be defeated, sent back, and improved.
The FCRA has helped to address other vital security issues such as combating identity theft and blocking terrorist financing under the U.S.A. Patriot Act, both issues that I have held hearings on in my subcommittee.

Congress also ratified and drying up terrorist financing requires a collaborative effort of law enforcement and regulatory agencies, consumers, and financial institutions, all with access to appropriate information.

We are also making other important improvements to the FCRA in order to protect the sanctity of privacy for the American people throughout the credit granting process. I believe that one of the most important pieces of that is medical information. The medical information of consumers should be kept private. It does not need to be shared or be distributed by creditors or listed on credit reports.

Individuals should know that their personal medical information belongs to them and is not released for any other purposes, whether it is for the credit-granting process or employee background checks. And we have done that with our legislation by coding the information.

I would like to thank the gentleman from Arkansas (Mr. Ross) and the gentleman from North Carolina (Mr. Watt) for working with me on this amendment that will protect medical information of individuals without disrupting the access to low-cost credit and the security of information.

By allowing consumers to benefit from reporting the financial aspects of their transactions to credit bureaus while maintaining the sanctity of their medical privacy, this legislation is a real win for all Americans.

Finally, I am pleased we were able to include a new title in the legislation, which creates a Commission on Financial Literacy and Education, or the SAFE Act. The purpose of that title is that we will have a clear vision of the future financial literacy that will be the benefit of all Americans.

Mr. Speaker, I strongly support this legislation.

Mr. Speaker, I rise in strong support of the Conference Report before us.

I would like to commend Chairman Oxley and Ranking Member Frank—and their counterparts in the Senate—for moving this legislation with great thoroughness and deliberation and in a bipartisan fashion.

The legislation, “The FACT Act”, is the result of a dozen hearings, one hundred witnesses, and months of deliberations by my colleagues on both sides of the aisle, and both sides of the Capitol.

At the heart of the legislation is the permanent reauthorization of the Fair Credit Reporting Act, or FCRA. FCRA has provided a national uniform credit reporting system that has effectively lowered the cost of credit, and increased choice and convenience for millions of Americans across this country.

As a result of this report, I can tell you that we worked with many diverse interests before we reached a unified, solid product. And in this product, we have built on the framework of FCRA to ensure that the legislation continues to lower the cost of credit and help fuel our economy—while also creating new opportunities for populations who have never had access. That's why this legislation has overwhelmingly bipartisan support.

FCRA has also helped address other vital security issues such as combating identity theft and blocking terrorist financing under the USA PATRIOT Act—both issues which I have held numerous hearings on in my Oversight Subcommittee. Combating identity theft and drying up terrorist financing requires the collaborative effort of law enforcement and regulatory agencies, consumers and financial institutions—all with access to appropriate information.

I am extremely pleased that this conference report addresses these important issues, and improves our ability to combat identity theft and help law enforcement officials track down illicit money. The information-sharing under this legislation is essential to protecting the American people by detecting suspicious activity and weeding out wrongdoers.

The national strategies under FCRA have also facilitated a financial institution's ability to utilize additional authentications and identity verifications to protect consumer security. And the increased protections incorporated in this legislation are critically important in enabling victims to correct the damage to their credit histories created by identity thieves.

This legislation will further help law enforcement combat financial fraud and track down criminals and terrorists. And it adds new protections that are important to achieving these goals.

We have also made other important improvements to FCRA in order to protect the sanctity of privacy for the American people throughout the credit-granting process.

I believe the medical information of consumers should be kept private, and it does not need to be shared or distributed by creditors or listed on credit reports. Individuals should know that their personal medical information belongs to them and is not released for other purposes, whether it is for the credit-granting process or employee background checks. And we have done this in our legislation by coding the information.

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should consumers know they can opt out of getting these offers, they should also know that opting out or not affects their chances of getting additional credit offers with competitive terms.

Mr. KANJ ORSKI. Mr. Speaker, and if the FTC's public awareness campaign increases their understanding of the opt-out, consumers will make more informed better decisions. Does the gentleman agree?

Mr. BACHUS. Mr. Speaker, yes, I agree.

Mr. KANJ ORSKI. Mr. Speaker, I thank the gentleman from Alabama (Mr. BACHUS).

Mr. Speaker, I rise in very strong support of the conference report for H.R. 2622, the Fair and Accurate Credit Transactions Act.

The bill before us is an excellent piece of legislation. It advances consumer protection. It combats identity theft. And it allows businesses to operate efficiently when offering credit.

Moreover, the bill before us is a model of how the legislative process should work on a bipartisan basis. We held numerous hearings on the legislation. We deliberated on these matters thoroughly. We worked with one another on a bipartisan basis. The results of our efforts thereto a bill that originally passed the House overwhelmingly.

If we fail to extend the expiring provisions of the Fair Credit Reporting Act before the end of this year, conflicting state laws could place financial institutions in a difficult compliance position, and the current efficiencies in obtaining credit could significantly decrease. We would, moreover, create more difficulties for our already struggling economy.

The Fair Credit Reporting Act and its 1996 amendments, in my view, have created a nationwide consumer credit system that works increasingly well. This law has expanded access to credit, lowered the price of credit, and accelerated decisions to grant credit. One reason that the law works so well is the establishment of a uniform system of national standards for credit reporting. As my colleagues may recall, Mr. Speaker, I strongly supported creating these state preemptions in the early 1990s. I also believe that we should extend them now.

In addition to extending the expiring preemptions of state law, H.R. 2622 will make a number of important improvements to current law with respect to consumer protection. These provisions, among other things, will improve the accuracy and correction process for credit reports, and establish strong privacy protections for consumers’ sensitive medical information.

Furthermore, identity theft is a growing problem in our country. A recent report by the Federal Trade Commission found that 27.3 million Americans have been victims of identity theft in the last five years. I am sure even particularly pleased that H.R. 2622 includes several provisions designed to combat these crimes and aid consumers.

Before I close, Mr. Speaker, I want to again commend the Ranking Member of the Committee [Mr. FRANK] for his work leading to a very strong bill. I am the gentleman from Oregon [Ms. HOOLEY] for her important work on identity theft. As I have already noted, we also worked on a bipartisan basis and in a pragmatic way with the Chairman of the Committee [Mr. OXLEY] and the Chairman of the Subcommittee [Mr. BACHUS] to produce a very worthwhile legislative product in the House and in the conference with the Senate on which I served.

Mr. Speaker, H.R. 2622 contains many important consumer protection provisions in a framework of uniform national standards. It is a good bill. I encourage my colleagues to support its passage.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I would like to commend the hard work that the gentleman from Ohio (Chairman OXLEY) and the gentleman from Alabama (Mr. BACHUS), subcommittee chairman, the gentleman from Massachusetts (Ranking Member FRANK), and the committee staff have done on this extremely important piece of legislation.

Mr. Speaker, to its sponsors and its cosponsors, every bill is an important bill. But there are few bills that we will take up this session or this Congress that are as critically important to our economy as reauthorizing and making permanent the expiring provisions contained in the Fair Credit Reporting Act.

The FCRA may not be a household word, but it nonetheless touches virtually every aspect of our lives and our economy.

Without this reauthorization, there can be no national credit system, without a national credit system there will be less credit, slower credit, inaccurate credit, inefficient credit, and in some cases, no credit at all. Less, slower, inefficient and no credit will lead inevitably to less spending, slower growth, lower incomes, and fewer jobs.

That would be noticed by the American consumer and it would be a disaster for the American economy. That is why FCRA is a must-pass bill for this session.

This conference report addresses the challenges and problems created by new technologies as well. Chief among these are the provisions addressing identity theft. I am particularly pleased that this conference report contains language addressing the challenges of financial literacy.

As a member of the Committee on Financial Services and the Committee on Education and the Workforce, I have come to recognize the positive impact that a marriage of financial literacy and basic economics can have on millions of future investors.

I especially want to thank Senators Enzi and Sarbanes for working with me to perfect this language included in this conference report. H.R. 2622 is a good bill that provides important new protections for consumers and stops identity theft before it happens. I urge my colleagues to support this legislation and yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 1/2 minutes to the gentleman from Illinois (Mr. EMANUEL), who was very active particularly with regard to the medical privacy provision of this bill.

Mr. EMANUEL. Mr. Speaker, I would like to commend the Members on both sides of the aisle who worked in a bipartisan way to draft a good, strong bill with new identity theft protections and consumer protection. A special thanks to the gentleman from Ohio (Chairman OXLEY), to the gentleman from Massachusetts (Mr. FRANK), and to my colleague, the gentleman from California (Mr. Ose) for cosponsoring the amendment ensuring that this conference report has landmark provisions preventing banks and insurance companies from accessing and using the most sensitive private information of a consumer, medical information.

This medical privacy bill gives consumers a safe harbor they deserve by blacking out the use of medical information and making it off limits to banks and insurance companies. They cannot access it, period. This agreement makes that the law.

These new protections should go a long way to addressing America’s concerns that their medical, mental health, or DNA information could be shared or used against them by banks and credit bureaus, when they apply for a mortgage, rent an apartment, or join a club. No one applying for a home should have to worry about a bank using their medical documents against them. When this becomes law, they will not have to. This is a win for consumers and for the financial services industry.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. HARRIS).

Ms. HARRIS. Mr. Speaker, I want to discuss some of the exciting opportunities in the FCRA, specifically the aspects that Florida has engaged in. And I would like to engage in a colloquy with the gentleman from Alabama (Mr. BACHUS) to discuss those.

Mr. Speaker, I would yield to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, if the gentlewoman would yield, I would be glad to engage in a colloquy. I think what the gentlewoman from Florida (Ms. HARRIS) was inquiring into was the Florida Banking Association and its system that permits banks to combat identity theft, check fraud, and other criminal activity. And as I understand it, this system it produces reports that banks use exclusively to fight fraud not for the purpose of determining the individual’s eligibility for credit insurance and employment.

And she has asked me to confirm that information that is provided for the exclusive purpose of detecting, preventing, or deterring a financial crime identifies the full extent of a criminal activity does not constitute a consumer report under the Fair Credit Reporting Act, even as amended by
this bill. And my response to that is that is correct. Such information was not a consumer report under the Fair Credit Reporting Act as it existed before this legislation, nor will it constitute a consumer report as amended by this legislation.

Ms. HARRIS. Mr. Speaker, reclaiming my time, I think that many people were confused by that, so I really appreciate the clarification that this information is not a consumer report under the Fair Credit Act neither before it was passed nor after it has been amended. So I really appreciate that clarification.

In fact, I think one of the biggest problems has been that the fraud and identity theft has created billions of dollars of losses in the U.S. economy and continues to create serious problems for individuals. The technology allows criminals to perpetuate this fraud with increasing rapidity.

Financial institutions and law enforcement fight the increases in fraud and identity theft with technology. So the proposed amendment would free the antifraud networks from compliance with certain requirements of the Fair Credit Reporting Act. But the amendment also preserves the consumer protection features in the Fair Credit Reporting Act because it requires notice to consumers and an opportunity to respond.

What is exciting about the Florida banking community is that they actually created something called Fraud Net in 2000 and it was implemented in 2002. This is really sort of a neighborhood watch for bank employees, if you will. Because banks post alerts when they experience a fraudulent or criminal act. It does not deal with individual transactions, opening accounts, credit insurance, or employment. Today 14 States are employing the specific program, and they expect 10 additional users next year.

So I would like to thank the gentleman from Alabama (Mr. BACHUS) for clarifying.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentlewoman from Indiana (Ms. CARSON), one of our most active and energetic members of our committee.

Ms. CARSON of Indiana. Mr. Speaker, I would like to thank the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Alabama (Mr. BACHUS) for the bipartisan spirit to move the bill to the floor.

Mr. Speaker, the Fair Credit Reporting Act has been crucial to extending credit services to underserved populations and in protecting consumers from egregious abuses of their financial and personal privacy. However, the violations and abuses continue to persist. I have assisted a number of constituents who have had credit problems because of inaccurate credit reporting.

In many instances, people have no idea there is a problem until they try to secure credit.

What I found especially troubling is larger than expected numbers of inaccuracies credit reporting agencies have on consumers. So H.R. 2622 provides a number of new important consumer protections that will make credit reports less frustrating for our consumers. The bill would give every person in America the ability to request an annual free credit report.

I certainly hope every American takes advantage of this. The bill deals a tremendous blow to identity thieves whose crimes are rising rapidly. Consumers will be able to place fraud alerts on their credit report when erroneously flagged by a consumer protection feature in the Fair Credit Reporting Act because it requires notice to consumers and an opportunity to respond.

I encourage the Members to support it.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SESSIONS), a distinguished member of the Committee on Rules, who has an important measure in this legislation.

Mr. SESSIONS. Mr. Speaker, I wish to thank the gentleman from New York (Mr. CROWLEY), who introduced the bill; also the gentleman from Ohio (Mr. BACHUS), the subcommittee chairman; and the ranking member, the gentleman from Vermont (Mr. SANDERS). Although he has indicated he will not support the bill, he certainly acted in a very bipartisan manner in helping to craft the legislation.

This bill represents the best of the House where Democrats, Republicans, and Independents work together to craft a bill that addresses real problems. But besides good procedure, this bill is also good policy. It will provide permanency to our Nation's credit grantors to ensure the easy and available flow of capital to our constituents. It toughens up the law with respect to identity theft and ensures that health information is walled off and cannot be used in any credit-making decisions, ensuring the integrity of one's health privacy.

This bill is good policy for American consumers, and I am pleased to support it. I only wish that later on this evening I could also support a Medicare bill that was bipartisan as well.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. GILLMOR), a valuable member of the committee.

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

I want to commend both the chairman and the subcommittee chairman, as well as the ranking members, for the great job they did on this bill.

I rise in strong support of the conference report. Passage of this legislation is essential to maintaining our current national credit reporting system.

This legislation will establish the free flow of credit reporting information to lenders, financial services providers, while it also creates some strong new consumer protections.

It also includes a provision that I introduced, H.R. 2622, to improve the transparency of the credit scoring systems by mandating that if the number of credit inquiries on a consumers account negatively affect their score, it must be disclosed in their consumer report. This ensures a consumer and a prospective lender are fully informed and this important new requirement will allow conscientious consumers to shop around for the best loans and rates.

I urge my colleagues to support the report.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York (Mrs. MALONEY), who played an important role in crafting this bill.

Mrs. MALONEY. Mr. Speaker, I yield.
Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me time. I thank our ranking member and chair and my colleagues.

I rise in support of this legislation that permanently reauthorizes the Fair Credit Reporting Act (FCRA), which is extremely important to our economy and our national credit system. It also greatly enhances legal protections for identity theft victims, protects medical information, and provides groundbreaking new limits on the sharing of private consumer information among the affiliates of financial services companies.

My constituents need this legislation because New York City claims the sad distinction of having the largest number of identity theft victims, protects medical information among affiliates. These are important consumer protections given that some of today’s largest financial companies have more than 1,000 affiliates.

In addition to identity theft, this bill contains groundbreaking limits on how financial services companies can share the sensitive consumer financial information that is known to be the product of fraud, mandatory truncation of credit and debt card numbers to prevent theft.

In addition to identity theft, this bill contains groundbreaking limits on how financial services companies can share the sensitive consumer financial information among the affiliates of financial services companies.

My constituents need this legislation because New York City claims the sad distinction of having the largest number of identity theft cases of any city in the entire country. The FACT Act helps break the cycle of identity theft with new consumer protections including the right to a free annual credit report, new consumer-initiated fraud alert system, new protections that will prevent the recycling or repollution of consumer information that is known to be the product of fraud, mandatory truncation of credit and debt card numbers to prevent theft.

In addition to identity theft, this bill contains groundbreaking limits on how financial services companies can share the sensitive consumer financial information among the affiliates of financial services companies.

Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. HIJOYOSA), another active member of our committee. Mr. HIJOYOSA. Mr. Speaker, I rise in strong support of the conference report to accompany the Fair and Accurate Credit Transactions Act of 2003. And I congratulate the gentleman from Ohio (Mr. OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK), the subcommittee chairman, the gentleman from Alabama (Mr. BACHUS), and the ranking member, the gentleman from Vermont (Mr. SANDERS), and all the committee staff for the wonderful work they did in completing this report.

This conference report will strengthen the provisions of the Fair Credit Reporting Act. I am proud to have been an original co-sponsor of this legislation, to have supported it in committee, and to have voted in favor of it on the House floor.

Let me take this opportunity to thank the conferees for including in the financial literacy provision of the legislation language that will allow the Financial Literacy Commission the bill creates to “take any action to develop and promote financial literacy and educational materials in languages other than English. This will apply to the hot line, Web site, and educational materials the commission produces or recommends.

It is imperative that financial literacy materials be created and disseminated in languages other than English to recognize the diversity of our great Nation. I especially want to thank the ranking member, the gentleman from Massachusetts (Mr. FRANK), for his assistance with this language and Jaime Lizarraga of his staff.

Rest assured that the Congressional Hispanic Caucus and the Hispanic community appreciate your efforts and the language you inserted into the conference report.

Mr. Speaker, I rise in strong support of the conference report to accompany The Fair and Accurate Credit Transactions Act of 2003. I congratulate Chairman OXLEY and Ranking Member FRANK for their hard work together with the conferees. I think the gentlewoman from Illinois (Mrs. BIGGERT) said earlier that this is the most important piece of legislation to come out of this committee this year, and I agree.

I also want to pay special tribute to the gentlewoman from Oregon (Ms. HOOLEY). When we began working in the 100th Congress on identity theft, some people had not heard of it. Today, I think every Member has a horror story about identity theft. In my district it was Maureen Mitchell. She and her husband found out that they owned not one, but two, luxury SUVs in the period of a couple of hours in Chicago, Illinois, that they had not participated in or purchased.

I think the conferees have produced a good bill. They have not only produced a good bill; they have produced a bill that does not have a one-size-fits-all remedy. It gives the regulators flexibility to deal with the ever-evolving strategies that identify thieves come up with.

Lastly, I want to pay tribute to the gentleman from Alabama (Mr. BACHUS), the chairman of the subcommittee, because he sat through hours and hours of hearings to make sure that we got it right; and, lastly, the ranking member, the gentleman from Vermont (Mr. SANDERS), I think he had some excellent ideas on bait and switch. I hope we revisit that in the next Congress.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. HIJOYOSA), another active member of our committee. Mr. HIJOYOSA. Mr. Speaker, I rise in strong support of the conference report to accompany the Fair and Accurate Credit Transactions Act of 2003. And I congratulate the gentleman from Ohio (Mr. OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK), the subcommittee chairman, the gentleman from Alabama (Mr. BACHUS), and the ranking member, the gentleman from Vermont (Mr. SANDERS), and all the committee staff for the wonderful work they did in completing this report.

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It is imperative that financial literacy materials be created and disseminated in languages other than English to recognize the diversity of our great nation.

I especially want to thank Ranking Member FRANK for his assistance with this language and Jaime Lizarraga of his staff. Rest assured that the Congressional Hispanic Caucus and the Hispanic community appreciate your efforts and the language you inserted into the conference report.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Ohio (Mr. OXLEY) has 1½ minutes remaining. The gentleman from Massachusetts (Mr. FRANK) has 6 minutes remaining.
Mr. OXLEY. Mr. Speaker, does the gentleman have any further speakers?

Mr. FRANK of Massachusetts. Mr. Speaker, I have several.

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

I have the right to close, is that correct, Mr. Speaker?

The SPEAKER pro tempore. The gentleman is correct.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield ¼ minutes to the gentleman from Massachusetts (Mr. MARKEY), who has been so active on the privacy issue.

Mr. MARKEY. Mr. Speaker, I thank my friend, and I congratulate him for all the good things that are in this bill, all the credit report and the negative statement issues that are dealt with.

But there is one concern which I have which is consumers are, by this bill, going to see the California privacy law preempted, as they are going to see as well such States who want to mandate a stronger privacy protection for their constituents something that is part of the law.

My concern is that increasingly what we see with companies like Transunion and Equifax is that they are moving the records offshore. For example, Transunion, one of the three major credit reporting agencies’ spokesman said last month, 100 percent of our mail regarding customer disputes is going to India at some point. We expect to sign that contract by the end of the year.

Equifax has had a vendor in Jamaica for four years, where Jamaican workers handle data entry at the beginning of the re-investigation process for disputed reports.

Experian, the third of the three major credit reporting agencies, is considering whether to offshore some of its operations: “We definitely are evaluating every option on the table, and offshoring is one of them. I don’t want to be quoted as saying we’ll never do it.”

Privacy experts are concerned about offshoring of the Social Security numbers, addresses and other personal information contained in credit reports:

“Consumers should be worried. The infrastructure to protect just isn’t there in a lot of these places.” (Beth Givens, director, Privacy Rights Clearing House)

“the problem is not that they’re in India, the problem is that American laws are not going to be enforced in India.” (Chris Hoofnagle, Electronic Privacy Information Center)

“if you’re an international crime ring, and you want Social Security numbers for identity theft, you’re going to look at the weakest link, and that’s quite possibly these overseas companies.” (Beth Givens)

In October, a New York woman threatened to post UCSF patient files on the Internet, unless she was paid for the medical transcription services she had performed. In the email she sent to UCSF, the woman wrote: “Your patient records are out in the open to be exposed, so you better track that person and make him pay my dues or otherwise I will expose all the voice files and patient records on the Internet.”

That is the future that we are looking at with the credit reporting agencies. Consumers may be able to call up to get a free copy of their credit report, but the person on the other end of the line may be in Karachi or New Delhi, where U.S. privacy standards do not apply.

Indeed, this bill may provide Americans with the most expensive “free” credit report they’ll ever get. They’ll pay with their privacy.

That is why I think that we need to put the consumer back in control of their own information. We need an “opt-in” not a limited “opt-out”, and we need to ensure that American’s privacy does not get offshored at the same time that their jobs are getting offshored.

I urge the de-legislation of this bill allowing it to share information about the consumers for other purposes without any consumer right to say “No.” I am also concerned that even after a consumer has “opted out,” their decision to do so gets sunsetted after 5 years and they have to “opt out” again. If the consumer has said no, that should mean no illness and until the consumer says yes.

I also want to raise a concern about some statements I have seen in the press in the credit reporting agencies suggesting that if these companies are forced to provide consumers with free credit reports, they will accelerate their current efforts to transfer their databases and back office operations off-shore.

Transunion and Equifax, two out of the three major credit reporting agencies already are in the process of offshoring the processing of detailed credit files on 220 million U.S. consumers.

Earlier this month, a TransUnion spokesman said that “A hundred percent of our mail regarding customer disputes is going to go to India at some point. We expect to sign that contract by the end of the year.”

My hope is that as the years go by we will be able to return to this issue because the globalization of the information marketplace is going to make clear that Americans are going to want more protection as their information is going to be put in the hands of foreigners with no laws on the books or the ability to police them.

I rise to opposition to this legislation. I understand that some good things have been done in this bill, such as the provisions granting consumers free access to copies of their credit report, notice of negative statements being added to their credit reports, or adverse credit decisions being made based on their credit report. I support these provisions, and I also support stronger protections against identity theft.

Mr. Speaker, I want to begin by saying that if we on the Democratic side were in the majority, this would be a different bill. We are not, so we have the bill that we have here.

Given that, given that there are some differences, I must say that this is a better bill than I had hoped we would see. And I am very appreciative of my colleagues on the other side. They did not give in on any issues of principle that are important to them. We have an arm’s length of the aisle a strong commitment to making sure that the free-market system in this country can work.

These credit allocations have become a very important part of that free-market system. And this bill, I believe, preserves that system, the credit allocation system for individuals as well as need be.

We also, though, have, as we often do with the free market, a situation where the market does well what it is supposed to do, but it does not do everything. There are areas where we need to step in and help the market. What is important is for us to do that in ways that do not impinge on the market function.

I believe that working together we have come closer in doing that in this bill than I had thought. I would like if there had been fewer preemptions in the field, for instance, of identity theft; but the result of a meeting which we had this morning, I think we agreed to preserve the integrity of the identity theft provisions that we have in there, to make sure that they can function without interference and without distraction, but did not unduly preempt if the States want to be additive in other areas. So there is, in fact, room for States to do something as long as the scheme that has been set forward in this bill is not interfered with, detracted from, and in particular, companies are not subject to confusing or confusing multiple requirements.

We have done other things. People, as a result of this, will be able to get a lot more information. Until recently, credit it and credit scoring have been kind of mystical things to a lot of people. Consumers, home buyers, automobile buyers, others have found their lives affected financially by factors of which they were only dimly aware. As a result of several provisions in this bill, the market does well what it is supposed to do, but it does not do everything. There are areas where we need to step in and help the market. What is important is for us to do that in ways that do not impinge on the market function.

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be on your credit report, you are likely to see much less latency. We also took steps to improve the accuracy of the data.

The system on the whole works very well, but no system works perfectly. I think that system was a little bit flawed in that it did not adequately give people a chance to correct errors. We do a much better job of this. I would have liked there to have been a sunset on the preemptions.

I think this bill benefits from the fact that it was here today. Congress did this 7 years ago. There was a sunset. And as a result, we are here today doing what everybody agrees is improving the bill. I would have liked, and my colleague from Pennsylvania (Mr. Kanjorski) offered an amendment to give us a chance to do that again. We lost on the floor, and that is the way the votes went. But I do hope and I believe that we may very well from experience learn that more has to be done or things have to be done differently.

□ 1845

When this bill was passed in 1996, identity theft was not a big issue. The fact that it was sunsetted gave us a chance to deal with identity theft I think in a very effective way. This will not be the last time that the crooked people in this world will think of a way to swindle the great majority of the honest ones.

So I just want to make it clear that while we will not have this automatically I hope we are all committed, and I believe we are, that as new problems come up we will be able to deal with them.

Given the fact that the majority is the majority, I believe that we did a good job, not a perfect one, in adding consumer protections and safety factors to this general system of allowing the credit allocation to individuals to work, and for that reason, I would urge Members to vote for the bill.

Mr. OXLEY, Mr. Speaker, I yield myself the remaining time.

First of all, I want to thank the staff. I always tend to forget to do that, and we have been through a lot on this bill. This is a complicated piece of legislation that got more complicated as we took on this whole issue of identity theft, and throughout this process, the staff on both sides of the aisle have been just superb, working late nights and weekends to get us where we are today, and I want to personally thank them for their efforts. They know who they are, and I know who they are and we most appreciate it, and also to the Members, I think this is Mr. Sablan. I want to give a plug here for an important piece of the legislative process ought to work in terms of hearings, in terms of everybody having an opportunity to have their say, involving Members on both sides of the aisle, many of them newer. Members, freshmen Members, to really get their input on an important piece of legislation that we bring to the floor today and this conference report that will close it out.

This is truly a historic day, and I think in the real traditional way that we have started in the Committee on Financial Services of turning out good legislation in a bipartisan manner, and for that, I am very thankful to all concerned.

Mr. BEREUTER. Mr. Speaker, as a member of the Financial Services Committee and a conferee, this member rises today to express his strong support for the conference report of H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003 (FACT Act). This important legislation permanently extends those provisions in the Fair Credit Reporting Act (FCRA) which relate to the preemption of State laws—a very necessary step in this instance. The current provisions in the FCRA are set to expire on December 31, 2003. Thus when this conference report is enacted into law, it will continue the nationwide credit system while providing important consumer protections.

This member would like to thank the distinguished gentleman from Alabama, Mr. BACHUS, the chairman of the House Financial Services Subcommittee on Financial Institutions and Consumer Credit on which this member serves, for initiating the work on which this conference report is largely based. Furthermore, this member would like to thank both the distinguished gentleman from Ohio, Mr. OXLEY, the chairman of the House Financial Services Committee, and the distinguished gentleman from Massachusetts, Mr. FRANK, the ranking member of this committee, for their outstanding effort in bringing this excellent conference report to the House floor. As was suggested at the conclusion of the conference, this may be an instance where most of the conference from both the House and Senate believe the conference report is better than either original Chamber's product.

The FCRA is the Federal law which governs the furnishing of reports on the credit worthiness of consumers. This member supports this conference report which would permanently extend the FCRA for many reasons. However, he would like to focus on the following three reasons.

First, this conference report provides for a free credit report for consumers. Typically, credit reporting agencies charge consumers up to $9 for the disclosure of the information in their credit files. Under current law, a consumer may receive a free consumer report from a reporting agency only under certain circumstances, such as when a consumer receives a notice of an adverse action by a reporting agency. The FACT Act would provide a free credit report annually for consumers for any reason. This member believes that this provision will promote consumer awareness of a person's credit as well as provide an opportunity for the consumer to correct any inaccurate information on one's credit report.

Second, this conference report provides important provisions to curb identity theft. To illustrate the need for these provisions, the Federal Trade Commission (FTC) released a survey at the beginning of September of this year which showed that a staggering 27.3 million Americans had been victims of identity theft in the last 5 years, including 9.9 million people in the last year alone. This conference report is designed to help prevent consumers from placing "fraud alerts" in their credit reports to prevent identity thieves from opening accounts in their names.

Lastly, this conference report continues the Federal preemption of State laws as it relates to the corporate affiliate sharing of financial information. During the consideration of the 1996 amendments to the FCRA, this member authored a provision, which was signed into law, allowing corporate affiliates to share financial information when nontransactional information is shared among corporate affiliates. Examples of nontransactional information include data from a consumer credit report and information on an application such as a consumer's income or assets. This provision holds no more importance as it was the first consumer "opt out" on the sharing of financial information that this member is aware of that was signed into Federal Law.

Mr. Speaker, in conclusion, for the reasons stated above and many others, this member encourages his colleagues to support the conference report of H.R. 2622.

Mr. CANTOR. Mr. Speaker, I rise today on behalf of the Fair and Accurate Credit Trans- action Act of H.R. 2622. This bill is a piece of legislation that will aid in the prevention of identity theft. Additionally, it will guarantee that consumers have access to affordable credit.

I do have one concern, and I would like to clarify congressional intent in regard to this legislation. It is vital we ensure consumers that the information reported about them to credit bureaus is accurate. When errors occur, they must be corrected. The overwhelming majority of disputes are properly handled through existing procedures as defined in section 811 of the Fair Credit Reporting Act. Nevertheless, a very small percentage of unusual disputes are not completely resolved through the reinvestigation process. Section 312 of the conference report for the bill provides a means by which some of these cases could be submitted directly to the furnisher for possible resolution.

I recognize that there are potential risks in the adoption of this section. For example, I am very concerned that any mechanism designed to address these few cases might burden some. If it becomes burdensome, furnishers may become discouraged from reporting complete and accurate information in the first instance. Additionally, this could lead to misuse by credit repair clinics to overwhelm furnishers in an attempt to cause them to change accurate information.

The conference report for H.R. 2622 has charged the relevant agencies with issuing rules only after they have determined the benefits of a direct resolution process. Congress has provided the agencies with four criteria to review in connection with any rulemaking pertaining to the direct reinvestigation of consumer disputes with furnishers. This criteria must be satisfied before any rules are to be issued.

I believe it is a positive piece of legislation that will give consumers the tools to fight identity theft and continue to access affordable credit.

Mr. Speaker, I urge passage of this legisla- tion.

The SPEAKER pro tempore (Mr. THORNBERY). The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and agree to the conference report on the bill, H.R. 2622.

The question was taken.

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

Mr. SANDERS. Mr. Speaker, on that demand the yeas and nays.

The yeas and nays were ordered.

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

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested: S. 1741. An act to provide for the National Women’s History Museum in the District of Columbia.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2115) “An Act to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.”

VITIATION OF MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

The SPEAKER pro tempore. Under clause 8 of rule XX, the filing of the conference report on H.R. 1 has vitiated the motion to instruct conferees offered by the gentleman from Washington (Mr. INSLEE) which was debated yesterday and on which further proceedings were postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, and the Chair’s prior announcement, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

- Previous question on H. Res. 459, by the yeas and nays; H. Res. 459, if ordered;
- Previous question on H. Res. 458, by the yeas and nays; H. Res. 458, if ordered;

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on H. Res. 459, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 225, nays 202, not voting 7, as follows:

[Roll No. 659]

YEAS—225

Aderhold
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
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NAYS—202

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Andrews
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Baldwin
Baldwin
Baldwin

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Cardin
Cardozar
Carroll (IN)
Carlson (OK)
Case
Clay
Clyburn
Conyers
Costello
Cramer
Crowley
Cummings
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Doggett
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Committee on Appropriations. Ms. Slaughter, Mr. Speaker, on that demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 228, nays 200, not voting 7, as follows:

[Roll No. 659]
ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore (Mr. Thornberry). The pending business is the vote on ordering the previous question on H. Res. 458, on which the year and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yes 225, nays 202, not voting 7, as follows:

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

The SPEAKER pro tempore (Mr. Thornberry). The pending business is the vote on ordering the previous question on H. Res. 458, on which the year and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yes 225, nays 202, not voting 7, as follows:
The SPEAKER pro tempore. The question is on the resolution.

So the resolution was agreed to. The result of the vote was announced as above recorded. A motion to reconsider was laid on the table.
There was no objection. The Clerk read the Senate bill, as follows:

S. 1768

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 “National Flood Insurance Program Reauthorization Act of 2004”:

SEC. 2. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM AUTHORITY.

(a) Extension.—The National Flood Insurance Act of 1968 is amended as follows:


(2) in section 1319 (42 U.S.C. 4026), by striking “after” and all that follows through the end and inserting “after December 31, 2004”;

(3) in section 1386(a) (42 U.S.C. 4026(a)), by striking “ending” and all that follows through “in”, and inserting “ending December 31, 2004, in”;

(4) in section 1376(c) (42 U.S.C. 4127), by striking “December 31, 2003” and inserting “December 31, 2004”;

(b) EFFECTIVE DATE.—The amendments made by this section shall be considered to have taken effect on December 31, 2003.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. OXLEY.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Flood Insurance Program Reauthorization Act of 2004”:

SEC. 2. EXTENSION OF PROGRAM.

(a) Extension.—The National Flood Insurance Act of 1968 is amended as follows:

(1) Authority for Contracts.—In section 1319 (42 U.S.C. 4026), by striking “December 31, 2003” and inserting “March 31, 2004”;

(2) Borrowing Authority.—In the first sentence of section 1308(a)(2) (42 U.S.C. 4026(a)(2)), by striking “December 31, 2003” and inserting “the date specified in section 1319”;

(3) Emergency Implementation.—In section 1336(a) (42 U.S.C. 4056(a)), by striking “December 31, 2003” and inserting “the date specified in section 1319”;

(4) Authorization of Appropriations for Studies.—In section 1376(c) (42 U.S.C. 4127(c)), by striking “December 31, 2003” and inserting “the date specified in section 1319”;

(b) Effective Date.—The amendments made by this section shall be considered to have taken effect on December 31, 2003.

Mr. OXLEY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

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

There was no objection. The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.
MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.J. RES. 79, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider House joint Resolution 79 in the House; the joint resolution shall be considered as read for amendment; the previous question shall be as ordered on the joint resolution to final passage without intervening motion except: one, 20 minutes of debate on the joint resolution, equally divided and controlled by the chairman and ranking member of the Committee on Appropriations; and, two, one motion to recommit.

The SPEAKER pro tempore (Mr. Shimkus) stated that there was no objection.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.J. Res. 79, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

Mr. YOUNG of Florida. Mr. Speaker, pursuant to the order of the House just adopted, I call up the joint resolution (H.J. Res. 79) making further continuing appropriations for the fiscal year 2004, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of House joint Resolution 79 is as follows:

H.J. RES. 79

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that Public Law 108–84 is amended by striking the date specified in section 107(c) and inserting “January 31, 2004.”

Sec. 2. Section 834 (b) of the Department of Defense Appropriations Act, 2003 (Public Law 107–248), as amended by Public Law 108–84, is further amended by striking “November 21, 2002” and inserting “January 31, 2004.”

The SPEAKER pro tempore. Pursuant to the order of the House today, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

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

Mr. Speaker, yesterday the House passed H.J. Res. 78, the fifth continuing resolution for fiscal year 2004, which extends the date of the current CR through Sunday, November 23. The Senate has chosen to amend this CR so that it will be in effect until Monday, November 24.

We have, in turn, decided with the Senate leadership just to introduce a clean CR, H.J. Res. 79, that we are now considering. That would extend the date of the CR to January 31, 2004. I think that is not what this means. It is not our intention with this CR to allow it to run through January 31, but it will allow us great flexibility in scheduling the completion of our work on the final appropriations bills and at the same time ensure that there will not be any disruption in government operations. And I would like to point out, Mr. Speaker, that the Committee on Appropriations has done its job and did so quite a long time ago, but because of the issues that are keeping us from completing work on the actual bills have nothing to do with appropriations. But, nevertheless, they are there, and we do have to deal with them, and we are dealing with them as best we can.

We are proceeding with our work on the remaining appropriations bills. And as my colleagues know, there are two conference reports that have been ready for some time to file, the controversial conference report on Transportation and Treasury and the conference report on Foreign Operations. However, as we proceed, we will finish the remaining bills as quickly as we can, and it will be leadership's decision on when the bills will be filed and when we will vote on it. We are proceeding with our work as diligently as we can.

Mr. Speaker, I believe this CR is non-controversial, and I urge the House to move the legislation to the Senate since the current CR does expire today. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, as this joint resolution demonstrates, we are in another year that simply refuses to end. Last year we did not see this Congress finish the work that was supposed to be done by October 1 until well into the winter of the next calendar year. At that time the House claimed that its inability to get the work done on the fact that there was a majority of the other party in the other body.

This year they do not have Tom Daschle in the Senate anymore. This year the Republicans control it all. They control the White House. They control the Senate. They control the schedule. They control what gets to the floor. The Appropriations Committee's budget is held open. They control everything. And yet we are in a situation where tonight, long after the fiscal year is supposed to be over, we still have not seen the budgets passed for VA–HUD, for the State Department, for the Justice Department, for the Commerce Department. We have yet to see the foreign aid budget pass. We have yet to see the budget for the Labor, Health and Human Services, with all the human service agencies pass and the agriculture budget. I think we ought to ask why.

I do not believe that we are in this box because of any failure of the Committee on Appropriations leadership. I think, in fact, contrary to what the Republican House leadership is insisting on having every decision made in a top-down style. That means that the only real decisions that count except on minor matters are those made in the office of the Speaker or in the office of the majority leader.

No conferences are appointed unless they agree with the leadership's position on major issues. And yet even after rigging those conferences, even after stacking those conferences, when they still cannot get the votes they need to win in those stacked conferences, they simply adjourn those conferences and then put legislation together in some off-corner office without any meaningful participation by anybody except perhaps some unelected members of the leadership's staff. So much for the legislative process in what used to be regarded as the greatest deliberative body in the world.

This process is about as respectful of rank and file Members as an AARP board meeting is respectful of the senior citizens they supposedly represent. On the same night that legislation is going to be considered that will bankrupt Medicare, we see the ultimate degradation of the legislative process at the same time as it is demonstrated in the Appropriations process.

It is not often, Mr. Speaker, that one can do in senior citizens and the democratic process on the same night, but the House leadership should be congratulated because they have managed to find a way.

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

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 2 minutes.

I just would like to point out, and I have done this so many times that it does not hurt to be repeated. They House completed its work during the summer, ahead of the end of the fiscal year. And I appreciate the cooperation we had with both parties as we proceeded with our appropriations bills. I am not here to blame anybody, and I certainly would not blame anybody but circumstances.

The Committee on Appropriations, as the gentleman from Wisconsin (Mr. OBEY) pointed out, we had to do all of last year's work this year in January. We were given the votes for three supplemants plus we did the 13 regular bills. This Committee on Appropriations has done its work. It has done its work well, and it has done its work...
on time, as the gentleman from Wisconsin (Mr. O'Leary) has conceded. There are other problems.

One of the problems, and I do not know that anybody is going to like to hear this especially on my side of the aisle, but one of the problems is the tremendous desire to solve legislative problems that the authorizing committees either cannot or will not solve. They are put onto appropriations bills, and they ask us to solve them because appropriations bills have to pass, Mr. Speaker. This is why the only bills that matter are the ones that have to pass. So we become a magnet for all of those issues that authorizes cannot solve, and we try to do the best we can. I think we are on the verge of having completed this job for this year.

I do not think it does any good to blame anybody. I think it is important to say that the chairman of the Appropriations Committee in the Senate is an outstanding leader, a strong, dynamic leader, who is very knowledgeable and understands the process totally. He understands the issues as well as anybody that I know. But he has a very difficult situation in the Senate, and he has done the best job that he could.

Anyway, Mr. Speaker, we are closing in on this. We are really prepared. We have been prepared for 3 weeks to file the Transportation and Treasury appropriations bill. We have been prepared for a week to file the conference report on the Foreign Operations appropriations bill. And they can be completed in a very short period of time. The other remaining issue would be the omnibus bill that includes five appropriations bills that have not been completed in conference. And we are very close to having that completed. We are very close to being able to file that bill and vote on it. As a matter of fact, we had hoped that we would file it tonight. A lot of changes happened during the day. And every time we make a change, it takes a little extra time. So we probably will not file that bill tonight unless the House remains in session very late.

Anyway, I would agree that the process has not worked the best, but I would also say that I compliment the Members of House and especially the staff that worked so diligently with us. We did our job, we have done our job, and we are attempting to pursue the completion of the whole process.

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

Mr. O'LEARY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, as the gentleman from Florida has indicated, the Commerce Justice bill could very easily have been brought back to this floor separately and passed separately. The Transportation bill could very easily have been brought back to the floor and passed separately. The Agriculture bill and the VA-HUD bill the same.

The problem is, as the gentleman indicated, that there are many other issues that are being drug into the appropriations process. And we also see the situation complicated by the fact that the House Republican leadership, despite votes to the contrary on a number of issues, is insisting on seeing an outcome on a number of these issues which is at variance with the expressed wishes of the Members of the House. And I think therein lies the reason for the delay and delay and delay.

I think the problem that we have, Mr. Speaker, the gentleman from Florida, my good friend, indicated that the committee product is serving as a magnet for other authorizations. I think a better metaphor would be that it is looking more and more like a garbage truck. And the problem we have is that this bill has not been allowed to proceed because I think the House leadership is still trying to determine what bags of garbage have to be tossed down to the truck before it is driven through here in the dead of night.

So that is the choice that we face, Mr. Speaker. It is not a pretty sight, and the outcome is not going to be very good. But there is not much we in the minority can do to affect either the scheduling or to affect how much garbage is tossed on the truck before it is run through the Capitol. I just hope the smell is not too bad before it is over.

Mr. Speaker, I urge a “yes” vote on the resolution.

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

Mr. YOUNG of Florida. Mr. Speaker, I ask for a “yes” vote, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Shimkus). All time for debate as expired.

The joint resolution is considered read for amendment.

Pursuant to the order of the House of today, the previous question is ordered. The question is on engrossment and third reading of the joint resolution. The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

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

Mr. O'LEARY. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF JOINT RESOLUTION APPOINTING DAY FOR CONVENING OF SECOND SESSION OF 108TH CONGRESS

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108-399) on the resolution (H. Res. 464) providing for consideration of a joint resolution appointing the day for the convening of the second session of the One Hundred Eighth Congress, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108-399) on the resolution (H. Res. 465) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Shimkus) at 8 o'clock and 50 minutes p.m.

COMMUNICATION FROM HON. NANCY PELOSI, DEMOCRATIC LEADER

The Speaker pro tempore laid before the House the following communication from Nancy Pelosi, Democratic Leader:

U.S. HOUSE OF REPRESENTATIVES
OFFICE OF THE DEMOCRATIC LEADER

Hon. J. Dennis Hastert, Speaker of the House, House of Representatives, Washington, DC.


Best regards,

Nancy Pelosi.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

The Speaker pro tempore. The pending business is the vote on passage
of the joint resolution, H.J. Res. 79, on which the yeas and nays are ordered.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The vote was taken by electronic device, and there were—yeas 407, nays 16, not voting 11, as follows:

[Roll No. 664]

YEAS—407

Abercrombie
Aberdeen
Akin
Aderholt
Abercrombie
Allen
Andrews
Baca
Bachus
Baird
Baker
Balint
Ballance
Ballenger
Bartlett
Barrett
Bass
Beauprez
Belue
Bereuter
Berkley
Berman
Berk
Biggert
Billings
Bishop
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blank
Blumenauer
Blunt
Boehlert
Boehner
Bono
Bosman
Bowes
Bower
Boyd
Bradley (NH)
Bradley (PA)
Brady (TX)
Brown
Brown (OH)
Brown (GA)
Brown
Brown-Waite
Burgess
Burns
Burton (IN)
Burton
Buyer
Boehlert
Camp
Cannon
Cantor
Capitol
Capito
Capps
Cardoza
Carson (IN)
Carson (OK)
Carson
Castle
Chabot
Chokwe
Clyburn
Clinton
Collins
Cooper
Cox
Cramer
Cooper
Cranes
Crowley
Cubin
Culberson
Cummings

Menendez
Mica
Millender
McGovern
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Moran
Moran
Murtha
Myrick
Nader
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Ose
Osaka
Otter
Owens
Oxley
Oxley
Pascrell
Pastor
Payne
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pratt
Price (TX)
Price

Putnam
Quinn
Rahall
Rand
Rangel
Regula
Rogers
Rogers
Rogers
Rogers
Rogers
Roybal-Alard
Royce
Rush
Ryan (OH)
Ryan (WI)
Ryan (KS)
Sabo
Sanchez, Linda
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schlock
Schrock
Scott (CA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shelby
Shays
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WV)
Smith (KY)

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Spratt
Stearns
Stenholm
Streator
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson
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Thompson
Thornton
Tiahrt
Tiberi
Toomey
Turner
Turner (NY)
Turner (TX)

Udall (CO)
Udall (NM)
Upton
Van Hollen
Velasquez
Vilà
Vitter
Walsh
Waters
Watson
Waxman
Weinberg
Weldon (FL)
Weldon (PA)

Whitefield
Wicker
Williams (NM)
Williams (NC)
Wilson (SC)
Woolsey
Wynn
Young (AK)
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Young (PA)

Yetter
Yarmuth
Young
Zeny

NOT VOTING—11

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Costello
DeMint
Fletcher

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Goosey
Goodlatte
Gordon
Gonzalez
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Goode
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produce the most sweeping Medicare bill in generations.

Since 1965, Medicare has provided a guarantee of health care coverage for most all Americans. Stability, longevity, and integrity have been the hallmarks of this program, offering our seniors the promise of a secure retirement. But a lot has changed since 1965. Our investment in research and medicine has yielded us advanced medications, therapies, and technology that have pavers for our seniors to live longer, healthier lives. Unfortunately, Medicare has not changed with these medical advancements. The most obvious shortcoming is the lack of prescription drug coverage, the best tool medicine has to offer.

Before us today is an opportunity to pass landmark legislation that addresses these shortcomings and finally propels the program of Medicare into the 21st century, most notably by covering these prescription drugs. If we do not act today, the future of our seniors will be in doubt, with their happy and healthy lives uncertain. And if we do not act today, the fate of Medicare will be certain: bankruptcy.

So today we will accomplish two long overdue goals. First, we will strengthen Medicare to save it for future seniors; and, second, we will enhance the program by providing much-needed prescription drug coverage. Medicare has become this 1965 health care program into the 21st century. And to those who are telling us to slow down, I say seniors have waited too long. This House has passed a Medicare prescription drug plan three times since Republicans have controlled Congress, each time only to be scuttled. Today we will finally end the denial of benefits to our seniors and end the delay.

Folks in my district tell me that they cannot go another year without the help of Medicare prescription drug coverage. They want us to speed up the process. They tell me that when you are sick and you are elderly, Medicare is not just health care; it is peace of mind. Well, we listened and we acted, producing this historic package.

Our seniors are not the only ones who have spoken out in support of this plan. Let me tell you, some very knowledgeable folks on the front lines of health care delivery, people who understand the needs of our seniors and the problems with Medicare, have made their support for this bill very clear. Allow me to name just a few: the American Association of Retired Persons, the AARP, the largest senior group in the Nation representing 35 million seniors, card-carrying, dues-paying, voting seniors; the American Medical Association; the American Society of Anesthesiologists; American Physical Therapy Association; pathologists; nurse practitioners. The list goes on and on. It includes hundreds and hundreds of supporters. They back this plan because they know how important and long overdue it is, plain and simple.

There are many reasons to vote for this package, but I want to call attention to a few that are significant. First of all, this prescription drug plan is voluntary, universal, and guaranteed. Period. If you qualify for Medicare, you qualify for this benefit. If you want it, you can have it. If you do not, you do not have to take it. With this benefit, 40 million seniors will begin receiving significant savings on their medications.

To begin with, we offer immediate savings with the prescription drug discount card that will offer up to 25 percent in savings early next year. This drug discount card is a tremendous first step while the larger benefit is implemented. After the drug is fully phased in in 2006 it will work like this: After a $250 deductible, Medicare will pay 75 percent of seniors’ drug cost up to $2,250 a year. Medicare will then provide catastrophic protection, giving seniors 95 percent coverage for out-of-pocket drug costs that is beyond $3,600. On average this reduces seniors’ cost of medication by 50 percent.

This package also switches the focus of health care from reactive disease treatment to proactive disease prevention. The old saying “an ounce of prevention is worth a pound of cure” could not be more appropriate in this instance. Gone are the days of waiting until the symptoms are so obvious and the disease is so advanced that the only options are expensive hospital stays and, therefore, are not covered by Medicare. Twenty-first century medicine can prevent, preempt, and predict illnesses through advanced screenings and innovative tests. In many cases taking a pill is all that it takes to prevent a chronic disease from becoming a life-threatening illness. Medicare will cover the preventative medications that keep our seniors out of the hospitals and off of the operating tables. 

And with this revolutionary shift in focus, seniors will have the security of knowing that before the $6,000 surgery even begins necessary. That is not only real savings for the American taxpayer, but it is a real life savings for our seniors.

This landmark bill improves health care for our seniors, especially those who need it most, through significantly increased assistance for so-called “disproportionate share hospitals.” Such hospitals, as the term implies, care for disproportionate share of low-income patients, and the last thing they need is funding cuts. Under this plan the hospitals will see a significant increase and allow them to care for these low-income families and seniors.

In addition to its strong commitment to our lower-income seniors in general, the plan is particularly good news for women. Since women make up a major-
content with the current coverage, they can choose from other plans to save on their medications and preventative care. This is a win-win solution, a commonsense approach. So today the vote is simple. It is either "yes" in favor of millions of seniors who plead for us to pass this bill, or it is another "no," another "no" in favor of politics, another "no" in favor of partisanship, another "no" with an eye toward the upcoming election. In short, another "no" against American senior citizens and against the future viability of the Medicare system upon which they rely. Members can choose to listen to the seniors who are asking them to put partisanship, politics and election strategy aside, or they can oppose this bill.

But to those of my colleagues who plan to vote "no," I would ask: How is this package not an improvement for our seniors who have no coverage and are struggling to pay for their medications? Why would they rather give our seniors nothing at all than give them this plan that will help them? How will they explain that to future generations, their children, their grandchildren why they did not support a Medicare up to speed with their generation and their needs?

I remember the opponents of the tremendously successful welfare reform of 1996. They predicted doomsday scenarios, millions of women and children out on the streets starving. The reality is that 7 years later, the welfare rolls have dropped from 14 million to 5 million. The reality is that welfare reform made the American Dream possible for millions of Americans who were previously trapped in generational cycles of poverty and helplessness.

These same naysayers are making the same claims about this Medicare plan today. I say to my friends, their shouts, their cries, their failed predictions were myths in 1996 and they have been far better spent on the prevention of poverty and helplessness.

Mr. Speaker, I want to repeat something I said earlier today when I heard the long list of people who support this bill. We have to ask ourselves do they know what in the world is in it? Because we certainly do not. Seniors are drowning from the high cost of prescription drugs and the Republicans are telling them to swim towards an HMO. To paraphrase the old saying, "Congress giveth and Congress taketh away," but Congress does not force Congress to pass this plan. Congress takes away any hope for meaningful prescription drug coverage. It takes away the existing employer-provided benefits and low-income protections from retirees, and it takes away Medicare as we know it. It lures seniors with the promise of generosity and then gives them a pittance. But when this bill does give, it is wonderfully generous.

The Medicare Prescription Drug and Modernization Act is a boon for the pharmaceutical industry good for the insurance companies but does absolutely nothing to control the skyrocketing prices of prescription drugs. In fact, the bill fortifies the government from doing anything about it.

Drug prices have dropped dramatically in the last 20 years, increasing 26 percent since 1980. For years seniors have called our Congress to do something about these crushing drug prices, but this plan does nothing to free or reduce the out-of-control prices of medications. What it does do, as I said, is prevent the government from using its market power to bring the prices down. The Veterans Administration has had great success in reducing drug prices by bargaining with the drug companies. Why would we purposely tie our own hands? Our health system is crumbling under the burden of the prescription drug costs. Tossing billions of dollars at insurance companies to get them to do what they should do and 70 billion to corporations to get them to do what they should do and a boon to pharmaceutical companies by not allowing reimportation to please them is not going to buttress this health care system. That money would have been far better spent on the prescription drug program. But saddling the elderly with even greater drug costs and our children with even greater deficits is no way to solve a public health crisis.

A few years ago, I organized a busload of seniors to travel to Canada to purchase medicine at a fraction of the prices charged in the American market. We had dozens more people interested in the trip than we could accommodate, and the savings were everywhere from $100 to $650 on a 3-month supply of medication.

Would it not be wonderful if the seniors could save that much at their local drug store? Unfortunately, this bill does not let them go to Canada any more. Despite having passed the House twice, money-saving drug reimportation would be banned. The out-of-pocket costs for prescription drugs would continue to consume more and more of the seniors’ fixed income.

Almost 40 years ago, Mr. Speaker, Congress created the Medicare program and promised to help seniors with their health care costs. Private insurers did not want to offer the health insurance to older people any more than they do now. The premiums were raised to unaffordable levels, and seniors were dropped from health coverage altogether. Congress did not use the seniors as a threat to the bottom line. So the Federal Government stepped in and filled the void in the marketplace.

And now we face a similar situation. If insurers thought they could make a dollar or two by offering prescription drug coverage to seniors, the plans would have already been in the marketplace. The bill creates a new benefits program unwisely relying on insurance products that do not exist. The insurers are hoping that a $12 billion slush fund will entice the private insurers to develop prescription drug insurance. But the lucrative pharmaceutical industry with about a 30 percent profit yearly is the big winner in this game. A blank check is being written for the big drug industry and in the first 8 years of this program, the companies stand to make a windfall of $139 billion over and above their current profits of 30 percent annually. The medical centers do not get a penny, the seniors do not get the drugs, and the stock prices of the major companies went up just over the news that this bill is nearing completion.

The proponents of privatizing Medicare also win. The scheme takes the first giant step to privatize Medicare. In six metropolitan areas, Medicare’s guaranteed coverage would be replaced with what is essentially a voucher program to purchase private insurance with public money if they can find it. The Members who want to lose those guaranteed benefits. The Members who want to lose those guaranteed benefits. The AARP is waving around as if it is the support of every American senior. The support is waved around as if it is the support of every American senior. The AARP is waving around as if it is the support of every American.

Mr. Speaker, the pharmaceutical companies, the HMOs and the insurance industry had far more access to the negotiations than the Democrats did, as the Members have heard that story before, and I will not belabor it. But I do want to say something about the AARP. President William Novelli’s endorsement of this plan is no surprise. The support is waved around as if it is the seal of approval of every American senior. But 210 national, State, and local organizations oppose the plan, and seniors from coast to coast rip the plan and the AARP cards. Interestingly, Mr. Novelli is the founder of the firm Porter Novelli, the group behind the television ads that brought down
the efforts to reform health care in the 1990's. Do any of the Members remember "Harry and Louise?" Is Mr. Novelli hostile to meaningful health care reform, or can he just be paid to do anything, because $20 million in this bill goes to AARP?

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This is not the first time that Congress has messed with Medicare. Congress passed the Medicare Catastrophic Coverage Act of 1988 without even providing the Members sufficient opportunity to read its pages, much like tonight, and the fine print. The result was a momentous backlash. American seniors were outraged with the legislation, so outraged that Congress was forced to repeal the law the very next year.

Congress later created a Medicare+Choice program, which was also a failure. Within a few short years after its conception, private insurers dropped Medicare+Choice beneficiaries by the thousands, leaving them with no health benefits at all. My constituents are asking, does this face them again? I hope we remember our history and not make the same mistakes and vote against this bill.

But the prescription drug proposal before us is a placebo, not a cure. It fails seniors, the out-of-control cost of prescription drugs will remain unchecked, and some will argue that this scheme is better than nothing. But believe me, a bad bill is worse than no bill. Medicare must be preserved. To dismantle this historic program is to break the sacred promise that Congress made to seniors.

Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise against this sham Republican prescription drug bill that will harm, not help, elderly women.

Mr. Speaker, I rise today to express my profound disappointment at the Medicare Conference Report and this squandered opportunity to help seniors afford the increasing cost of prescription drugs.

I want to make one thing abundantly clear to everyone here today: This debate is not about prescription drugs. Instead, the majority has taken a failed, checked account plan that will undermine the future of Medicare.

Seniors may think this final bill will help them with some of their prescription drug costs. While it will save some seniors a small amount of money after they pay an unspecified premium, they will give them little more than a false sense of security.

Seniors will read the newspaper headlines and believe that we have passed a drug benefit that will alleviate all of their financial hardships. They'll mistakenly think that they no longer have to choose between paying for groceries and paying for their prescriptions.

But imagine their surprise when they read the fine print. Our seniors need immediate help. Many will be shocked to learn that this bill won't give them a prescription drug benefit until 2006. If this is such a great plan, why must seniors wait 3 more years to reap its supposed benefits?

They'll find that their out of pocket costs are still enormous. Imagine their outrage, as they dutifully write a check to pay their monthly premium, even though they aren't receiving any drug coverage, because they have fallen into the "donut hole" coverage gap.

Seniors who currently enjoy quality prescription drug coverage many think this doesn't impact them, but that would be a rude shock. As many as 2 million will watch their prescription drug benefit provided by their former employer vanish into thin air.

Others will find their previously generous benefit slashed to the bare bones level of Medicare, complete with high deductibles, premiums, and a "donut hole" coverage gap. That's because employers will be eligible for subsidies if they provide any type of coverage—even if it's less than what they promised their employees.

But this bill is so far more than prescription drugs. This is the biggest bait and switch operation I've seen in quite some time. The majority is saving one thing and doing quite another. They'll talk all they want about providing prescription drugs. But their actions will ruin the Medicare program that for decades has so effectively provided seniors with access to health care.

You won't hear them talking about their large subsidies to private health plans. They won't talk about the voucher scheme that will begin in 2010. They'll employ the euphemism "demonstration project", instead of speaking honestly to seniors about their real goal: privatization.

They won't talk about the catastrophic impact this legislation will have on the poorest of the poor. By imposing an assets test on poor seniors who need additional help, this legislation could force a widow living on her social security benefit to choose between selling her wedding ring and qualifying for an additional subsidy. She could be disqualified from receiving the help she needs because she has purchased a "demonstration" plot next to her husband's grave. This is tragic—and you won't hear about it from the majority.

They also won't talk about the ways in which they are helping their friends in the pharmaceutical industry. By continuing a longstanding restriction on the reimportation of prescription drugs, and by prohibiting Medicare from negotiating lower prescription drug prices, the majority is assuring that seniors will continue to pay astronomically high prices for the medicines they need.

Our seniors deserve an honest and complete explanation of what this bill will do to Medicare. Seniors deserve a prescription drug bill that is actually about prescription drugs. Our seniors need a comprehensive benefit, not a false sense of security. I urge my colleagues to join me in opposing this bait and switch prescription drug proposal.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from New York (Ms. VELAZQUEZ).

(Ms. VELAZQUEZ asked and was given permission to revise and extend her remarks.)

Ms. VELAZQUEZ. Mr. Speaker, I rise against this sham Republican prescription drug bill that will increase costs, reduce coverage, and dismantle Medicare as we know it.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent to the gentlewoman from Wisconsin (Ms. BALDWIN).

(Ms. BALDWIN asked and was given permission to revise and extend her remarks.)

Ms. BALDWIN. Mr. Speaker, I rise in opposition to this conference report which will dismantle Medicare as we know it, harming millions of women who depend on that program.

Mr. Speaker, I urge my colleagues to vote against this sham of a bill. It does not provide the real, guaranteed, affordable drug benefit that our seniors desperately need. Worse yet, this bill sets the stage for dismantling the entire Medicare program.

I think that all of my colleagues would agree with me when I say that one of the issues we hear most about is the need for affordable prescription drugs. Whether I am at the grocery store, at the airport baggage claim, or in meetings all across my district in Wisconsin, the one thing that I hear over and over is that seniors cannot afford to pay for their prescription drugs.

The bill on the floor today does not contain the prescription drug benefit that seniors deserve. Instead of providing an affordable prescription drug benefit, this bill creates an incomplete and expensive benefit—a benefit with a hole, where seniors will be paying premiums and receiving no benefit.

Aside from the meager benefit, there is nothing in this bill that addresses the ever-rising cost of prescription drugs. Instead of including measures to ensure that prescription drugs are affordable, this bill actually prohibits the federal government from negotiating lower drug prices for Medicare beneficiaries. Instead of helping seniors obtain affordable prescription drugs, this bill provides partial coverage of drug spending until total costs reach $2,250 and then leaves seniors high and dry. There is a huge gap in coverage where seniors must pay 100 percent out of pocket continuing to pay premiums, until they reach a high out-of-pocket cap. Millions of seniors will fall into this gaping hole. I believe seniors deserve affordable drug coverage, and this bill fails to achieve that goal.

Further, this bill takes us down the dangerous road of privatizing Medicare. It is my strong belief that privatization of Medicare is unwarranted. Our Nation's seniors and persons with disabilities have counted on Medicare since it was first enacted in 1965. It has provided health care insurance to the oldest, sickest, and frailest in our society and done so in a cost-efficient manner. Why then, would we seek to dismantle such a successful program? This bill relies on private insurers to provide a prescription drug benefit. Seniors would have to join HMOs and private insurance plans to get the benefit, meaning that premiums and benefits would vary across the country and seniors would not be able to choose their own doctor or pharmacy. In addition, this bill includes a provision that authorizes a massive "demonstration" project that affects Medicare. Starting in the year 2010, this "demonstration" project forces Medicare to compete with private plans. This competition is wholly unfair.
and on an unlevel playing field. Seniors will be
given a voucher to purchase health care insur-
ance, either from Medicare or from private in-
surers. We know from past experience what
will happen: the youngest and healthiest sen-
iors will go to private insurers, leaving the
sickest and frailest seniors in Medicare. This
will allow private insurance companies to
and will give Republican legislators ammuni-
tion for dismantling this program. Make no
mistake about it; this massive “demonstration”
project will be the beginning of the end of
Medicare.

To drive the point home, we will vote on the most dramatic
changes in the Medicare program since its incep-
tion. This bill does include unprecedented
benefits—unfortunately the benefits will go predominantly to the politically-connected
pharmaceutical and insurance industries, rath-
er than to America’s seniors who need relief.

It saddens me that the legislation we vote on
today will not provide seniors with what they
need most: comprehensive prescription drug
coverage and affordable prices. Seniors need
a comprehensive prescription drug benefit that is affordable for all, without gaps or gimmicks in coverage. The con-
ference agreement before us fails on all these
counts, and I urge my colleagues to vote
against it.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent to the
gentlewoman from Texas (Ms. JACKSON-LEE).

(Me. JACKSON-LEE of Texas asked and
was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise against this misdirected
Medicare proposal that will increase out-of-pocket expenses for the poorest
and sickest women.

Mr. Speaker, this is about as ugly as it gets. Just when I thought the Republican Leader-
ship could not work any harder to undermine
the Democratic process, to abuse their power,
and sickest women.

Mr. Speaker, I rise today to urge all my col-
leagues to vote against the Medicare Con-
ference Report offered by the Republican
leaders. This Medicare prescription drug
benefit is so affordable and guaranteed
under the Medicare system.

Passage of this bill would weaken prescrip-
tion drug benefits, fail to lower drug costs,
and weaken the Medicare program.

Congress needs to pass a good Medicare
bill that actually helps seniors and not just
any bill that benefits pharmaceutical companies,
HMOS, and special interest. Our colleagues on
the other side of the aisle have a take it or
leave it attitude. They want the American pub-
lic to believe this conference report is not
passed then all opportunities for a real
prescription drug benefit under Medicare is
lost. However, I submit to you that if a true bi-
partisan effort was made at the conference
table, then much could be accomplished.

Mr. Speaker, there are dozens of reasons
why this conference report should be defeated
and never become law. Many of these rea-
sons have already been mentioned but I want
to take this time to highlight a few.

The three Democratic House conferences
were shut out of the process and were not al-
lowed to participate in the conference meeting. The treatment
of these House Members is reasons enough
for every member of this body to reject this
conference report.

The legislation would not create a prescrip-
tion drug benefit until in 2006. However,
HMOS, insurance companies, and pharma-
ceutical companies receive billions of dollars
upon enactment of the conference report.

The bill also explicitly prohibits the Secretary
of Health and Human Services from negoti-
ating drug prices for Medicare beneficiaries.

The bill does not allow Americans to import
drugs from Canada and other countries where
prices are lower. International comparisons of
pharmaceutical prices have shown that elderly
American consumers often pay more for prescription drugs than consumers in other countries. As a result,
more and more elderly consumers are travel-
ing outside the country to find cheaper, more
affordable prescription drugs. My district bor-
ders Windsor, Ontario, Canada, where I have
knew many of my seniors travel to get their
prescriptions filled.

The GOP plan includes provisions that will
privatize Medicare and force senior citizens
into HMOS and other private insurance plans.

Millions of senior and Americans with dis-
abilities currently covered by Medicare would
actually find themselves worse off if the con-
ference report becomes law. Low-income sen-
iors who get additional assistance form Med-
icaid will pay more for their prescriptions be-
cause of Medicare. They will lose their Medicaid benefit.

Currently, Medicare beneficiaries who re-
ceive medicine through Medicaid either pay no
copayments or are charged nominal amounts
per month. Under the new plan, people will pay three-to-five dollars per
brand-name prescription and one or two dollars for generic drugs. Depending on
their income. These copayments will increase

The GOP plan creates an unlimited program
of Health Savings Accounts (HSAs). This tax
break benefits the healthy and wealthy and
and could dramatically raise health insurance pre-
miums for other Americans—particularly fami-
lies with moderate incomes and those with
high health expenses.

Seniors will lose their retiree health benefits. Millions of seniors who depend on employer-
based retiree plans are in jeopardy of being
dropped from coverage because the bill cre-
ates incentives for employers to drop prescrip-
tion drug coverage.

Mr. Speaker, the Medicare Conference Re-
port before this body will have a detrimental
effect on senior and disabled citizens in my
home state of Michigan.

143,000 Medicare beneficiaries in Michigan
will lose their retiree health benefits.

183,200 Medicaid beneficiaries in Michigan
will pay more for the prescription drugs they
need.

90,000 fewer seniors in Michigan will qualify
for low-income protections than under the
Senate bill because of the assets test and
lower qualifying income levels.

44,980 Medicare beneficiaries in Michigan
will pay more for Part B premiums because of
income relating.

Providing affordable prescription drugs to
our seniors and the uninsured should have
been the goal. The Republican lead Congress
squandered this opportunity to include a real
prescription drug benefit within the Medicare
plan.

Mr. Speaker, there are hundreds of national,
state, and regional organizations that have

CONGRESSIONAL RECORD
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November 21, 2003
H12234

Petition for the Approval or Disapproval
of the Constitution of the State of
Mississippi

Petition for the Approval or Disapproval
of the Constitution of the State of
Wyoming

Petition for the Approval or Disappro
val of the Constitution of the State
of Washington

Petition for the Approval or Disappr
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of Oregon

Petition for the Approval or Disappr
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Petition for the Approval or Disappr
oval of the Constitution of the State
of Kentucky
come out against the Medicare conference report. I stand today with the seniors in my district and across the nation in opposition to this bill.

I ask my colleagues to stand with me and vote against this Medicare Conference Report that fails to provide an affordable and reliable Medicare prescription drug coverage program that gives billions to HMOs, insurance companies, and pharmaceutical companies, prohibits drug reimportation, and privatizes Medicare.

Ms. SLAUGHTER. Mr. Speaker, I yield for an unanimous consent request to the gentlewoman from New York (Mrs. LOWEY).

(Mrs. LOWEY asked and was given permission to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, I rise against this prescription drug bill, because it will prohibit Medicare from negotiating price with the pharmaceuticals to lower prices for our sickest and most elderly population.

Mr. Speaker, on the cusp of passing a Medicare prescription drug benefit that should have put seniors first, but, instead, will become the death knell for Medicare.

Some are saying this is a matter of now or never, that we must pass this legislation tonight. That is just not true—where there’s a will, there’s a way. So, I urge my colleagues to refrain from rushing to judgment, vote against this bill, and work together, Republicans and Democrats alike, through December to craft a plan that will stay true to Medicare’s tried and trusted roots.

Mr. Speaker, the bill before us will allow insurance bureaucrats—not doctors—decide which drugs to prescribe and how much to charge seniors; and leaves major gaps in coverage that will affect almost half of Medicare’s elderly and trusted roots.

Mr. Speaker, the bill before us will allow insurance bureaucrats—not doctors—decide which drugs to prescribe and how much to charge seniors; and leaves major gaps in coverage that will affect almost half of Medicare recipients. I will end Medicare as we know it, and will have questionable impacts on some of the most well regarded state-sponsored drug coverage programs, including New York’s.

But, my colleagues, the straw that breaks the camel’s back is the lack of any attempt to bring down the skyrocketing costs of drugs. H.R. 1 will prohibit the federal government from using the muscle of the 40 million seniors in Medicare to negotiate lower drug prices. And it puts the brakes on the reimportation of pharmaceuticals from Canada and overseas—where drugs are sold for two, three, and four times less than in the U.S.

This one-two punch will not only hurt seniors. It will block hard-working Americans, including the 43.6 million uninsured, from obtaining cheaper drugs—leaving taxpayers to foot the bill. It guarantees that private industry at the expense of consumers.

The drug companies, with profit margins over 18 percent, have spend hundreds of millions of dollars trying to influence American opinion on prescription drugs. Yet, they will be rewarded with 40 percent profit increases. The same HMOs that left seniors in the cold under Medicare+Choice will be given a $12 billion slush fund to entice their participation in this bill.

I have fought for years to give seniors an affordable, guaranteed, comprehensive, and voluntary drug benefit under Medicare. I am deeply saddened and disappointed that the House leadership in forcing a vote on a bill, which many of us have not even been able to read in completion, that is not worthy of our seniors.

I urge my colleagues to vote “no” on the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield for an unanimous consent request to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise against this so-called Medicare proposal devised by former Speaker Gingrich and the pharmaceutical industry that will increase out-of-pocket expenses for the poorest and sickest women.

Mr. Speaker, the sham Republican prescription drug bill will harm, not help, elderly women.

I oppose the Republican Medicare bill because it does not ensure that our seniors, especially our most venerably elderly women, get the long overdue Medicare prescription drug benefit that is available and affordable to all.

How will this Medicare Reform proposal hurt women? First you must realize that women account for the majority of people who are on both Medicare and Medicaid, so make matters even worse, this proposal is harmful to the poorest and sickest women because their out of pocket cost would increase above what Medicaid currently allows.

I believe we must carefully craft legislation to protect the health and well-being of our citizens. It is shameful for American seniors must regularly make the heartbreaking choice between paying for food and paying for prescription medicine. As a former nurse, I have spend much of my career working to ensure that our nation’s health care system provides a wide range of affordable services.

But unfortunately, drug prices are going up over 3 times the rate of inflation giving the drug industry more profits than all others—the result: seniors can’t afford the medicine they need.

Yet this proposal would actually prohibit Medicare from getting the best price for seniors. This bill states, and I quote, “[Medicare] may not . . . interfere in any way with negotiati... . . . Medicare Advantage organizations . . . and drug manufacturers . . . .” In laymen’s term that means Medicare must pay whatever the drug companies want to charge. This makes the new law a multi-billion dollar subsidy to the drug industry and a rip-off for America’s senior citizens.

This is especially hurtful to women because nearly ten women on Medicare use prescription drugs regularly. Because the bill doesn’t allow for the government to negotiate price controls on drugs, our women will have to face higher drug cost, as well as the American Treasury.

Democrats have led the fight to add a prescription drug benefit to Medicare would be a discussion about freeing seniors from the skyrocketing costs of medicine.

But instead, it’s become a struggle for the future of Medicare.

The bill starts us down the path to privatizing Medicare. It damages the safety net we’ve stitched for our vulnerable seniors. And with worst of all, it does nothing to make drug companies keep the cost of their medicines down, which is what I thought this effort was all about in the first place.

Most of Long Island’s seniors would be forced to go to private insurers for their drug coverage. In fact, this bill takes us down the same road Long Island has already traveled with Medicare+Choice HMOs. At first, we thought they were a gravy train stops? Once again, our seniors will be turning back the clock to those times. But that’s exactly what the Republican bill—as written—will do.

The American public should be outraged that the Republican leadership is playing politics with the health and well-being of millions of our citizens, and I hope the voters will remember this shameful abuse of power when they go the polls at election time.

Ms. SLAUGHTER. Mr. Speaker, I yield for an unanimous consent request to the gentlewoman from New York (Mrs. MCCARTHY).

(Mrs. MCCARTHY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MCCARTHY of New York. Mr. Speaker, I rise against this prescription drug bill that is going to be giving billions of dollars of giveaway money that should be going for prescription drugs and not to the insurance companies and not to the pharmaceutical companies.

Mr. Speaker, I rise, once again, in opposition to this flawed prescription drug bill. It is nothing more than a sheep in wolf’s clothing.

I’m frustrated because this Medicare bill contains some provisions I feel are necessary. Indeed, hospitals and doctors may see higher reimbursement rates. It would provide a prescription drug benefit, and includes some protections for low-income seniors. All of these provisions are a step in the right direction. Unfortunately, they are overshadowed by the bill’s overall shortcomings.

I had hoped that the effort to add a prescription drug benefit to Medicare would be a discussion about freeing seniors from the skyrocketing costs of medicine.

But instead, it’s become a struggle for the future of Medicare.

The bill starts us down the path to privatizing Medicare. It damages the safety net we’ve stitched for our vulnerable seniors. And worst of all, it does nothing to make drug companies keep the cost of their medicines down, which is what I thought this effort was all about in the first place.

Most of Long Island’s seniors would be forced to go to private insurers for their drug coverage. In fact, this bill takes us down the same road Long Island has already traveled with Medicare+Choice HMOs. At first, we thought they were a gravy train stops? Once again, our seniors will be left holding the bag. That goes against the very reason we created Medicare in the first place: to provide seniors with a safety net that the private insurance market could not and did not provide for them.

In addition, the bill would actually prohibit the government from negotiating lower drug prices. Veterans on Long Island benefit from cap government spending on Medicare. These provisions have nothing to do with providing beneficiaries affordable prescription drugs. They are intended to undermine Medicare.

Medicare was created because the private health care system would not provide affordable, guaranteed coverage for seniors. We shouldn’t be turning back the clock to those times. But that’s exactly what the Republican bill—as written—will do.

The American public should be outraged that the Republican leadership is playing politics with the health and well-being of millions of our citizens, and I hope the voters will remember this shameful abuse of power when they go the polls at election time.

Ms. SLAUGHTER. Mr. Speaker, I yield for an unanimous consent request to the gentlewoman from New York (Mrs. MCCARTHY).

(Mrs. MCCARTHY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MCCARTHY of New York. Mr. Speaker, I rise against this prescription drug bill that is going to be giving billions of dollars of giveaway money that should be going for prescription drugs and not to the insurance companies and not to the pharmaceutical companies.
lower drug prices because the Veterans Administration negotiates prices on their behalf. If it works for veterans, why deny it to our seniors?

Finally, many seniors would find themselves in the “doughnut hole,” a gap in the very prescription drug coverage we are supposedly trying to provide. Simply put, the bill is not good enough, and I refuse to compromise the needs of our seniors in hopes of advancing a political agenda. We must go back to the drawing board and create a prescription drug benefit for seniors. We must do it without damaging their safety net or turning Medicare over to HMOs and insurance companies. Finally, we must do no harm, I learned years ago as a young nurse.

Mr. Speaker, this bill will do harm. I must vote against it.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from California (Ms. LINDA T. SAHAGUN). (Ms. SAHAGUN asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I rise against this sham Medicare proposal that the AARP supports. Bill Novelli is smiling because AARP gets millions of dollars, he gets $420,000 annual salary, and all grandma gets is a doughnut hole.

ANNUAL BEGAOF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHODD). As recorded in section 957 of the House Rules and Manual, although a unanimous-consent request to insert remarks in debate may comprise a simple declarative statement of the Member’s attitude toward the pending measure, it is improper for a Member to embellish such a request with other oratory; and it can become an imposition on the time of the Member who has yielded for that purpose. The Chair will entertain as many requests to insert as may be necessary to accommodate Members, but the Chair also must ask that Members cooperate by confining such requests to the proper form.

Ms. SLAUGHTER. We would be happy to cooperate. Mr. Speaker, is it correct that we can rise for the unanimous consent request to say that we oppose the bill?

The SPEAKER pro tempore. The gentlewoman is correct.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield for a unanimous consent request to the gentlewoman from California (Ms. LINDA T. SANCHEZ). (Ms. SANCHEZ asked and was given permission to revise and extend her remarks.)

Ms. LINDA T. SANCHEZ of California. Mr. Speaker, I ask unanimous consent to revise and extend my remarks about this sham Medicare proposal that I oppose.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from Ohio (Mrs. JONES). (Ms. JONES of Ohio asked and was given permission to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, without embellishing my statement, I adamantly oppose the legislation that is before us on behalf of the millions of low-income workers who will not receive adequate funding under this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from California (Ms. LOFgren). (Ms. LOFgren asked and was given permission to revise and extend her remarks.)

Ms. LOFgren. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in opposition to the bill because it increases costs for the poorest who are mainly women.

Mr. Speaker, the current Medicare Prescription Drug bill we are debating this evening, if passed, will force many low-income seniors to pay more for their Medicare coverage. Despite its $400 billion price tag, this legislation will leave some 6.4 million of the poorest and sickest Medicare beneficiaries who currently receive prescription drug coverage through Medicaid worse off, as they will no longer be able to depend on assistance with their copayments and will no longer depend on getting help paying for prescription drugs that are prescribed by their doctors but are not on the list of drugs and therefore not covered by the private insurers who will administer the new Medicare bill.

Mr. Speaker, this piece of legislation is not “paid for.” I expect that it will worsen the nation’s long-term fiscal problems substantially adding to the deficit. Is the proposal good enough to justify this?

After weeks of secret hearings, in which not one Democratic Member of the House of Representatives was allowed to participate, we were presented with a Medicare prescription drug plan that is more geared towards benefiting industry, the HMOs, and insurance companies than in serving the healthcare needs of our elderly and disabled.

In the forty years since Medicare was created, it has been hailed as an affordable, defined, guaranteed, and comprehensive healthcare plan for all senior citizens. I agree that Medicare should evolve. I also understand that prescription drug costs are rising at an alarming rate of 17 percent per year. But the current proposal facing Congress does too little to help control drug costs, requires seniors to spend too much out-of-pocket, and complicates many of the basic principles that have made Medicare so valued and effective. This proposal prohibits the federal government from using its vast buying power to negotiate significant discounts for the millions of seniors and disabled who have come to rely on Medicare.

Mr. Speaker, my constituents and seniors across this nation believe that an affordable, guaranteed prescription drug benefit is urgently needed. Sadly, the prescription drug benefit in this bill would not go into effect until 2006.

Mr. Speaker, my constituents and seniors across this nation asked this Congress to begin the process of privatizing Medicare. They believe that reforming Medicare does not mean privatizing Medicare. Under this bill, millions of Medicare beneficiaries are forced to pay more just to stay with their own doctors. Premimum support, a provision included in this bill will allow private insurance plans to lure healthy seniors out of Medicare, leaving older and disabled seniors behind to pay higher premiums for the same coverage they’re receiving today.

Mr. Speaker, my district lies within Santa Clara County in California. Santa Clara County is in one of 41 metropolitan areas that could be selected to participate in a Medicare demonstration that would lead to the privatization of Medicare. Under this plan, seniors must be prepared to deal with changing benefits, premiums and access to care from year to year.

Mr. Speaker, these new benefits are not guaranteed. This Republican-drafted Medicare reform bill creates a major gap in coverage that will leave millions of seniors and disabled persons without any drug coverage during parts of the year. Once a senior’s drug costs reaches a moderate level of $2,250, all coverage would be cut off. It isn’t until the out-of-pocket prescription drugs costs rise to a much higher level—roughly $3600—that coverage kicks back in. It will also erode retiree coverage for up to 2.7 million seniors who, after years of hard work earned a prescription drug benefit through their retirement plans. Those lucky enough to have such coverage must now worry about whether or not they will lose that hard-earned benefit under this proposal.

Mr. Speaker, this bill is not comprehensive. The bill eliminates Medicare’s promise to retirees by arbitrarily limiting the ability of Congress to fund the program. As baby boomers retire and require more physician visits, hospital services, and pharmaceutical coverage, Republicans want to limit the amount of money that would be spent on Medicare. This means the services seniors expect and deserve will be cut. premiums will increase, or reimbursements to physicians and hospitals will be severely restricted.

Mr. Speaker, I remind my colleagues and those trying to follow all the possible implications of this bill that the coverage offered under this plan is not, repeat not, like that offered to members of Congress and other federal employees. No Federal member of Congress has a drug benefit that has a deductible, or a $2,850 coverage gap or donut hole in the benefit. In fact, during the debate on the drug benefit, Republican members of Congress voted to ensure that Federal employees’ benefits would not be lowered to the level in the new drug plan.

There are many parts of this bill that I applaud. I am happy that the bill includes increased payments to doctors and to hospitals that will allow them to continue to offer services to Medicare patients. I am very happy that the bill includes critical funding for safety-net hospitals that serve our needy so well. Indeed in California, this provision alone will restore several hundred million dollars in reimbursements over the next ten years.

Mr. Speaker, these provisions are the kind of reforms to Medicare that would pass this house nearly unanimously if they were presented separate from this bad bill.

Mr. Speaker, these good provisions do not override the potential devastating effects of this bill. I cannot support a bill that I feel will destroy the fundamental promise of Medicare, a program that seniors and the disabled have known and trusted for nearly 40 years. With the future of Medicare at stake, I believe that Congress can—and must—do better. Rather than pass a bad bill, we should defeat this bad
bill and stand firm as we fight for a prescription drug benefit that our seniors demand and deserve.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from Nevada (Ms. BERKLEY).

(Ms. BERKLEY asked and was given permission to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks about premium support provisions in this conference report that will undermine the Medicare system on which older women depend.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. LEE) for a unanimous consent request.

(Ms. LEE asked and was given permission to revise and extend her remarks.)

Ms. LEE. Mr. Speaker, I ask unanimous consent to revise and extend my remarks on this sham Republican prescription drug bill because it will harm, not help, elderly women. I did not come to Congress to dismantle and privatize Medicare.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from California (Ms. LORETTA SANCHEZ).

(Ms. LORETTA SANCHEZ of California asked and was given permission to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California asked and was given permission to revise and extend my remarks about the premium support provisions in this conference report that I believe will undermine the Medicare system on which elderly women rely.

Mr. Speaker, I wish to express my concerns today over the Medicare bill and how it will leave millions of seniors without the adequate care they deserve.

Under this bill nearly 3 million seniors will lose their prescription drug coverage, while 6 million will likely see an increase in the price of their medications and nearly 10 million would see an increase their Medicare premiums if they refuse to join an HMO.

This bill is not a plan for our seniors, rather it is a plan that benefits drug companies and the insurance industry. This legislation would even prohibit Medicare from negotiating better prices for prescription drugs. It would spend $7 billion, desperately needed for covering all retired Americans, on creating individual premium support for prescription drugs. It would spend even prohibit Medicare from negotiating better prices for prescription drugs. It would spend $7 billion, desperately needed for covering all retired Americans, on creating individual premium support for prescription drugs. It would spend

Every week, I hear from seniors overwhelmed with the cost of prescription drugs. Many find themselves juggling their expenses—often putting off paying some bills in order to buy their medicine. In order to buy prescription drugs, many have worked their whole lives and contributed to making our nation great never imagined they would spend their retirement struggling to make ends meet. Congress must act and provide seniors with a prescription drug benefit.

Our seniors—especially older women who, literally, are the face of Medicare—are counting on Congress to provide a real solution to the rising cost of prescription drugs. However, this debate has moved beyond providing prescription drugs to seriously undermine Medicare.

The Medicare conference report before us dismally harms older women in the following ways: Women account for the majority of people who are on both Medicare and Medicaid. An elderly woman supports Medicare from continuing to provide the poorest and sickest women with drugs that certain Medicare drug plans may not cover.

Older and sicker beneficiaries, often women, have not joined HMOs and tend to rely on the traditional Medicare program. This conference report is harmful to older and sicker women because its “premium support” provisions would undermine the traditional Medicare program and cause costs to go program to rise. Nearly eight in ten women on Medicare use prescription drugs regularly. This legislation is harmful to women because it prohibits the government from negotiating price controls on drugs, leading to higher drug costs for both seniors.

Where is the benefit for women who are living on a fixed income that allow to pay out-of-pocket during the coverage gap? Where is the benefit for the women who, because they were stay-at-home mothers and did not earn a pension, cannot afford the prescription drugs they desperately need? For my constituents, this legislation is not good enough. I cannot support this legislation when I know we can do better. We are doing more than providing prescription drugs, we are legislating the future of Medicare.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. CHRISTENSEN) for a unanimous consent request.

(Mrs. CHRISTENSEN asked and was given permission to revise and extend her remarks.)

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent to revise and extend my remarks about premium support provisions in this conference report that will undermine the Medicare system on which elderly women in my district depend.

Any prescription drug benefit won't take effect until more than two years from now, so if we really care about our seniors and disabled we should take the time to get it right. And if all of the tears I see shedding on the other side of the aisle for our suffering doctors and struggling hospitals are any more than the crocodile variety, we should do the right thing before we go home and pass those provisions now.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Georgia (Ms. MAJETTE) for a unanimous consent request.

(Ms. MAJETTE asked and was given permission to revise and extend her remarks.)

Ms. MAJETTE. Mr. Speaker, I rise to oppose the Republican prescription drug bill because it is bad for women, especially poor, elderly women; and they deserve better than this.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. MILLER-MCDONALD) for a unanimous consent request.

(Ms. MILLER-MCDONALD asked and was given permission to revise and extend her remarks.)

Ms. MILLER-MCDONALD. Mr. Speaker, I ask unanimous consent to revise and extend my remarks about the premium support provisions in this conference report that will undermine the Medicare system on which elderly women in my district depend.

Mr. Speaker, today I rise in opposition to H.R. 1. This conference report represents the beginning of and an inexcusable withdrawal from our promise to seniors. This report being considered on the House floor today, sets the stage for a gradual pullout of the federal government providing benefits to seniors and shifting the responsibility to private insurers.

As our nation's population ages and the baby boomer generation places additional burden on our healthcare infrastructure, we can
Mr. Speaker, in my home state of California, hundreds of thousands of Medicare beneficiaries will lose their retiree health benefits. Medicaid beneficiaries will pay more for the prescription drugs they need. Hundreds of thousands of Medicare beneficiaries will pay more for Part B premiums because of so-called income relating provisions.

Last night, Mr. Speaker, I spoke with my Congressional Senior Council which represents leaders from senior associations in the 37th congressional district. This council has expressed its deepest concerns with H.R. 1. On behalf of the more than 5,000 seniors in the 37th congressional district, this council fears seniors, who should otherwise qualify for a drug benefit, may no longer qualify because of the asset provision in this report. Seniors, who have saved their hard-earned money for use during retirement, who relied on the promises of this Administration, become disqualified from receiving the prescription drug benefit. Very poor and very sick dual eligible beneficiaries will lose wrap around coverage for prescription drugs making out-of-pocket costs more than they can afford.

I urge my colleagues for the sake of Medicare beneficiaries in their districts, to vote against H.R. 1. Our seniors deserve better.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. CAPPS), who is also a nurse, for a unanimous consent request.

(Mrs. CAPPS asked and was given permission to revise and extend her remarks.)

Ms. CAPPS. Mr. Speaker, I rise in opposition to the harmful cuts in care amounting to $1 billion a year for all those who are being treated for cancer. Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Ohio (Ms. KAPTUR) for a unanimous consent request.

(Ms. KAPTUR asked and was given permission to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, I rise in opposition to the GOP company bonanza that is going to make affordable drug prices impossible for the majority of this nation’s seniors. What a shame.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. SOLIS) for a unanimous consent request.

(Ms. SOLIS asked and was given permission to revise and extend her remarks.)

Ms. SOLIS. Pido permiso para revisar y decir algunas palabras.

Sr. Orador, estoy en contra del proyecto de ley Medicare que no ayudara a las mujeres que son el 70 por ciento de los mayores de edad.

(English translation of the above statement is as follows:)

Mr. Speaker, I rise in opposition to this Medicare bill which does nothing to help women, who make up more than 70 percent of the elderly poor.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. WATERS) for a unanimous consent request.

(Ms. WATERS asked and was given permission to revise and extend her remarks.)

Ms. WATERS. Mr. Speaker, I rise in opposition to this sham Medicare proposal that will end Medicare as we know it and simply fatten the pockets of the pharmaceutical industry and the HMOs.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Missouri (Ms. MCCARTHY) for a unanimous consent request.

(Ms. MCCARTHY of Missouri asked and was given permission to revise and extend her remarks.)

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise to unanimous consent to revise and extend my remarks about the premium support provisions in this conference report that will undermine the Medicare system on which the elderly in my district and around this nation depend.

Mr. Speaker, I rise today in opposition to H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003. I strongly support the inclusion of a prescription drug benefit as part of the Medicare program. Unfortunately, instead of providing a prescription benefit, this legislation includes dramatic changes in the entire Medicare program. As Washington Post columnist E.J. Dionne recently wrote, “They went in to design a prescription drug benefit for seniors and came out with an aardvark.”

Mr. Speaker, in 1965, President Johnson and the Congress had the wisdom to create the Medicare program. The program accomplished its mission—it has ensured every single American’s health coverage upon reaching 65 years of age. Since the bill’s passage, Congress has not raised the program’s cap to keep it current and to ensure that seniors received the highest quality care.

Now seniors are asking us to include a prescription drug benefit within the Medicare program. They want a benefit that offers comprehensive, affordable coverage to all seniors. I agree with them wholeheartedly. Instead of designing a prescription drug benefit, the majority created H.R. 1, which will end Medicare as we know it.

Mr. Speaker, this proposal is confusing and inadequate. For the first $2,000 of coverage, the consumer will pay over $100; for the first $5,000 of coverage, the consumer will pay approximately $4,000. If a consumer buys $5,000 of drugs a year, the consumer will pay 80 percent of that cost. Elderly women will be hardest hit.

Under this misguided plan, seniors will be forced to choose private prescription plans each year. A move between states, or even between towns, could force them to select another plan. In my district, seniors who chose to relocate from Kansas to Missouri could face new deductibles in the new state. Those funds should not be held hostage by this Medicare privatization scheme. I urge my colleagues to consider standing alone legislation that would help our providers and save the Medicare program.

As E.J. Dionne wisely recommended, we should reject this flawed bill and “let’s then have a national debate on the future of Medicare, out in the open, and not in some congressional back room.” Mr. Speaker, I urge all of my colleagues to reject this measure and go back to the basics. Give seniors what they deserve—a comprehensive Medicare prescription drug benefit.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Connecticut (Ms. DELAUR) for a unanimous consent request.

(Ms. DELAUR asked and was given permission to revise and extend her remarks.)

Ms. DELAUR. Mr. Speaker, I rise against a prescription drug bill that gives the government using its market power to negotiate the best price for prescription drugs, the central issue of this debate and concern of the people of this country.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. ESHOO) for a unanimous consent request.

(Ms. ESHOO asked and was given permission to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, I rise against this bill which, in my view, I used the yardstick to measure it by my mother; and in doing the calculations, my mother, at 89½ years old, will be hurt by this, as will women her age across the country. She and they deserve so much better.

It’s with great disappointment that I rise today to expressly my opposition to this Medicare Prescription Drug legislation. As the daughter of a Medicare beneficiary, I know how important prescription drug coverage is for America’s seniors, and I held out great hope that this would be the year we finally succeeded in providing seniors with an affordable, stable benefit.
Unfortunately, now that we have the long- awaited legislation before us, it is clear that it doesn’t embody any of these important principles.

This bill does nothing to lower drug costs for America’s senior citizens. It provides an unstable insurance system in the employer-sponsored retirement health insurance, and fundamentally undermines the Medicare program that has served seniors so well for nearly 40 years.

Specifically, the bill: Brings privatization to the Medicare program in 2010. Although this is being described as a “demonstration project,” this “demonstration” will affect as many as 7 million beneficiaries who will be forced to pay higher premiums and more money to keep the same benefits they have today if they don’t join an HMO; has a $2800 gap in drug coverage that will leave millions of seniors without any help in paying for their drugs for part of the year, even though they will have to continue to pay their monthly premiums; Creates disincentives to employers to retain retiree drug coverage. An estimated 2 to 3 million seniors who have good drug coverage now through retiree health plans could lose it under the proposed plan.

In California, this means more than a quarter of a million seniors may lose their employer-sponsored health care. Real reform would encourage employers to expand retiree coverage, not take it away; Purposefully creates, for the first time, disparities between seniors across the country. Seniors living in different areas of the country will pay different premiums for the exact same benefits. In another area, they might learn how much they can earn to how much they will pay in premiums. If a senior makes more than $80,000 they will pay higher premiums than the rest of the Medicare population.

Does not address the rising cost of prescription drugs for individuals, nor does it harness the employer-provided retirement health insurance, and fundamentally undermines the Medicare program that has served seniors so well for nearly 40 years.

Second, the bill includes critical funding for Medicare prescription drug benefits for all beneficiaries. By relying on private insurance companies to offer coverage, this approach does not guarantee the same benefits for seniors, like Larry Colado of Miami, Florida, who lives in a rural community. Larry Colado is a Vietnam Veteran turned farmer who cannot afford health coverage and now faces losing the little that他知道, unlike Darwin, this administration believes in the survival of the fittest.

Approving this bill may not guarantee a destitute future for members of Congress, but it will guarantee a destitute future for those seniors who do not and have not served in this body.

Mr. Speaker, simply put, this bill should be wrapped around a toilet paper holder and stuck in one of the Capitol’s bathroom stalls.

I adamantly oppose the so-called Prescription Drug and Medicare Modernization Act. It is snake oil and it should be rejected.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from California, the chairman of the Committee on Rules (Mr. DREIER).

Mr. DREIER. Mr. Speaker, continuing this spirit of comity, I ask unanimous consent that the conference report on H.R. 1 be debatable for 2 hours, doubling the amount of time that is made in order for consideration for a conference report.

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

There was none. Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), my friend and colleague from our Committee on Rules.

Mr. DIAZ-BALART of Florida. Mr. Speaker, I thank the gentlewoman from Ohio for yielding me this time.

Since 1965 Medicare has been a vital instrument in ensuring quality healthcare to America’s elderly and disabled. Medicare’s 40 million beneficiaries use thousands of different health care products and services furnished by over 1 million providers in hundreds of markets nationwide. However, today a great number of you seek to dismantle Medicare with a fool’s gold of a bill tilted the Prescription Drug and Medicare Modernization Act.

Despite my Democratic colleagues’ best efforts to make this an inclusive and comprehensive bill that addresses the real concerns of America’s seniors and disabled, we were shut out from negotiations. We were shut out in June and we are shut out now. Today we have before us what the Republicans think is a Medicare and Prescription Drug reform. This is not a reform. This is a gutting of Medicare. It eviscerates one of the most successful great society programs in order to line the pockets of pharmaceutical companies.

Mr. Speaker, I am disturbed to my core that any person in their right mind would find this bill fit to deliver to America’s seniors. HR 1 is seriously flawed and inept for several reasons.

First, the prescription drug benefits is only available through private insurance companies and HMOS.

Second, the bill does not ensure affordable prescription drugs. Because of the arbitrary budget cap pushed by the administration, HR 1 has high deductibles and does not guarantee an affordable premium.

In addition, this sham a bill creates large coverage gaps—with many seniors being required to pay high premiums even when they don’t receive benefits.

Lastly, the bill does not promise prescription drug benefits to all beneficiaries. By relying on private insurance companies to offer coverage, this approach does not guarantee the same benefits for seniors, like Larry Colado of Miami, Florida, who lives in a rural community. Larry Colado is a Vietnam Veteran turned farmer who cannot afford health coverage and now faces losing the little that he has because, unlike Darwin, this administration believes in the survival of the fittest.

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There was none. Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), my friend and colleague from our Committee on Rules.

Mr. DIAZ-BALART of Florida. Mr. Speaker, I thank the gentlewoman from Ohio for yielding me this time.
This legislation is very important legislation. It will help seniors, all seniors throughout the land; but especially low-income seniors will benefit, will benefit the most from this law. America’s neediest seniors, individuals with incomes of up to $12,500 and expenses up to $17,000 per couple, will immediately receive a cash credit of $600 to purchase their medications. And, again, in the year 2006, seniors with incomes of up to $10,300, or $13,250 per couple, will pay only $1 for generic prescriptions and $3 for brand name medications, 13,235 reside in the district that I am honored to represent. I would urge all of my colleagues here this evening to check the facts with regard to what we are voting on. But the Committee on Rules, once again, decided that the voting on. But the Committee on Rules, once again, decided that the rules of this House do not matter. Maybe we should rename it the “Break the Rules Committee.”

So much of what people think is good about the Federal Government the supporters of this bill are ripping apart. And let me say just a word, actually two words, about the processing used here. It is lousy. No one has had the chance to actually see what they are doing. There are two things. There are rules of this House, and we should follow them, especially with regard to giving Members of both parties the chance to actually see what they are voting on. But the Committee on Rules, I guarantee you that for weeks to come we will be discovering lots of goods for special interests tucked into the dark corners of this legislation. The leadership of this House is more concerned with doing this bill fast than doing it right. If we take our time and do this right, it would give every Member time to read the fine print. Unless, of course, that is exactly what scares the leadership most.

Now, I have heard the argument out there that, well, this bill is not perfect. So much of what people think is good about the Federal Government the supporters of this bill are ripping apart. And let me say just a word, actually two words, about the processing used here. It is lousy. No one has had the chance to actually see what they are doing. There are two things. There are rules of this House, and we should follow them, especially with regard to giving Members of both parties the chance to actually see what they are voting on. But the Committee on Rules, once again, decided that the rules of this House do not matter. Maybe we should rename it the “Break the Rules Committee.”

So I believe, Mr. Speaker, that we have an opportunity to go a long way towards addressing this concern that exists on both sides of the aisle. I know that my democratic colleagues, Mr. Speaker, want to make sure that we do provide access for senior citizens to affordable prescription drugs. And I believe that on both sides of the aisle, Mr. Speaker, there is a clear understanding that if we are going to do that, we have to bring about major reforms so that we maintain the solvency of Medicare for the future. I also believe that as we look at the changes that will come about in the area of potentially creating another new entitlement program, Republicans and Democrats, Democrats who raise concern regularly about deficit spending, should feel good about the unprecedented measures that we put in this bill that allow for our Members to insist on a vote if, in fact, Medicare outlays exceed 45 percent of general revenues.

So I believe we are going a long way towards addressing these concerns. And then that wonderful incentive that also is for people to plan for retirement with health savings accounts. Planning for their health care needs of the future is exactly what this measure will do by taking those very successful HSAs that have been out there and expanding that program.

Mr. Speaker, this may not be, this may not be the perfect solution, but this is our opportunity to bring about these much needed reforms.

And I urge my colleagues to support the legislation, and in a bipartisan way, do as I know the other side will, and that is vote in support of this conference report so that we can help our seniors.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. McGovern).

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

Mr. McGovern. Mr. Speaker, Medicare is one of the most important successful social programs in the history of this country. For nearly 40 years, Medicare has been a lifeline for our senior citizens. I certainly do not believe that Medicare is perfect. Thanks to extraordinary advances in medical science, it is clear that Medicare needs a real prescription drug benefit.

The program should be strengthened so that it will have the resources necessary to take on high quality, affordable health care, but I believe that Medicare is a sacred trust between the United States government and the seniors of this country. The Republican majority in this House clearly does not believe what I believe, because if they did, this bill would not be before us. This is a bill that fails to give seniors the drug benefit they need and deserve despite the millions of seniors paying more for their prescription drugs. This bill is a huge giveaway to the HMOs and the drug companies. This bill does nothing to control the exploding costs of medicine. And worst of all, this bill shackles Medicare and will end Medicare as we know it. This is a defining issue. You can put all the bells and whistles and spin on it that you want. You can add a little money here or there to buy off a few interest groups or to make the bill more appealing to certain geographic areas. You can try to claw your way to a majority vote, and you might succeed. But your success will not mask the fact that this bill is bad for senior citizens.

This legislation is very important legislation. It will help seniors, all seniors throughout the land; but especially low-income seniors will benefit, will benefit the most from this law.
Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the minority whip.

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

Mr. HOYER. Mr. Speaker, I rise in opposition to this rule. And I invite the 41 Members of this side of the aisle who wrote a letter just a few days ago, those 41 Members, all Republicans, said to the gentleman from Illinois (Speaker DELAY) and the gentleman from Texas (Majority Leader DELE) that this is one of the most important issues that this Congress, or any Congress, will consider, and give us at least, they said, 3 days to consider this bill.

This bill is over 1,100 pages in length. It will affect not only the 40 million Americans who are eligible for Medicare, but it will also affect their families, their children, their grandchildren and daughters who are confident that this country will provide for health care security for seniors.

I invite those 41 Members, this is about the process, this has been a ter-rible process, and a shameful process. Speaker DELAY, an honorable man appointed the gentleman from Michigan (Mr. DINGELL), the Dean of this House, serving here since 1955, one of the most knowledgeable people, not Democrat, Republican, but Mr. DINGELL and Mr. AMERICAN with respect to health care and Medicare and Social Security. And then he appointed one of the most senior Members of this House, the gentleman from New York (Mr. RANGEL) to this conference, and the gentleman from Arkansas (Mr. BERRY), the only pharmacist that serves in this House.

Shamefully, shamefully, they were neither invited, nor allowed, to come to the table to discuss this bill. I invite the signatories of this letter, if they meant what they said in this letter, to vote no on this rule. To vote no on this rule so that we can, in fact, look at it closely. Just 2 more days this bill, 1,100 pages in length, which was put on the Web just last afternoon, just approximately 24 hours ago.

I say to the signatories on this letter, if you meant what you said, if you believe the processes of this House ought to be followed, if you believe this issue is important, if you know what you are doing, to read the bill, to digest its consequences, to understand the adverse consequences that it will have on the poor, on those who were left behind in Medicare when the HSAs took the healthiest and wealthiest out of the system and force premiums higher for those who can least afford it, read this bill, understand this bill. You have not done so.

Some of our most respected colleagues signed that letter, Republicans all. I ask every Democrat to vote against this rule, to give ourselves and our constituents further time to consider this bill. I ask the Republicans honor their letter, honor their rules. Vote no on this one.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. HASTINGS), my friend from our Committee on Rules.

Mr. HASTINGS. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. PRYCE) for yielding, and I congratulate her on the way she excellently laid out the main provisions of this bill in remarks.

I support this bill, Mr. Speaker, and this bill includes several important improvements to Medicare in addition to making prescription drugs available and affordable for seniors. But I am particularly pleased that this bill contains the largest, most comprehensive rural health care package ever considered by Congress to ensure that seniors in rural America are able to get the care they need.

I often hear from seniors they are having a hard time finding a doctor will accept Medicare patients. Now, doctors and hospitals in rural areas provide the same quality care as in urban areas, but Medicare providers often fail to pay rural health care providers enough to cover their costs. This often forces doctors to consider whether they can continue accepting Medicare patients and, therefore, causes hospitals to cut back on their services.

As a member of the rural health care caucuses, I have met repeatedly with committee leaders and Secretary Thompson to stress the importance of ensuring that rural areas receive the Medicare payments they deserve.

Mr. Speaker, until the disparity between rural and urban reimbursement is fixed, seniors in small town America have fewer and fewer health care options. I commend the conferees for recognizing this need. I am pleased that the National Rural Health Care Association has endorsed this bill saying, quote, "This is a strong step forward this strengthening the health care system for nearly 60 million rural Americans." end quote.

By passing this bill, we will permanently end the disparity in Medicare payments between urban and rural hospitals. We will provide more money to rural hospitals for the care of uninsured patients, we will increase funds for critical access hospitals and home health care agencies and raise payments to doctors to encourage them to provide services in physician-short areas.

Simply put, Mr. Speaker, after years of effort H.R. 1 will finally give doctors, hospitals, home health nurses, and other care providers the resources they need to provide seniors who live in rural areas like my district in central Washington the medical care they deserve.

Accordingly, I urge my colleagues to support both the rule and the underlying bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the minority caucus chairman.

Mr. MENENDEZ. Mr. Speaker, the Republican plan that we consider here tonight is not a Medicare prescription drug plan, but rather a poison pill for Medicare itself. The more you know about this bill, the less you like it.

The Republican plan would encourage employers to drop retiree coverage for their employees. And this means that the approximately 34 million New Jerseyans in my State will be left with no coverage. I thought this debate is supposed to be about expanding coverage for our seniors, not taking it away.

Under their demonstration plan, 7 million beneficiaries would be forced to pay more for Medicare if they do not give up their doctor and join an HMO. The Republican plan would cut payments to oncologists nationwide and would result in New Jersey cancer care providers losing $50 million, this in a State that has the third highest incidence of cancer in the United States, and in which cancer is the second leading cause of death.

Republicans would include a $34 billion end-oil to get private insurance company plans to compete against Medicare. Why give away billions of taxpayers money to private insurance interests when that money could be used to enhance a true prescription drug benefit under Medicare? Obviously, Republicans are more concerned about their special interests than senior interests.

Republicans would make millions of seniors pay more for their drugs. Seniors would pay $4,000 out of the first $5,100 in prescription drug costs. And low-income seniors, like my 83-year-old mother who worked her entire life in the factory of New Jersey and who suffers from Alzheimer's, would pay high-deductibles and would lose additional assistance under Medicaid. And only in Washington would Republicans prohibit the Federal Government from using the collective purchasing power of 40 million citizens to obtain lower prescription drug prices.

Let us stand up for our parents and our grandparents and our seniors. Vote against the rule. Vote against this poison pill that is this plan.

Ms. PRYCE of Ohio. Mr. Speaker, I yield now to the gentleman from the State of New York (Mr. REYNOLDS), my very good friend from the Committee on Rules.

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

Mr. REYNOLDS. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in strong support of this rule and the underlying legislation.

For the first time in the nearly 40-year history of the Medicare program, Congress tonight has the opportunity to provide more than 40 million seniors
and disabled Americans a guaranteed prescription drug benefit.

In my home State of New York, this means nearly 3 million Medicare beneficiaries will have greater access to life-saving prescriptions. For many of these beneficiaries, this amounts to drug coverage that they would not otherwise have; and for countless others, it means vastly improved benefits.

In providing a prescription drug discount, we will also make access to less-expensive generic drugs, enhanced ability to create individualized health savings accounts and strong protections for retirees with current coverage, this bill will bring Medicare into the 21st century.

What the bill also accomplishes is improved access to care in a variety of other areas that will help Americans across the country get the care they need and deserve. For example, by updating the critical hospital formulas for market basket and indirect medical education, New York State will be infused with over $1.2 billion over the next 10 years.

Of the hospitals in my congressional district will receive close to $40 million. In cash-strapped regions of western New York that I represent, this payment relief is great news for patients of all ages and income levels. New York will also be bolstered by many other funding streams that will bring critical Federal funds into the State and help mitigate local fiscal burdens. And the Federal Government assuming costs of New York beneficiaries eligible for both Medicare and Medicaid, the State will save over $3 billion over 8 years on prescription drug coverage for its Medicaid population.

Because New York already provides a popular, generous prescription drug program, well over 300,000 seniors, the State will have access to $125 million over 2 years in transitional assistance to help the new Federal drug program coordinate with the existing State program.

These funds will ensure a seamless transition and coordination of benefits for many seniors who want to remain in the State program, yet still receive enhanced benefits through the Federal plan.

Mr. Speaker, this body is poised to make history. Today begins the final step in a journey that began not 3 days ago, not 3 years ago, but nearly a decade ago. Congress promised a prescription drug benefit. Congress promised to make Medicare stronger, and it took this majority to deliver on that promise.

I urge my colleagues to support the rule and the underlying legislation.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman from New York (Ms. Slaughter) for yielding me time.

We have been here before, Mr. Speaker. We will debate late into the night and consider one of the most important votes we have ever cast. At 2:54 a.m. on a Friday last March, the House cut veterans benefits by 3 votes.

At 2:39 a.m. on a Friday in April, House Republicans slashed education by five votes.

At 1:56 a.m. on a Friday in May, the House passed the Leave No Millionaire Behind Tax Cut Bill by a handful of votes.

At 2:33 a.m. on a Friday in June, the House passed Medicare privatization by one vote.

At 12:57 a.m. on a Friday in July, the House eviscerated Head Start by one vote. And then after returning from summer recess, at 12:12 a.m. on a Friday in October, the House voted $97 billion for Iraq.

Always in the middle of the night. Always after the press had passed their deadlines. Always after the American people had turned off the news and gone to bed. And here we go again, Mr. Speaker.

Republican leadership delivered this bill to us last night at 1:46 a.m.

Mr. Speaker, I do not really blame my Republican colleagues because when Republican leaders sit down with the insurance industry and the drug industry behind closed doors and write a bill to privatize Medicare, of course they do not want the public to know.

When Republican leaders sit down with the drug industry to write a bill to deliver $339 billion in additional pharmaceutical profits to their biggest contributors, of course they do not want the public to know.

When Republican leaders sit down with the insurance industry to write a bill to set up a $20 billion slush fund for HMOs, some of their biggest contributors, of course they do not want the public to know.

This bill proposes the most radical changes to Medicare since its creation under the goings on within the Committee on Ways and Means, which worked so hard on this bill.

I tell you, if you vote for this, you better get your running shoes. The senior citizens will be after you.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from the State of Florida (Mr. Shaw), from the Committee on Ways and Means, who worked so hard on this bill.

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

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

Medicare passed this Congress on July 27 of 1965 and was signed into law in Independence, Missouri, on July 30 of 1965. It is interesting, and I was watching C-SPAN today and watching the goings on within the Committee on Rules. And I heard several of the Democratic witnesses come in and say, your party did not support Medicare in the first place and you want it to wither on the vine.

I am hearing this over and over, I thought, well, it is about time somebody goes into the archives and finds out the truth. The truth is the majority of the Republicans in this House of Representatives in 1965 did support Medicare. So the big lie now can go down and be deflated.

Also, I have heard many witnesses on the other side say what a bonanza this is for big drug companies. Nobody is mentioning the fact that we are shortening the time that generics can get on the market, you think the big drug companies like that? Of course not.

Also, the discount card where prices will be negotiated and seniors will get...
their drugs for less money. Nobody on that side is talking about that.

What this is actually is a cost-containment bill and probably the largest one that will ever be signed into law providing for the cost containment in drugs.

I sent out a survey as many of us do to some of our constituents and was just simply asking them did they want this drug bill. I received back the biggest survey I have ever received. They are still coming in and they are just now hitting and we already have 12,000 replies. And guess what? Only 100 said no. And most of them were misinformed by this bill thinking they might have lost the coverage that they had. This is a good bill. Let us do it for our seniors. Let us do it for the people at the lower economic levels who desperately need this.

Why would you deny this to them? Somebody can buy drugs for so little and be able to get a better quality of life. Life is meant to be enjoyed, not endured. Let us vote “yes” on the rule. Let us vote “yes” on the bill.

The Gentlewoman from New York (Ms. Slaughter) has 9½ minutes remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. Price).

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

Mr. PRICE of North Carolina. Mr. Speaker, we began this effort years ago with a relatively simple concept: let us add a prescription drug benefit to Medicare, giving help to the countless older Americans who so desperately need it. But this bill has ended up doing the very thing seniors do not want us to do—to privatize their coverage.

Little do they know that the so-called prescription drug benefit will operate as a cut for other Medicare benefits. An enormous sticker shock awaits them. If a senior needs $3,000 worth of medication, he or she will have to pay $4,000 in order to get it. If drug costs are $3,500, he or she will pay $2,500.

This bill has a gaping so-called doughnut hole where any drug costs that fall between $2,250 and $5,100 are not covered at all. Do you think that is fair? This bill has a gaping so-called doughnut hole where any drug costs that fall between $2,250 and $5,100 are not covered at all. Do you think that is fair? This bill has a gaping hole. The gentlewoman from Ohio (Ms. Pryce) has 3 minutes remaining.

Ms. Pryce. Mr. Speaker, I yield to the gentleman from Florida (Mr. Shaw), a member of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I submit to the Committee a letter of endorsement from the Republican Governors Association and a letter from my own Governor, Governor Jeb Bush, endorsing this bill.


Hon. E. Clay Shaw, Jr., Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW: Today, there is very good news for Florida’s three million Medicare beneficiaries. The recent bipartisan conference agreement for Medicare will provide first-time access to prescription drug coverage. As the second largest home to seniors, this drug benefit—along with many other improvements and modernizations—will have the most significant impact for residents in our State since the enactment of Medicare in 1965.

Medicare will increase in value as our beneficiaries will have available to them a prescription drug benefit, and critical protections against high out-of-pocket drug costs. New preventive benefits will keep our citizens healthier, and provide a higher quality of life. The new opportunities to be screened for many illnesses and conditions will result in far fewer serious health consequences.

Designed to provide enhanced coverage for the lowest income beneficiaries, over 650,000 of Florida’s low-income Medicare beneficiaries—who are not eligible for Medicaid drug coverage—will receive $10 billion in critical prescription drug benefits from 2006 through 2015. The prescription drug discount card will provide our seniors and disabled Medicare beneficiaries with much-needed discounts, and a $600 per year subsidy in transitioning to the new drug benefit.

Another 490,000 low-income individuals—many of whom are not eligible for Medicaid—will receive more than $6.7 billion annually in prescription drug benefits, with no gap in coverage. This new benefit will save the taxpayers of Florida over $3 billion—in just the first 10 years. These are state Medicaid costs that can be reinvested in other health care needs.

This reform package will strengthen the Medicare program, while providing beneficiaries with a prescription drug benefit, more choices and improved care options. All Floridians will benefit from the option to accumulate tax-free health dollars through Health Savings Accounts to pay for medical expenses. Other reforms include a transition to electronic prescribing, creating incentives for our hospitals and doctors to reduce errors by using this new technology.

Seniors cannot afford to indulge the political appetites of Washington, where the issue of prescription drugs has turned into a search for the perfect program, while Congress must look to those who are being denied the opportunity for life-saving prescription drugs. Today’s bill may not be ideal, but it is just right for those who have been waiting too long.

AARP has led the long fight for a Medicare drug benefit, and I commend their leadership in ensuring passage of this bill. I join with them in urging you to support this historic legislation. There has never been a greater opportunity to do more for the seniors in Florida.

Sincerely, Jeb Bush, Governor.


Hon. J. Dennis Hastert, Speaker, House of Representatives, The Capitol, Washington, DC.

Hon. Bill Frist, Majority Leader, U.S. Senate, The Capitol, Washington, DC.


Hon. Tom Daschle, Minority Leader, U.S. Senate, Washington, DC.

DEAR SPEAKER HASTERT, REPRESENTATIVE PELOSI, SENATOR FRIST, AND SENATOR DASCHLE: As Governors, we urge the U.S. Congress to pass the bipartisan Medicare Conference Agreement. Passage of this legislation will provide more choices and better benefits to Americans. Under the bipartisan agreement, Medicare beneficiaries would be provided significant savings and access to broader coverage.

Medicare will provide first-time access to prescription drug coverage to many of our seniors. This agreement states with the costs related to the dual eligible population. Assistance to low income persons as well as critical protection against high out-of-pocket drug costs are essential components of this legislation. Most importantly, the preventive benefits found in this measure will keep our constituents healthier.

Passage of this historic legislation will modernize the delivery of quality healthcare in America. Therefore, we commend you and the conferees for providing leadership in developing this legislation and offer our support in its passage.

Sincerely, Bill Owens, Governor of Colorado, RGA Chairman.

Bob Taft, Governor of Ohio, RGA Vice Chairman.

Robert R. Riley, Governor of Alabama.

Robert Ehrlich, Jr., Governor of Maryland.

Jeb Bush, Governor of Florida.

Felix Camacho, Governor of Guam.

Mitt Romney, Governor of Massachusetts.

Haley Barbour, Governor-elect of Mississippi.

Mike J. Johanns, Governor of Nebraska.

John Hoeven, Governor of North Dakota.
Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, this is a defining moment for the senior citizens of this country. For years we have tried to provide a prescription drug benefit to help them with the rising cost of medicine, but this bill does nothing about the central issue, price. It prohibits the government from using its market power to negotiate the best price for drugs and does nothing to allow Americans to import drugs from countries like Canada where prices are lower. As a result, prices will continue to rise and over time wipe out any gains that seniors realize from the new benefit which does not even begin until 2006.

Rather, the bill is the first step toward eliminating the universal guaranteed benefit that defines Medicare. For the first time, the amount of money that can be spent on the program, meaning services that are guaranteed today will not be guaranteed tomorrow. It creates a two-tiered health care system, one for the affluent, one for everyone else. For as many as 10 million seniors, premium support will force them to give up the doctors that they have been with for years, force them into HMOs that will cut services and cost more.

So today we consider more than a prescription drug benefit. We consider the future of our contract with the families in this country, a contract that says that after a lifetime of hard work, paying taxes, that we have a moral obligation to ensure our parents and grandparents have a dignified retirement. By ending the guarantee of equal health care provided to every senior in this country for nearly four decades, we are breaking that contract. We are turning on them, our parents and grandparents have a dignified retirement. By ending the guarantee of equal health care provided to every senior in this country for nearly four decades, we are breaking that contract. We are turning on them, our parents and grandparents who have served on this conference committee, I have an idea of what that must feel like. At every attempt to be a part of this conference, the House Democrats were ridiculed, humiliated, used every trick that they could imagine to try to make us feel like we just simply should not be a part of this act, and we are not. This is the Republicans' deal. Let them have credit for this sorry piece of work.

I can tell my colleagues, I do not also understand why they would want to continue to give billions of dollars to the drug companies and to pass an act that would make it possible for the drug companies of this country to have the exclusive right to continue to rob the seniors. The dishonorable act rests on those that have written it and those that will vote to pass it.

I suspect that our Founding Fathers must be very sad this evening, but let it be known that hereafter, the Republicans did this to our seniors, and the Democrats fought every last step of the way to try to keep it from happening.

Ms. SLAUGHTER. Mr. Speaker, may I inquire from my colleague, does she have anymore speakers?

Ms. PRYCE of Ohio. I have one remaining speaker.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I thank the gentlewoman for yielding me the time. I cannot get up and say this bill is awful entirely. I think there are some very good parts, and I think some good efforts have been put into it, but I have two concerns.

First of all, side effects. I think the side effects of this bill may well be fatal to some, and more importantly, I believe that most Members on both sides of the aisle have not really read this bill and do not fully understand it. Earlier tonight, I invited the gentlewoman from Ohio to explain a simple passage.

Ms. SLAUGHTER. Mr. Speaker, may I inquire from my colleague, does she have anymore speakers?

Mr. BAIRD. Mr. Speaker, I yield the gentleman from Ohio (Ms. PRYCE).

Ms. PRYCE of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BAIRD. I yield to the gentlewoman from Ohio.

Ms. PRYCE of Ohio. Mr. Speaker, I appreciate that. Earlier today, and once again now, a statement was placed in front of me, a statement which was a long, drawn out document, and he was asking me to explain it, and it is very, very clear that they were not provided with that in advance.

Mr. BAIRD. Reclaiming my time, the point I am making is I do not think the gentlewoman has actually read the bill sufficiently to explain it.

I spent 23 years of my life in health care. I hold a doctorate in clinical psychology. I have spent hours on this bill. My eyes are exhausted. I must say I do not know fully enough what is in it.

My colleagues have said to us, and I agree, this is one of the most important bills that we will face in our career, and yet my colleagues have given us less than 24 hours to look at it.

The great philosopher Socrates said that those who change their minds refresh the soul. When they imprisoned him, he said to his young people he taught, these people have imprisoned me for pointing out to them how little they know. Instead of being angry at me for pointing that out, they should be angry at themselves for knowing so little.

His advantage was he admitted that he did not know. What I would ask the gentlewoman is a simple request that we almost never do here. Let us break with precedent. Let us say, you know what, this is important, we are moving too fast. I look around this room and I will say to my distinguished colleagues I bet you, you have not read the bill carefully, and you really, fully cannot explain it to your constituents, and if you have not and if this bill spends $400 billion of the taxpayers' money and is going to blow a hole in the lid of this deficit and is going to deprive people who desperately need pharmaceutical care, then why do we not just take a little bit of time and read it? Who knows, I might actually like it well enough to vote for it, but I cannot vote for something you have not given us enough time to read.

That is what the people of expectation of us when they send us here. That is what a republic is all about it, but we do it a great disservice in this institution of late.

Ms. PRYCE of Ohio. Mr. Speaker, may I inquire as to the time remaining and how many speakers the gentlewoman from New York (Ms. SLAUGHTER) has? I have one remaining speaker.

Ms. PRYCE of Ohio. Mr. Speaker, I have one more speaker.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, this legislation was written at the behest of insurance companies and pharmaceutical companies. This is the beginning of the end of universal health care for seniors.

Since Medicare was enacted in 1965, seniors went from a group least likely to have health insurance to most likely to have health insurance. This is the time of Medicare. Medicare has achieved goals that Congress has not been able to accomplish for the rest of our population.
by keeping millions out of poverty, increasing access to health care, improving quality of life and even extending life expectancy by 20 percent.

This conference report will eliminate universal health care for the only part of our population that has it. It will lead to benefit cuts by the creation of an artificial cap on Medicare spending. It will increase costs for millions of seniors. It will privatize Medicare in order to dismantle it.

We should be expanding Medicare so that all Americans can have quality health care under a single-payer system with fully-paid prescription drug benefits.

This legislation is a choice between health care in the public interest which we still have with Medicare or health care in the private interest. Choose wisely. Reject the rule, reject the legislation.

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

Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO) mentioned. You might think we were talking about different bills. But the truth is the 35 million seniors who the AARP represents cannot believe this bill is what America's seniors need. They know it and we know it. We have heard them.

And let me remind my colleagues that we have before us today a historic opportunity, an opportunity to make American health care more affordable. The House has already passed legislation to modernize the Medicare program. This conference report will eliminate that program, to amend the Internal Revenue Code, to modernize the Medicare Program, to amend the Medicare Prescription drug legislation this week. We have seen a multiplicity of fallacies about what is in the bill and what is not. There has been a multiplicity of fallacies about what is in the bill and what is not. Mr. Speaker, the truth of the matter is this Medicare prescription drug package will grant 40 million Medicare seniors a drug benefit they do not have.

I am especially proud of the low-income provisions in this bill. In my home State of West Virginia where our seniors are clattering for this coverage, fully one-third of the Medicare beneficiaries will only pay up to $5 for prescription drugs, a real savings for those who need it most.

The truth is that seniors fortunate enough to have coverage through a previous employer will maintain that benefit. Corporations, small businesses, unions, State and local governments will receive serious help to allow them to continue to offer that benefit.

The truth is that in this legislation senior women will now have greater access to more affordable health care. Women live longer than men, with less income and suffer from more chronic illnesses. Disease management and access to a prescription drug benefit will allow women to enhance the quality of life in their senior years.

Mr. Speaker, I can handle this truth. West Virginia's seniors can handle this truth. It is time to get past the rhetoric and deliver on a promise we have all made to America's seniors.

Ms. SLAUGHTER of West Virginia, I yield myself the remaining time.

I am going to ask for a no vote on the previous question so we can amend the rule and restore the right of all Members under the House rules to consider the report for 3 days before they vote on it. Voting no on the previous question will not block consideration of the report. It will simply give all the Members who were not in the secret, closed meetings a chance to look before we leap.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the Record immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

We have heard a lot of rhetoric tonight, as the gentlewoman from West Virginia (Mrs. CAPITO) mentioned. You might think we were talking about different bills. But the truth is the 35 million seniors who the AARP represents cannot believe this bill is what America's seniors need. They know it and we know it. We have heard them.

And let me remind my colleagues that we have before us today a historic opportunity, an opportunity to make American health care more affordable. The House has already passed legislation to modernize the Medicare program. This conference report will eliminate that program, to amend the Internal Revenue Code, to modernize the Medicare Program, to amend the Medicare Prescription drug legislation this week. We have seen a multiplicity of fallacies about what is in the bill and what is not. There has been a multiplicity of fallacies about what is in the bill and what is not. Mr. Speaker, the truth of the matter is this Medicare prescription drug package will grant 40 million Medicare seniors a drug benefit they do not have.

I am especially proud of the low-income provisions in this bill. In my home State of West Virginia where our seniors are clattering for this coverage, fully one-third of the Medicare beneficiaries will only pay up to $5 for prescription drugs, a real savings for those who need it most.

The truth is that seniors fortunate enough to have coverage through a previous employer will maintain that benefit. Corporations, small businesses, unions, State and local governments will receive serious help to allow them to continue to offer that benefit.

The truth is that in this legislation senior women will now have greater access to more affordable health care. Women live longer than men, with less income and suffer from more chronic illnesses. Disease management and access to a prescription drug benefit will allow women to enhance the quality of life in their senior years.

Mr. Speaker, I can handle this truth. West Virginia's seniors can handle this truth. It is time to get past the rhetoric and deliver on a promise we have all made to America's seniors.

Ms. SLAUGHTER of West Virginia, I yield myself the remaining time.

I am going to ask for a no vote on the previous question so we can amend the rule and restore the right of all Members under the House rules to consider the report for 3 days before they vote on it. Voting no on the previous question will not block consideration of the report. It will simply give all the Members who were not in the secret, closed meetings a chance to look before we leap.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the Record immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

We have heard a lot of rhetoric tonight, as the gentlewoman from West Virginia (Mrs. CAPITO) mentioned. You might think we were talking about different bills. But the truth is the 35 million seniors who the AARP represents cannot believe this bill is what America's seniors need. They know it and we know it. We have heard them.

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Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the Record immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.
The vote was taken by electronic device, and there were 225 ayes, 205 noes, vote 4, as follows:

[full list of roll call vote]

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.
The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the conference report on the bill, H.R. 2622.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the motion on the floor offered by the gentleman from Ohio (Mr. Oxley) that the House suspend the rules and agree to the conference report on the bill, H.R. 2622, on which the yeas and nays are ordered.

The yeas and nays are ordered.

The Speaker asked the majority leader if the Speaker should count the votes.

Mr. RUPPERSBERGER. The yeas have it.

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The Speaker asked the majority leader if the Speaker should count the votes.
Mr. Speaker, I called up this bill for seniors and for taxpayers. This evening you are going to hear some very harsh rhetoric. But what I really want to do is remind everyone here that since Republicans became the majority in this House there has been a positive and remarkable change to Medicare. Probably most important has been the introduction of preventive and wellness. For many years, it was available to be added to Medicare, but it was not a part of the Republican majority to add the testing and the education for diabetes, for osteoporosis, for improved mammography, for colorectal cancer screening, for prostate screening; and even today in this bill we continue with cholesterol screening and physical exams.

Tonight, the Republican majority is going to add prescription drugs to Medicare. We earnestly seek our friends across the aisle in doing this. The report before us is bipartisan. It is bipartisan because of the House and the Senate structure. Tonight our friends across the aisle have a chance to make it bipartisan in the House. Our friends say that we are trying to destroy Medicare, but if we are trying to destroy Medicare, why is the American Association of Retired People supporting this proposal? Why is the AARP in favor of this bill? You have heard some very harsh rhetoric from my friends across the aisle describing their abandonment by the AARP. My friends, the AARP has not abandoned you. You have abandoned seniors. AARP has chosen to be with seniors, and they have chosen to be with us.

Fact: current Medicare cannot sustain itself financially. Question: Why in the world would we then be adding a $400 billion expansion of benefits under Medicare? In 1993, today's Medicare demands that we do so. Yesterday's medicine was hospitals and doctors. Hospitals and doctors still play a role, but prescription drugs play a central role. We simply would not be doing justice to those seniors if we did not try to add prescription drugs to Medicare.

But I also called this bill up for taxpayers, because if we add prescription drugs to Medicare, we need to be able to tell our taxpayers that we are also changing the funding structure of Medicare as well.

□ 2345

It cannot sustain itself, and we are adding an enormous new benefit. It would be irresponsible of us to simply think all we need to do is add prescription drugs. What we need to do is add prescription drugs, modernize Medicare, and have the taxpayers pay 50 cents on the dollar paid for by the beneficiaries. This legislation is so radical, so extreme, that what it does is it asks people who are making $100,000 a year in retirement to pay 50 cents on the dollar, and to pay 50 cents on the dollar. Ironically, that was the financial split when Part B Medicare began. All we are asking for is for those who have the wherewithal to help share the financial burden. And where? There is an opportunity to provide a modest copay, one of the most significant factors in inhibiting overutilization. We ask those who are going to have a prescription drug, $2 on a generic prescription, $5 on a brand name. It will have a significant impact on utilization. It will also show that we understand, we need to be sensitive to taxpayers. Today they foot the bill, but tomorrow they also want a program. This bill is really all about a fair deal. Modernizing Medicare with prescription drugs but put Medicare back on a sound financial basis as well.

We are going to hear a lot about what we are going to do for up to 40 million seniors in this legislation. Please understand with the modest structural changes we are asking for, there are going to be 140 million taxpayers who are going to be pleased as well. This program cannot sustain itself. Add a new benefit and modernize the program. Medicare is not a Democrat program; they do not own it. Medicare is not a Republican program; we do not own it. It is a program that is in need of modernization for prescription drugs and better financing. The American people's Medicare, the seniors who receive the benefits, and the taxpayers who foot the bill deserve H.R. 1.

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

Mr. RANGEL. Mr. Speaker, I ask unanimous consent to turn over one-half of the time allotted to the distinguished gentleman from Michigan (Mr. Dingell), a member of the Committee on Energy and Commerce, the dean of the House of Representatives, the son of the author of the Medicare bill, who was denigrated in the Senate, the leaders of the Members who excluded you from the inner cities, from America. We do not have senior citizens? We do not have a contribution to make? We can be excluded? And then to have the audacity to come to this floor, even if it is in the middle of the night, and call it bipartisan because you borrowed two Democrats from the other side. That is shameful.

No, our citizens really will recall what we do tonight, what you have done for AARP, what you have done for the pharmaceuticals, what you have done for the private sector whom you have subsidized. The bill is only 1,100 pages, but seniors know that they asked for some help for prescription drugs. No, they did not ask for competition. They did not ask for you to rip off our taxpayers. They did not ask for you to make it difficult for people to access drugs. And then to have the audacity to come to this floor, even if it is in the middle of the night, and call it bipartisan because you borrowed two Democrats from the other side. That is shameful.

We are hearing things from our friends across the aisle about how horrendous the suggested financial burdens are. For example, in today's voluntary, optional Part B Medicare, the premium is 75 cents on the dollar paid for by the taxpayers, 25 cents on the dollar paid for by the beneficiaries. This legislation is so radical, so extreme, that what it does is it asks people who are making $100,000 a year in retirement to pay 50 cents on the dollar, and to pay 50 cents on the dollar. Ironically, that was the financial split when Part B Medicare began. All we are asking for is for those who have the wherewithal to help share the financial burden. And where? There is an opportunity to provide a modest copay, one of the most significant factors in inhibiting overutilization. We ask those who are going to have a prescription drug, $2 on a generic prescription, $5 on a brand name. This will have a significant impact on utilization. It will also show that we understand, we need to be sensitive to taxpayers. Today they foot the bill, but tomorrow they also want a program. This bill is really all about a fair deal. Modernize Medicare with prescription drugs but put Medicare back on a sound financial basis as well.

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Mr. Speaker, I reserve the balance of my time.
Mr. Speaker, today we have the best, and most realistic compromise Medicare bill that Congress has so far developed. There are some here, I realize, who would make the perfect enemy of the good. But when you strip away all of the rhetoric and the partisanship, it really comes down to this: Do you support adding a prescription drug benefit to Medicare, or not?

Yet, I am convinced that this is the best and most realistic compromise Medicare bill that Congress has so far developed. There are some here, I realize, who would make the perfect enemy of the good. But when you strip away all of the rhetoric and the partisanship, it really comes down to this: Do you support adding a prescription drug benefit to Medicare, or not?

In my district in western Pennsylvania, we have a diverse population of seniors. Some live on very low incomes and some are affluent. Some have big time physicians, while others have primary care doctors. But no matter what their background, they have one thing in common: They are all concerned about losing Medicare.

Mr. Speaker, I first start by reminding the distinguished gentlewoman from Washington that the Seattle Times said that one suspects that many conservatives do not really care how the chips fall as long as they are heavy enough to break the back of traditional Medicare. All this talk about choice and updating or modernizing Medicare with market competition is pure malarky. So it does appear that somebody from the State of Washington understands what is going on.

But we are faced with a problem, and the Republican Party from the very top of its leadership to the very bottom have been lying to us. They have been lying to us about the war. They have been lying to us about the weather. They have been lying to us about the economy. They have been going back on their word to give us 3 days. They have proven that we cannot trust them.

Just recently, the past few minutes, the chairman of the Committee on Ways and Means indicated that they had attempted to put in preventative measures. He seems to have forgotten that in 1995 he voted against colon cancer testing. He voted against prostate cancer testing. He voted against annual mammography. He voted against diabetes management. He has voted more often to cut Medicare benefits than he can remember, it appears.

So we are faced tonight with people who want to destroy Medicare. They will lie to us. They will lie to seniors for the pure purpose of their own mes- sianic desires to destroy a system that will protect the fragile seniors in this country.

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

Mrs. Johnson of Connecticut. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. English).

Mr. English. Mr. Speaker, I rise tonight without any xenophobic pretensions to urge my colleagues to cast a vote for our seniors and support improved health care by voting for this bipartisan Medicare bill.

Mr. Speaker, today we have the best, and perhaps the last, opportunity to improve America's seniors with a voluntary and affordable prescription drug benefit as a part of Medicare. This is an unprecedented expansion of an entitle-
from buying cheaper drugs from Canada.

Again, why not simply add a drug benefit to Medicare? Because the real Republican goal is to use a drug benefit as a vehicle for fundamentally changing and undermining Medicare.

The President's Medicare administrator called Medicare a dumb system. Under this bill, there would be a global cap on the size of the Medicare program and a voucher to buy private health insurance instead of getting regular Medicare, with the deck loaded against Medicare, $14 billion to HMOs.

Republican reforms are Medicare's destruction. Vote "no" on this Republican bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 1 minute and 15 seconds.

I would remind the gentleman from Maryland that 28 percent of his seniors will have no more costs than either $1 per generic or $2 per prescription and $5, and 35 percent of Michigan seniors have incomes under 150 percent of poverty and will be totally protected under this bill.

Mr. Speaker, I think as we proceed in this conference report and urge my colleagues to do the same, this is a time to remember that 38 States, 38 States provide Medicaid coverage for people whose income is 74 percent of the national poverty income. So 38 States are not even at 100 percent of poverty income. We cover people completely, everything, except $1 per generic or $2 per prescription or $3 or $5 per prescription drug.

Do my colleagues understand that of the Medicare population, 57 percent are women? Mr. Speaker, 57 percent are women, and half of them, half of those women will pay no more than $2 per generic or $5 per prescription. They will have no other obligation, all the way through catastrophic. Half the women on Medicare. This is a giant stride forward in women's health care.

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

Mr. STARK. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Maryland (Mr. CARDIN), who knows that all of the other members of the Older Women's League understand that this bill was supposed to modernize Medicare, not eviscerate it; and to deny basic health services for those who need it most, to increase the profits of the health care industry is criminal. (Mr. CARDIN asked and was given permission to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, I am very disappointed. I had hoped that I would have an opportunity to vote for a real prescription drug benefit within the Medicare system, or at least I would be able to vote on a bill that provides the foundation on which we could build a real benefit within Medicare. Instead, this conference report provides a guaranteed benefit whatsoever to our seniors for prescription drugs. It uses what is known as "actuarial equivalence" which depends solely upon private insurance companies.

We know what happened to Medicare+Choice with private insurance companies. The eight that were operating in my State of Maryland are all gone. So are the $20 billion in private plans, boosting their payments to equal more than 125 percent of the amount paid for traditional Medicare. But it cannot create private interest in the senior market. We have tried that and failed.

To be successful, a drug benefit must be within basic Medicare and based on a sound structure that can be improved over time. Only a benefit that is based on a solid foundation will give seniors the stability they need and deserve. Rather, this bill relies solely on the willingness of private insurance companies to offer the benefit. In the Ways and Means Committee, I fought for a fallback within Medicare that would be available to every beneficiary in the country. It would have a set premium, deductible, and copays that would always be there regardless of where seniors live and what plans enter their region. If the private sector offered a superior, more efficient plan, seniors would choose the private plan. But if the private plan never materialized, or if it offered a premium that was unaffordable, Medicare would be there for them. In rejecting a fallback and mandating a "Medicare+Choice" plan that could come and go from year-to-year, the conference bypassed the opportunity to continue Medicare's promise of universally available health care for all seniors.

Ask your constituents if they want a choice of more private plans. They do not. They want a choice of hospitals and doctors, and they want stability, reliability, and real help with paying their prescription drug costs.

This conference report lets them down. It offers seniors an inadequate benefit. The President and the Republican leadership say that this plan gives seniors the same benefits enjoyed by Members of Congress and federal employees. That is untrue for several reasons. First, the benefit packages are nearly mirror images of one another. In most FEHBP plans, employees receive coverage for prescription drugs. A federal employee with annual drug costs of $5,000, would pay about $1,000 out-of-pocket. But under this legislation, seniors with annual drug costs of $5,000 would have to pay $4,020 out-of-pocket.

Second, the Medicare drug benefit has a wide coverage gap that will leave many of our seniors paying premiums for several months when they are receiving no benefits. There is no plan approved by OPM that would require federal employees to continue paying premiums we receive no benefits. Seniors should not have to do that either.

Third, under this bill, seniors who want to remain in traditional Medicare would have to enroll in a stand-alone drug plan to get prescription drug benefits, but there is no such plan in the under-65 market. The conference report does not guarantee them what their premium will be; only that a private company will offer them an actuarially equivalent benefit that can change from year to year. It is a level of uncertainty that our senior should not have to face.

One, seniors now know the details of this bill. They are calculating their prescription drug costs at kitchen tables across the country tonight. They are calling Congress to say how much more than 2.4 million seniors have been abandoned by private insurance plans, even though the plans were paid at 119 percent of fee-for-service Medicare costs.

The conference report changes the name "Medicare+Choice" to "MedicareAdvantage," and with $25 billion in private plans, boosting their payments to equal more than 125 percent of the amount paid for traditional Medicare. But it cannot create private interest in the senior market. We have tried that and failed.
disappointed they are at the inadequate bene-
fits this bill provides, and they are urging us to
vote no.
Rather than providing relief to our seniors, this bill shifts additional costs from government onto their backs. Although the drug benefit promises to cap spending by hundreds of billions of dollars, usually in the form of tar-
geted provider cuts. But our hospitals, doctors, nursing homes and rehabilitation providers need fair reimbursement, and Congress has usually answered the call. In addition, these members have found difficult to argue the need for drastic cost containment given that Part A Medicare solvency is now the third longest in the history of the program. So the conferees have taken a surreptitious ap-
proach, adding a provision that was not in the
report gives insurers license to charge much
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Mr. STARK. Mr. Speaker, I yield 1 1⁄2 minutes to the gentleman from Wis-
consin (Mr. KLECZKA), who agrees with the Arizona Daily Star from Tucson that by doing nothing to address the cost of medicines and by raising pay-
ments to private HMOs that want to compete with Medicare, the bill dooms the Medicare program to major prob-
lems down the road.
Mr. KLECZKA. Mr. Speaker, the gentle-
man from Arizona who just spoke advises us to listen to our seniors; and many of us, I say to my colleagues, are doing just that with our vote today. Here is a senior from my district who advises me to oppose this bill, and they just canceled their AARP membership this mor-
ing.

What is going on here? This bill started out as a drug bill for senior citizens and, all of a sudden, we find the bill before us has over $100 billion for special interests in this country, and the calls we are getting to support the bill are from those special inter-
ests. They are saying, here is 200,000 signatures on a petition for this bill. Here, a big fat letter. And not once do they mention Medicare drugs for sen-
iors. They are worried about their own pocket. Letter after letter in my office and on my fax machine are from spe-
cial interests who have lobbyists in town urging Members to vote for this bill because they are getting something out of it: more money. And none of them are saying, and also the senior provision is good.

That is what is going on here. The seniors who call us are against the bill. The special interests who, in a cam-
paign period can give us $10,000 in campaign con-
tributions, are encouraging us to vote for the bill. Who do you think is going to win at the end of the day? The seniors or the special interests? The seniors didn’t get a PAC. They do not give us $5,000 a crack, $10,000 a crack. That is what is happening, I say to my colleagues. And let us not forget it.

Mrs. J. JOHNSON of Connecticut. Mr. Speaker, I yield myself 15 seconds.
I do not consider the AARP a special interest group, or the Coalition to En-
sure Patient Access a special interest
group, or the Alzheimer’s Association a special interest group, or the Kidney Cancer Association a special interest group.

Mr. KLECKZA. The Hospital Association, the American Medical Association, the families, the gentleman talking about the American Medical Association, the Latino Coalition.

Mr. Speaker, it is my time.

Mr. KLECKZA. Let us not kid a kidder; we know who they are.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Connecticut will suspend. The gentlewoman from Connecticut has the time.

Mrs. JOHNSON of Connecticut. The Mental Health Association of Central Florida, the Larry King Cardiac Foundation, the Latino Coalition.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. OBERSTAR).

Mr. GINGREY. Mr. Speaker, I rise to tonight in support of the House-Senate Medicare agreement. For those of us who had hoped that this bill would contain more reforms or greater cost constraints, I agree. We did not accomplish all that we had hoped. But as a physician, the medical reality of the bill, a medical reality that the prescription drug benefit itself is fiscally responsible and a potential cost-saver for Medicare.

By providing a prescription drug benefit, those who will be able to take the necessary preventive action to potentially stave off or treat an illness in an earlier stage, making it easier to control the cost of treatment.

The medical reality is that prescription medication can help seniors live longer, healthier lives, while saving a tremendous amount of money on treatment by avoiding costlier options. Although I hope the future will bring about more changes and modernization to Medicare, the Medicare agreement will be a great start. And I urge my colleagues to take this fiscally responsible step and pass the Medicare conference report.

Mr. STARK. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Massachusetts (Mr. NEAL), who agrees with the Boston Globe that this experiment needs to be stopped before the Republicans in Congress damage a program that has served the elderly for 38 years.

Mr. NEAL of Massachusetts. Mr. Speaker, it is not always an easy task to agree with the Boston Globe.

Mr. Speaker, I thank the gentleman from California (Mr. STARK). Well, here we are again in the dark of night, whether it is doing Trade Promotion Authority or whether it is doing tax cuts, or whether it is doing the privatization of Medicare, we do it in the dark of night.

Only could the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, talk about the crisis that confronts Medicare after they led the charge to rip $2 trillion out of the Federal budget. As primary taxpayers while at the same time and for 38 years we are watching our children of Roosevelt on this side and Johnson, and let us not forget it. When you hear them talk about their newfound affinity for Medicare, recall that it was Dole and Michael and Rumsfeld and Ford who voted against the establishment of Medicare.

And I want to say something to my colleagues on the democratic side tonight who are tempted by what is happening. You mark my words, you are going to be back here in a year, and the next step is Social Security. That is where they are headed. Medicare is an amendment to the Social Security Act. America is a more egalitarian society today because it was our party who stood against the forces of privilege. They are the ones that said no.

Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I stand in strong opposition to H.R. 1. I believe in Medicare. I believe that Medicare is a sacred trust between the Federal Government and the American people. I believe with all my heart, with all my soul, and with all my being that Medicare must have a dependable, affordable, and strong prescription drug benefit, and that is why I cannot support this bill.

Mr. Speaker, 38 years ago the Republicans did not like Medicare and they do not like it now. Republican Speaker Newt Gingrich gleefully stated that he wanted to see Medicare wither on the vine. Mr. Speaker, my colleagues, Newt Gingrich is back, and his fingerprints are all over this bill.

If this bill is passed, it would be a dagger in the heart of Medicare as we know it. This bill is an attempt by the Republican party to privatize Medicare. I stand against privatizing Medicare, and I stand against this bill.

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

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Speaker, I want to congratulate those that have worked on this very complicated bill. I was pleased this morning to receive from the Governor of Pennsylvania, Governor Rendell, an endorsement of this plan. Why would a democrat governor from Pennsylvania support his plan? His people were here and reviewed it.

This allows states like Pennsylvania and 20 other states who have pharmacy plans to wrap around and make a really comprehensive pharmacy program for their state with a state effort and the Federal effort.

Now, those of you who come from rural America better think seriously about voting against this bill. Rural health care has been fighting for its life. This is a life-line that will for once and forever help stabilize Medicare payments. In rural America what good does a pharmacy program do if you do not have a doctor in a hospital and a home health care agency for him or her to work in?

This program does more to help rural health care than has ever been done. The urban areas of this country have Medicare Plus while rural America has had Medicare Minus Minus. An unfair system. And this bill does more to equalize that. It also preserves cancer care that has been under threat. And it brings health savings accounts that will be an offering to our businesses more seriously considering about walking away from health care because they cannot afford the current plan.


Hon. JOHN PETERSON, Cannon Building, Washington, DC.

DEER REPRESEPENTATRE PETERSON: I am writing to thank you for your efforts to develop provisions in the Medicare Prescription Drug bill to allow PACE to continue to be a beneficiary of the Act for qualifying seniors in Pennsylvania. As of early 2004, we expect approximately 325,000 Pennsylvania seniors to be in the PACE program, and we owe it to all of them to ensure the program on which they rely continues to work for them.

As the Medicare drug benefit legislation had been in development, our goals have been to ensure seniors in the PACE program would be able to benefit from the new federal benefit without experiencing any changes in the way they obtain prescription drugs and without being forced through a bureaucratic process along the way. Federal legislation must allow for a seamless transition for PACE beneficiaries with the same time allowing PACE to expand its prescription drug program and services to more of our seniors.

I have informed that the language in the Medicare drug benefit bill achieves our major goals relating to the PACE program. This is good news for our constituents and I appreciate very much all the hard work you and others in the Pennsylvania delegation did to make this happen.

Should the legislation ultimately be enacted, I look forward to working with you and Secretary Thompson to make sure the PACE-related provisions are implemented as we all believe they should be.
Thank you again for your efforts on behalf of Pennsylvania’s seniors.

Sincerely,

Edward G. Rendell,
Governor.

Mr. Stark. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. Doyle).

Mr. Doyle. Mr. Speaker, I just spoke with the Governor’s office earlier this evening. I was aware of this letter that was sent out to four Republicans. Governor Rendell does not endorse this program. He does not support this program. And I just want that to be reflected in the Record.

Mr. Stark. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. Sandlin) who agrees with the Houston Chronicle, the Republicans are interested only in the illusion of providing a popular benefit, a Republican driven bill to quote, improve Medicare is impossible.

Mr. Sandlin. Mr. Speaker, we have heard a lot of pretty words from the Republicans tonight, but every one on both sides of the aisle knows that this bill is nothing but a sham, a charade, a sham, a shameless trick on America’s seniors.

America’s seniors need help right now and yet the bill advanced by the Republicans does not even take effect until 2006. No coverage in 2003, no coverage in 2004, no coverage in 2005, and who knows what will happen in 2006.

Our seniors cannot afford prescription drugs, and in the face of that challenge, the Republicans have presented a bill that requires seniors to pay out of their pockets over $4,000 of the first $5,000 spent on drugs. That is no benefit at all.

Now, have the Republicans done anything to reduce the cost of drugs? No. The HMOs and the pharmaceutical companies will not let them do it. And this bill that is supposed to make drugs more affordable, there is no control over the greed by the pharmaceutical companies. Their greed is what got us in this situation in the first place. Do you think that philanthropy has suddenly invaded the boardroom of the pharmaceutical companies. Is that what you think?

Amazingly, this bill prohibits, makes it illegal, against the law for the government to negotiate for lower prices with a pharmaceutical companies. They supply the product, they set the price, the seniors foot the bill, that is a sweet deal for them. And can the seniors save money by getting drugs from Canada or Mexico? Oh, no, the Republicans in this bill that was written by the pharmaceutical companies say no. And that is the way it is.

Finally, Mr. Speaker, the Republicans have the audacity to support a plan that lines the pockets of HMOs by taking $3.7 billion out of cancer treatment, leaving America’s seniors both broke and dying. If this bill passes, it passes on the back of the America’s seniors. The Republicans will have to answer. They can run in the middle of the night, but they cannot hide.

Mrs. Johnson of Connecticut. Mr. Speaker, I reserve the balance of my time.

Mr. Stark. Mr. Speaker, I yield ½ minute to the gentleman from Ohio (Mrs. Jones). She is a woman who agrees with Al Hunt, who wrote in the Wall Street Journal that this is an open rip-off by HMOs. There is a reason most Americans and virtually all who have endured serious medical issues, despite HMOs. They are, with few exceptions, vultures.

(Mrs. Jones) of Ohio asked and was given permission to revise and extend her remarks, and include extraneous material.

Mrs. Jones of Ohio. Mr. Speaker, I am proud to have had the opportunity to serve my first year on the Committee on Ways and Means. And I think it is important for America to know that, finally, we had an African American male on the Committee on Ways and Means who rose to ranking member, who rose to representation on the conference committee, and he was excluded from being part of the willing coalition.

I say to people across America, particularly the African Americans in this country, you were not at the table, your interests were not represented. Let me, in addition, say that since we have two Houses in this Congress, the House of Representatives and the Senate, that the House was not represented on the Democratic side in this report.

But let me address another issue. And I have got a written statement that I will submit for the Record. Everybody keeps saying about AARP and how renowned they were. But they do not talk about that. In the last 4 years AARP made $608 million in insurance-related expenses, 30 percent of its income. They do not talk about that. AARP had a 10-year Medigap contract with some company and the business is not worth anymore. They do not talk about that. AARP made $10.8 million last year by selling its member list to insurance companies. And they do not talk about the fact that AARP spends $7 million in support of this legislation. Talk about a conflict of interest. If there ever was one, it is right there. So I say to you, we are going to ruin neighborhood drug companies. We are not drug pharmacies. Do not vote for this bill. This bill is not in the interest of senior citizens.

Mr. Speaker, I rise in opposition and with great disappointment of the Medicare conference agreement. The Republican leadership in the House of Representatives has excluded Democratic Members from the negotiations and has written a Medicare bill that bows to major drug companies and prevents Medicare from negotiating better prices. This agreement masquerades as an attempt to add a long-overdue prescription drug benefit, but this is a real Trojan horse designed to dismantle Medicare, as we know it.

This agreement is flawed in countless ways. Its concentration on privatization is misguided at best and devastating. This is a special interest giveaway to the insurance companies with provisions including a $12 billion slush fund to bribe HMO’s and PPO’s to participate, all at the expense of taxpayers and the elderly alike. The agreement leaves a substantial number of the 6.4 million low-income Medicare beneficiaries who are also eligible for Medicaid worse off by requiring them to pay higher copayments for prescription drugs than they pay today. This agreement also prevents Medicaid from filling in the gaps of this new, limited benefit bill squandered $3.7 billion needed for coverage on tax breaks for the wealthy which in fact creates an unprecedented tax loophole that would undermine existing employer coverage and adds to the ever-growing number of uninsured. These funds should be used to prevent employers from dropping coverage or to improve the drug benefit. Even worse, this bill would force some low-income seniors who have modest savings to impoverish themselves in order to take advantage of the extra help allegedly available in this bill. A disproportionate share of African American Medicare beneficiaries are disenfranchised. The kickbacks points chosen in this conference agreement will piggieback African Americans into what is referred to as the “donut” on paying for the drug benefit. This will unfairly hurt African American Medicare recipients, many of whom have chronic ailments. We are forcing our seniors to choose among purchasing food, prescription drugs or paying the roof over their heads.

In closing, please let me inform America that this bill does not address the needs of our citizens. This bill would manufacture a crisis when an arbitrary cap on general revenue funding is reached, which would trigger a fast-track process for consideration of legislation to radically cut Medicare, including benefit cuts, payment cuts for hospitals, nursing homes, home health providers and increased cost sharing. Without hesitation, Congress provided $87 billion to rebuild Iraq; is it too much to ask that Congress appropriate $3.7 billion to ensure our Nation’s seniors what they deserve—an affordable and guaranteed medicare drug benefit?

Mr. Speaker, I represent 206,000 constituents in my district who are 65 and older and are below the federal poverty level. The same constituents I promised that I would vote for a Medicare prescription drug bill that would be affordable with reasonable premiums and deductibles that are designed to significantly reduce the price of prescription drugs; a meaningful medicare prescription drug bill that would be defined, provide guaranteed benefits, there would be absolutely no gaps; no separate privatized plan; and most important, I repeatedly told my constituents that I would support a Medicare prescription drug bill that would be available to all seniors and disabled Americans. The results of the Medicare conference agreement is not what I expected. Dear colleagues, I ask that you join me and vote against this measure.
AARP ACCUSED OF CONFLICT OF INTEREST

By Jim Driskard and William M. Welch
WASHINGTON—AARP, the nation’s leading lobbying force for retirees, has a major conflict of interest in its backing for a new Medicare prescription drug plan, opponents charge.

The organization receives millions of dollars a year in royalties for insurance marketed under its name, and it stands to gain from a windfall from the plan, which would pump $400 billion into a new drug benefit and open Medicare to private insurance competition.

AARP Spokesman Steve Hahn says the organization received about $508 million in insurance-related income over the four most recent years for which data are available. That’s 30% of its total income, roughly equal to what it collects in membership dues.

“It’s almost unimaginable that they wouldn’t stand to gain” if the new benefit is passed, says David Himmelman of Harvard Medical School. He is a proponent of national health insurance.

Much of AARP’s insurance business is in policies that pay costs not covered by Medicare—so-called Medigap insurance. UnitedHealth Group signed a 10-year contract with AARP to provide such coverage to its 35 million members. The business was worth $3.7 billion last year to the insurance company.

The same folks who are in the Medigap market would want to get into this, and the best route in is through the AARP membership list,” Himmelman says.

AARP also collects millions of dollars a year from insurance and drug companies that advertise in the magazine it mails to members. It also makes money—$10.8 million last year—by selling its members list to insurance companies.

From its earliest roots in the 1950s, AARP has been closely tied to the insurance business. It grew out of a retired teachers group that sought to provide health insurance to its members. “They have always had this commercial identity,” says Jonathan Oberlander, a political scientist at the University of North Carolina who has studied the politics of Medicare.

The ethics of AARP’s business activities—which include not only insurance but credit cards, travel packages and prescription drugs—has drawn unwarranted attention before. But last week’s televised hearings that alleged the group was abusing its non-profit status. AARP was forced to pay back taxes on its earnings from those commercial ventures, and the group has faced periodic questioning about whether its business interests at times overshadow the interests of its members.

Simson, now retired from the Senate, remains one of the group’s sharpest critics. “If there was a sublime definition of conflict of interest, it would be AARP from morning to night,” he says.

AARP is tax exempt and officially non-partisan. “We made public policy decisions without regard to business considerations,” says the group’s policy director, Marcia I. Rother. Spokesman Steve Hahn says some of its Medigap policies and mail-order pharmaceutical sales are likely to be hurt by passage of the new bill because it will increase competition.

Democrats in Congress seemed stunned this week when AARP announced it would support a Senate-drafted Medicare compromise and pour $7 million into a TV ad campaign urging passage.

Senators Minority Leader Tom Daschle, D-S.D., and Minority Leader Nancy Pelosi, D-Calif., say the legislation would undermine Medicare and the agendas of big drug and insurance companies,” they wrote in a letter to AARP head William Novelli. They asked Novelli to pledge not to profit from any program that might be created.

Rep. Pete Stark, D-Calif., called the legislation a “special-interest boondoggle” that would siphon billions of dollars from its grass roots. On Thursday, a message board on the group’s Web site was peppered with angry postings from members, including 699 new misses under the title, “AARP sellout.”

For a decade, AARP has been a sleeping giant. The organization felt burned after it slapped its corporate logo on a drug plan in 1988 backfired with seniors and had to be repealed. It had since been reluctant to take positions on hot political issues. Its membership is evenly divided among Democrats, Republicans and independents, making it hard to take sides in policy fights.

But when the group does decide to engage, it gets prescription drugs are a key component to this bill. As we are all aware, in 2006, with this Prescription Drug Plan, drug manufacturers will want to get into this, and the insurance company.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to my colleague, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), who has experience legislating in the area of health care reform.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I am one of those Republicans who guard up very poor. My dad was a Democrat. And I remember asking him why he was a Democrat, and he said because the Democrats protect the poor.

What I am hearing here tonight says the Democrats do not care about the poor. They do not care about the little old lady whose income is about $11,000, who only has Social Security, who cannot get prescription drugs today. That is the wrong message to be sending if they hope to be the savior of the poor and the downtrodden.

I also teach health care. One of the things that I teach in my class are statistics. And the statistics are that the African American community and the Hispanic community pass away at a much earlier age from heart attacks, from coronary artery problems, and you know what? These are the prescription drugs that will be available under this prescription drug plan. How can they go back home and say that they are protecting the poor and the down-trodden? These are the same, they are protecting the poor and the down-trodden, these are the people we are going to benefit from this prescription drug plan. I fully support it. Is a good bill for everyone.

Mr. Speaker, I rise today in support of the Bipartisan Medicare Prescription Drug, Improvement, and Modernization Act because it provides the much needed prescription drug relief seniors have asking for, offers help to our rural hospitals and our nation’s doctors, and begins the real modernization and reform of a Medicare program in dire need.

Throughout my public service, I have heard a persistent quest from seniors how are you going to help us with the cost of prescription drugs? With the passage of this bill, I feel that I can finally begin to answer that question.

For the first time in history, we are going to provide all 40 million seniors and disabled Americans with prescription drug coverage.

It gives me great comfort to know that in 2006, with this Prescription Drug Plan, drug costs for seniors could be cut almost in half. And as early as next year, senior will begin to save hundreds of dollars when they sign up for prescription drugs with their Medicare prescription drug card. In the first year we expect seniors to save an estimated $365.

As a member of the Speaker’s Prescription Drug Task Force, this is something we fought for and this is something we got.

In addition, we are giving Americans more control over their health care by creating Health Savings Accounts, where they can contributions up to $2,500 a year into these tax-free accounts and citizens 55 years or older are permitted to make “catch up” payments. These accounts can be used for future medical expenses and may prove to be an additional much needed asset to our aging population.

Mr. Speaker, I would also like to bring to the attention of my colleagues a very important to the future of this bill. As we are all aware, in 2004, the prescription drug discount card in Medicare will offer seniors up to 25 percent off their drug costs and provide low-income seniors, those with incomes of less than 135 percent of poverty into account, a $500 subsidy on top of the discount card. That’s great savings, especially for wealthier seniors.

But what if you have an income of over 135 percent of poverty and you’re disqualified from receiving the cash subsidy? Currently, hundreds of thousands of seniors in this country are靠 and discounted prescription drug companies that offer significant savings on medications that a particular company produces. The income-restrictions on these cards are in some cases up to 300 percent of poverty. This means virtually all seniors in the United States are eligible for this savings, which in many cases equals up to 80 percent off the retail cost of the drug. For example, Mr. Speaker, Eli Lilly makes Prozac; and if one of my 5th district seniors needs assistance with the cost of that drug, they can sign up to receive the credit card and receive a 30-day supply of any Eli Lilly product for just $12. If, due to the new Medicare discount card, these important voluntary programs were discontinued, many of our Nation’s seniors would end up paying higher prices. My constituent would end up paying over $75 for the same Prozac he or she is now receiving for only $12. Just as there was a fear this benefit would cause employers to drop coverage once it became available, I was concerned that the drug card would cause drug manufacturers to discontinue their cards.

Mr. Speaker, working with you, Majority Leader DELAY, Majority Whip BLUNT and many of my other colleagues in this House, I took the lead and fought to protect seniors who are benefiting from the current prescription drug cards.

Note: on page 64 of the report language adendum and addressing section 1860D–31 of Conference agreement; Section 105 of House bill; Section 111 of Senate Bill reads:

Seniors currently benefit from prescription drug assistance programs offered by pharmaceutical companies instead of the Medicare prescription drug plan. In the future, it is our hope that these programs continue to be offered until the full implementation of the prescription drug plan.
lighted to yield 2 minutes to the mi-

colleagues to vote in favor of the Prescription

the next step forward. Accordingly, I urge my

brace its strengths and dedicate ourselves to

nesses of this proposal, we must each em-

prove health care for all Americans, including

with Democrats and Republicans, to continue

fordable health care the world has to offer. In

constituents with the best, safest, and most af-

bill is a good beginning and it signifies

is perfect, including myself, but I believe this

have had to choose between life-saving drugs

would stand with them in making a prescrip-

believed my voice would be heard and that I

the citizens of the 5th Congressional District of

work we were able to do together.

a member of the Committee on Ways and

(Mr. WELLER asked and was given

permission to revise and extend his re-

The politically engineered pre-

interests, but they get big improve-

health centers. Some call them special

all of our hospitals, I think every one

The politically engineered pre-

The politically engineered pre-

impossible for me to vote for it.

I am proud that a majority of House

I am a Republican and I am very proud

Mr. STARK, Mr. Speaker, I am de-

But tonight we have a choice to make—

to take a step forward or to accept the status

 quo. Instead of concentrating on the weak-

neses of this proposal, we must each em-

brace its strengths and dedicate ourselves to

the next step forward. Accordingly, I urge my

colleagues to vote in favor of the Prescription

Drug and Medicare Modernization Act.

Mr. STARK. Mr. Speaker, I am delight-

ted to yield 2 minutes to the mi-

nority whip, the gentlemen from Mary-

land (Mr. HOYER).

Mr. HOYER. Mr. Speaker, this Medi-
care conference report is, sadly, a missed opportunity. I was here in 1983. Ronald Reagan, Tip O'Neill, and Bob Michael joined together to save Social Security. They came together, President Reagan, Speaker O'Neill, and Minority Leader Michael and said, we need to have a bill that has bipartisan support and will get the job done.

It did. The Republicans rejected that model. Most Members of this body on both sides of the aisle recognize that it is long past time that we provide for our seniors and give them a prescription drug program; but it is not this bill that they expected, a feeble benefit that forces them to pay 80 percent of their costs.

I will tell the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) her dad was right. He was a Democrat because this party has historically and now believes that we should have done better by our seniors. Even the conservative Heritage Foundation, which is against this bill because they want to see Medicare done away with, says this: ‘The politically engineered precursor to this proposal—combined with the odd combination of ‘donut holes’ or gaps in drug coverage, are likely to be unpopular with seniors.’

‘The Heritage Foundation said that. Not STENY HOYER, not Democrats. They say that. That is the immediate past

leader of our party wrote in the Wall

Street Journal at a point in that confer-

cence report is ‘bad news for sen-

iors.’

Your majority leader just past said that.

Now, he wants to do away with Medicare. He does not believe we ought to have Medicare. He nevertheless says this is bad news for seniors. Because it is bad news for seniors, we ought to vote against this bad bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 10 seconds. I re-

mind the gentleman from Maryland (Mr. HOYER) that of his 713,000 seniors, 31 percent will get total drug coverage under this bill.

Mr. Speaker, I yield 2 minutes to the
gentleman from Illinois (Mr. WELLER), a member of the Committee on Ways and Means.

(Mr. WELLER asked and was given

permission to revise and extend his re-

marks.)

Mr. WELLER. Mr. Speaker, this is

historic legislation tonight. Again, we

make another positive step forward in

modernizing Medicare, a process we have

been working on every year the nine

years that I have served in the House of Representatives.

I am proud that a majority of House

Republicans voted in favor of Medicare

when it was created. I am proud a ma-

jority of this House, who is the major-

ity, continues to work to modernize and

improve Medicare for our seniors.

This legislation that came out of bi-

partisan work, opposed by the AARP, a

trusted organization that rep-

resents millions of American seniors.

And in the case of Illinois, my home

State, 1.7 million seniors benefit in the

State of Illinois. They benefit because

they will have for the first time ever

prescription drug coverage that is vol-

untary, it is affordable, and it is uni-

versal, available for every senior cit-

izen. It will be immediately available.

In fact, with this legislation becoming

law, seniors will have a prescription drug card immediately this coming year allowing them to see up to a 25 percent savings; and 2 years later, 2006, every senior again will have the same thing in this bill to lower the price of prescription drugs. They choose to enroll in a prescription drug plan available through this modern-

ization of Medicare. In fact, at a cost of about $1 a day, they can see a 75 percent savings, up to 75 percent sav-
ings. And in 2006, under this Medicare, they will pay little or no premium. This is a good plan. That is why it has bipar-

tisan support.

I want to salute Senator BREAUX and

Senator BAUCUS for working with Re-

publicans to come up with a bipartisan plan.

I would also note that hospitals and

community health centers do benefit

because when you modernize the Medi-
care, you also fix the reimbursements. In

communities that I represent, almost

all of our hospitals, I think every one

of them, is a not-for-profit. They strug-

gle, both the hospitals and community

health centers. Somehow the special

interests, but they get big improve-

ments back for Illinois, $400 million in

additional reimbursements as a result

of this legislation.

Mr. STARK. Mr. Speaker, the Repub-

licans can lock out two of the leading

Democratic legislators from their con-

ference committee, but just to show you that we are bigger than all that, we will turn the other cheek. I yield 2

highest prices in the world for pharma-

ceuticals. We pay seven, eight, nine, 10

times as much for Tamoxifen, a woman

who has breast cancer and has to have

these worthwhile and necessary card pro-

grams, copies of which I
pay-off to Big Business to keep their employees and their former employees covered under this plan.

I want to tell you something. As a businessman, they are going to look down the road and they are going to say, I’ll have to change from time to time and they are going to start dumping their employees on the Federal plan. And when they do, those retirees are going to be so angry at us, you are not going to believe it.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Florida (Mr. Young).

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

Mr. YOUNG of Florida. Mr. Speaker, as one who represents the largest groups of senior citizens, older Americans who are on Medicare and Social Security, and also as the prime sponsor of this bill, Mr. Speaker, I rise in support of H.R. 1, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. This is the most important and comprehensive improvement to the Medicare program since it was established 38 years ago.

For the first time, Medicare will provide prescription drug coverage for 40 million older Americans. It will provide lifesaving help for the millions of seniors who today forgo taking prescription drugs because they have no coverage and cannot afford them. It will allow seniors to take medicines as prescribed rather than cut them in half or skip days to make the supply last longer. And it will eliminate the heart wrenching decisions many seniors must make over whether to buy food or prescription medicine, because they cannot afford both.

One of the reasons Americans are healthier and living longer is that prescription medication is available to control many chronic diseases such as high blood pressure, cholesterol, and diabetes. Unfortunately, these medicines are often not available to those living on fixed incomes. This legislation changes that by creating a tiered benefit program that provides prescription drug coverage for everyone eligible for Medicare. Yet it still allows those who receive prescription drug coverage through their employers or other health benefit plans to elect to retain that coverage.

Because of the complexity of bringing the new Part D prescription benefits online, those benefits will not take effect until 2006. In the interim, however, Medicare beneficiaries will be eligible beginning next April to receive a Medicare-approved drug discount card. Seniors will take this card to their local pharmacy to receive discounts of 10 to 25 percent off their prescription medicine. This will provide immediate savings to seniors while preparatory actions are underway to launch the full Medicare prescription drug program in 2006.

Once implemented, seniors electing prescription drug coverage will pay a monthly premium of $35. Following a $250 deductible, they will receive federal coverage for 75 percent of the costs of their prescription drugs up to $2,250. For each prescription filled, there will be a $2 co-payment for generic drugs and a $5 co-payment for brand name drugs. If a senior incurs catastrophic drug costs, exceeding $3,600 in out-of-pocket costs, Medicare will cover 95 percent of drug costs over that amount.

For those on small fixed, limited incomes (below $12,123 for individuals and $16,362 for couples), they will pay no deductible and no premiums. Medicare prescription drug coverage will pay a portion of the cost of prescription drugs in excess of the initial coverage limit of $2,200 and the catastrophic coverage threshold of $3,600. For those with incomes between those levels and 150 percent of the federal poverty level ($13,470 for individuals and $18,180 for couples), the premiums and deductibles will increase on a sliding scale.

In addition, it is estimated that this legislation will drive down the price of prescription medication by as much as 20 percent, to yield further savings for seniors. It also sets in place new federal laws that will allow drug manufacturers to bring to market quicker, more affordable generic drugs.

In addition to the new prescription drug coverage, this legislation will improve the quality of care for seniors in a variety of other ways. Most notably, it provides coverage for the first time for catastrophic health care benefits. Beginning in 2005, all newly enrolled Medicare beneficiaries will be covered for an initial physical examination. All beneficiaries will be covered for cardiovascular and screening blood tests and those at risk will be covered for a diabetic eye screening. New benefits will allow for the screening of patients to catch many illnesses and conditions early, allowing them to be treated and managed in a way that improves their health and quality of life while at the same time lowering medical costs to individuals and Medicare programs by preventing later serious health consequences.

Finally, this legislation will ensure that Medicare payments for physician and hospital services keep pace with inflation so that we do not lose health care providers who are available to care for the growing population older Americans. It also seeks to stabilize the reimbursement rates and drug coverage for cancer patients, who have faced increasing problems with the reduction in Medicare payments for these services over the past few years.

Mr. Speaker, as the representative of one of the largest populations of Medicare recipients in this Congress, I know firsthand the life-line that this program provides for seniors. My highest priority in the development of this legislation was to ensure that we do nothing to diminish or endanger the health care coverage it provides. We have done a good job in seeing that just the opposite is true. With its enactment, H.R. 1 will provide expanded benefits and will ensure that these benefits are more affordable and more available to all.

H.R. 1 also responds to the three major concerns that I have heard from my constituents throughout the development of this legislation. First, it guarantees access to the traditional Medicare program, services, and benefits that they currently receive. It will, however, allow those who are interested to consider new Medicare-approved plans where drug coverage is integrated into broader medical coverage or lower cost managed care plans offering expanded benefits.

Second, H.R. 1 maintains the full Federal commitment and support of the Medicare program. Some were concerned that the final legislation would in some way privatize the delivery of these health care benefits. That is not the case in this bill.

Third, H.R. 1 does not in any way encourage employers or private health care plans to drop current employees or beneficiaries from their health care or prescription drug plans. Instead, it provides a number of important incentives for employers and private health care plans to retain current employees and beneficiaries in their health care plans and allows the new Medicare benefits to supplement the benefits they already receive privately.

Addressing these concerns is one of the many reasons the American Association of Retired Persons has endorsed H.R. 1. In a statement earlier this week, AARP said, “AARP believe that millions of older Americans and their families will be helped by this legislation . . . The bill represents an historic breakthrough and important milestone in the nation’s commitment to strengthen and expand health security for its citizens at a time when it is sorely needed. The bill will provide prescription drug coverage at little cost to those who need it most: People with low incomes, including those who depend on Social Security for all or most of their income. It will provide substantial relief for those with high drug costs, and will provide modest relief for millions more. It also provides a substantial increase in protections for retiree benefits and maintains fairness by upholding the health benefits of the Age Discrimination and Employment Act.”

Mr. Speaker, the historic legislation before us today provides long overdue reforms to the Medicare program. It provides for the first time prescription drug coverage for older Americans. For those seniors currently unable to afford their medicines, it provides important new access to many preventive drugs. It also provides access for them to treat serious conditions before they worsen and require emergency room or hospital stays.

This legislation also improves Medicare coverage for preventative health care including physicals and cardiovascular health and diabetes screening tests. This too will improve the quality of medical care our seniors receive and will forestall many serious and costly medical problems.

Finally, this legislation modernizes the Medicare program to provide 21st Century solutions to give seniors more health care choices. It will bring market discipline to bear to ensure that they receive better medical care at a more affordable and competitive prices.

This is the culmination of a six year legislative effort that included the consideration of three separate prescription drug bills in the House. Our colleagues in the Senate have taken a hard look at the problems facing older Americans who receive their care through Medicare and have agreed upon a thoughtful and comprehensive approach. Certainly we will identify problems that will need correcting as the next step in implementing this complex program begins. For our seniors, however, this legislation fulfills a promise to give them access to prescription drug coverage for the first time through the Medicare program. It is a good response to a long overdue problem and I urge support for its final passage.

Mrs. JOHNSON of Connecticut. Mr. Speaker, how much time remains on each side of the floor for the debate?

THE SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Connecticut (Mrs. JOHNSON) has 9½ minutes remaining. The
genteleman from California (Mr. STARK) has 8 minutes remaining.

Mrs. J OHNSON of Connecticut. Mr. Speaker, I yield myself 30 seconds.

I would like to note that the 25 percent discount means you pay 25 percent less. If you buy generic drugs in effect, you pay 75 percent less, and half of the Medicare recipients are women and half of those women will be covered totally. So this is a big, powerful prescription drug bill that will help half the women on Medicare by providing all of their drug coverage.

Mr. Speaker, I yield 2 minutes to the gentlelady from Iowa (Mrs. NUSSELL), chairman of the Committee on the Budget.

Mr. NUSSELL. Mr. Speaker, I thank the gentlelady for yielding me time and for her leadership on this issue, as well as the chairman of the Committee on Ways and Means.

Mr. Speaker, America has got a big decision tonight and seniors have been waiting a long time. The previous gentlelady said that seniors when they wake up tomorrow, if this passes, will find out they still have to pay a little bit of money. Some will not have to pay and others will really be mad if they wake up tomorrow morning and find out that we failed yet again.

Four budgets in a row we have had the pleasure of putting into our budget plan. This year is the first time we have been able to get it to this point, a conference report; and that is because the President of the United States has provided the leadership to get us to this point.

In Iowa we have been waiting for 20 years for fairness when it comes to reimbursement. We have been waiting for 20 years when it comes to the difficulty of recruiting physicians and other health care providers. We have been waiting 20 years to stop the cost shifting to the private side of health care that drives up the cost for small business people and farmers. We have been waiting for 20 years for seniors to have prevention and drug benefits and basic services.

Tonight we have the opportunity to solve so many of these problems. It is not perfect, as many people have said; but it is on the road toward making Medicare a fiscally responsible, sound and a very beneficial program for seniors. It is a very significant step. I know there are Members who are suggesting that somehow this may not be perfectly fiscally responsible. Let me ask you the question. If we do nothing tonight, is Medicare going bankrupt? Wake up if you want to talk about fiscal responsibility. We are seeing a program go bankrupt before our very eyes. Doing nothing is not an option.

It is fiscally responsible to fix a program that we know is going bankrupt, to fix a program that we should have put in place. This prescription drug benefit if it were created today, to fix a program that is not paying the bills in rural America and keeping doctors and health care professionals located there to provide quality health care.

Vote for this bill because it is fiscally responsible. We have been waiting long enough. Seniors deserve our answer tonight.

Mr. STARK. Mr. Speaker, I yield myself 15 seconds.

I remind the gentlewoman from Connecticut (Mrs. J OHNSON) that the seniors do not need to be misrepresented. I will not call it lying, but nowhere in that bill does it mention any percentage that they will save on the drug discount. You cannot find it in the bill because it is not in there. So do not tell the seniors something that is not true. It is not respectful.

Mr. Speaker, I yield 45 seconds to the gentlelady from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise in opposition to this conference report.

The conferees have three opportunities in this bill to lower the price of prescription drugs. They could have opened the markets and allowed prescription drugs to compete and allowed competition and choices to bring prices down. They passed.

They could have allowed Tommy Thompson to lower prices and create a Medicare Sam’s Club, a right enjoyed by private companies and businesses everywhere in this country. They took a pass.

They could have included meaningful provisions for generics to get to market to create competition. They took a pass.

This box of Zocor, a cholesterol drug, was purchased in Germany for $41. Here in the United States it cost $90. It went up 10 percent the last year. It is going up another 10 percent this year.

The only immediate benefit that comes out of this bill is the political benefit that its supporters are expecting in 2004. The elderly, on the other hand, as a 2006 poll shows, have said they could survive 2 years while the politicians take their victory lap.

Mrs. J OHNSON of Connecticut. Mr. Speaker, I yield 2½ minutes to the gentlelady from Ohio (Mr. PORTMAN), a member of the committee.

Mr. PORTMAN. Mr. Speaker, I thank the gentlelady for yielding me time, and I thank her for her leadership as chair of the Subcommittee on Health, as well as the gentleman from California (Mr. THOMAS), in getting us to this point.

This is not the first time we have had a Medicare prescription drug bill on the floor, but I think we have the best one. I think it is a great program that has been misdescribed tonight by a number of the speakers, and I just wanted to clarify a few things.

First of all, it is voluntary. People have come to the floor and talked about how they would have to take this prescription drug benefit if it were created today, to fix a program that is not paying the bills in rural America and keeping doctors and health care professionals located there to provide quality health care.

Vote for this bill because it is fiscally responsible. We have been waiting long enough. Seniors deserve our answer tonight.

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Vote for this bill because it is fiscally responsible. We have been waiting long enough. Seniors deserve our answer tonight.

Second, I have heard people talk about the fact that some people have employer plans already. Let me give some statistics. In 1993, 40-some percent of employers provided coverage for their retirees. In 2002 it was 27 percent. It is happening. It is bleeding. Some are not providing retiree benefits as they used to.

What I love about this bill is it goes the other way. It puts $88 billion into helping people be able to stay with their employer plan.

EBRI, which is a nonpartisan group that is called the Employee Benefit Research Institute, has studied this this week. Their analysis is that 2 percent, 2 percent of seniors will migrate from their existing retiree plans because their employers no longer offer it, into this. If this does not get passed, it will be greater than 2 percent. So those who have said this will result in a problem, I think it is just the opposite.

We are beginning to know what is happening anyway. I think that is a good part of the plan.

People have talked about how puny the benefit is. Well, I have to tell you, 35 percent of the Americans who are seniors, one figure says 35 percent, let us say over 35 percent of Americans who are seniors, who are low income, meaning they are less than 150 percent of poverty, their income, are going to be able to get prescription drug coverage with no premium, no deductible, no share. All they will do is pay a nominal co-pay, $5, $3.

That is over 35 percent of our seniors, represented by all of us. Some of us in this House have districts where that number will be as high as 60 percent. So a puny benefit, I do not know where this comes from.

For other seniors that additional, let us say, 65 percent of seniors more than half of their drug costs, some say as high as 70 percent, more than half of their drug costs for the average senior, that is no average senior, but average senior cost for drugs will be covered, more than half of the drug cost.

This is why the AARP supports this. This is why the AARP is standing up for seniors. Some people on my side of the aisle think it is too generous. People on the other side of the aisle ought to look at this plan, at what it is, not the politics, but the substance. It is a good plan, and I hope people on both sides of the aisle tomorrow will support it.

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

There they go again. I do not think they understand their own bill. Between 135 percent and 150 percent of poverty, there is a 15 percent copay, and regardless of what my colleague says, there are many, many poor seniors are going to pay more under this
Mr. Speaker, I yield 45 seconds to the distinguished gentleman from New York (Mr. CROWLEY).

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

Mr. CROWLEY. Mr. Speaker, I thank the gentleman for the time.

Mr. Speaker, let me see if I got this straight. In 1965, with a Democratic President, a Democratic House and a Democratic Senate the Medicare program was founded. Am I to believe this? In 1995, with a Republican President, a Republican House and a Republican Senate that now you all are going to save a program you did not support in the first place? We have an expression in New York and all around this country, give me a break. You are not about saving Medicare or Social Security. You are about dismantling it, and in 40 years, when I look at my children and they ask me where were you when they tried to dismantle Medicare, I will look them in the eye and I will be able to tell them that I voted against the dismantling of this great program.

I will vote against any chance that you may bring up to this floor to dismantle Social Security as well.

Mr. Speaker, I rise to support Medicare and oppose the incredibly offensive bill before us tonight. Medicare was created nearly 40 years ago to protect the health of seniors. And today, sadly, Members of this Congress are seeking to destroy the very program that has been so helpful to so many. In its place, Republicans claim they are inserting a new, better, and expanded program. But the reality is that this is not a bill about providing drug coverage under Medicare.

This is a bill about giving billions of dollars to insurance companies and drug companies. This is a bill that Medicare program that seniors have depended on for generations.

Seniors in my district want and deserve prescription drug coverage. This could not be more true, as far too many of them are struggling without it. But I have yet to hear from a senior in my district who is asking for a $17 billion slush fund to be created for private insurance companies. Not one senior has talked to me about making sure that big drug companies are able to protect their massive profits. And in a bill about saving seniors, how can the people who wrote the bill do that? That says the Federal Government shall be prohibited from negotiating with the big drug manufacturers to bring down the high cost of medicine and provide seniors $1,000 worth of prescription drugs a year. Have my colleagues ever heard of Medicare fraud? This is Medicare fraud.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I would like to inquire as to the time remaining.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentlewoman from Connecticut (Mrs. JOHNSON) has 4½ minutes remaining. The gentleman from California (Mr. STARK) has 6 minutes remaining.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield 45 seconds to the gentleman from New York (Mr. HOUGHTON).

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

Mr. HOUGHTON. Mr. Speaker, in any discussion of health care programs, one should at least acknowledge the legislative process. After all, we have had over 100 hearings and 50 different bills. These bills include an update, seniors need help with their drug costs, and I think this bill does both those things.

I have since learned that virtually any piece of legislation that comes before this body can be attacked and counterattacked to death, but who are the customers? Who are we trying to help and are they being helped? Are the seniors being helped? Yes, probably not enough, but we do not know yet. Are the doctors being helped? Yes, but they certainly could be helped more, but this is a never ending process. Are the doctors being helped who are opting out of the Medicare program? Yes. Are the ambulance drivers being helped? Yes, and it is about time.

Will the companies be helped who are thinking about whether to drop programs for their retirees? Absolutely. Will those purchasing drugs be helped? According to the arithmetic I read, there is absolutely no question about this.

I would rate this bill a B+, and the reason I do this is I do not think there is a bill that can make this body that can get an A, not with the attack and counterattack process we use.

One of the great poets of this country, Ralph Waldo Emerson, used to say that history is no more than a biography of a few stout individuals. It is the few stout individuals, Mr. Speaker, that we need tonight.

Mr. STARK. Mr. Speaker, I yield 45 seconds to the gentleman from Texas (Mr. REYES), who agrees with the Albany Times Union that what older Americans can least afford is for Congress to rush into a sweeping overhaul of a successful health care program without doing its research. This is not only an imperfect bill. It may also be a disastrous one.

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

Mr. LAMPSON. Mr. Speaker, the previous speaker said that we do not know, and we do not know what all is in this bill, but during this week I have heard from representatives of thousands of senior citizens in southeast Texas, like my 93-year-old mother, that they overwhelmingly oppose this proposal, and they give three reasons why.

They believe the privatization provisions will cause Medicare to wither. They are astounded that the bill prohibits the government from bargaining for better drug prices. They are concerned about the uncertainty of being put back into HMOs that dumped them recently.

Do our seniors a favor, slow this train down. Put some dignity back in the process and open it up. The benefits will not even go into effect for 2 years. Why is this bill on the agenda? And two more weeks and do what the seniors requested at that White House Conference on Aging in 1995 at the beginning of this debate. Save Medicare and
let us live our lives in dignity and independence.

In 1995 I was sent as a delegate to the White House Conference on Aging. 4000 seniors gathered for this non-partisan meeting. They set goals at that meeting and asked our government to do 3 things: protect medicare; protect social security; and allow seniors to live their last years in dignity and independence.

We have been debating medicare and a medicare drug component for years now. I have promised to work to create a program that would help seniors achieve the goals I just listed.

During this week I have heard from the representatives of thousands of seniors in Southeast Texas, like my 93 year old mother, that they overwhelmingly oppose this proposal . . . and the reasons they give are 3: They believe privatization provisions will cause medicare to wither and die; They are astounded that the bill prohibits our government from bargaining for better drug prices; They are astounded about the uncertainty of having to go back into HMO's that dumped them.

My colleagues, do our seniors a favor, slow this train down. Put some dignity back into this process and open it up. The benefits won't even go into effect for 2 years. Let's take a couple more weeks and do what the seniors of this country asked at the beginning of this debate 8 years ago . . . save medicare and let them live their last years with dignity and independence.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I ask what time remains on each side.

The SPEAKER pro tempore. The gentlewoman from Connecticut (Mrs. JOHNSON) has 2 1/2 minutes remaining. The gentleman from California (Mr. STARK) has 4 minutes and 15 seconds remaining.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield 45 seconds to the distinguished gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, despite the hard work and good intentions of many Members of Congress on both sides of the aisle, we have lost the forest for the trees, and so I rise today in opposition to conference report on H.R. 1.

We have lost sight of what seniors struggle with most, drug costs and the cost of coverage, and believe me, seniors have noticed that we have lost sight of them.

In the beginning and in the end, for me this issue has always been about the high cost of drugs and the need to affordably expand coverage. Regrettably, this bill prohibits ways to lower costs of drugs for American seniors, and for many, the coverage provided in the bill comes at a high price they simply cannot pay.

I urge my colleagues to reject this bill. Please go back to the negotiating table and give seniors what they really need, affordable drugs and affordable drug coverage.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 10 seconds.

The gentlewoman from Oregon should know that with this prescription drug insurance plan Medicare recipients in Oregon who are covered will go from 64 percent to 4 percent. This bill brings no benefit to Oregon. Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield 45 seconds to the gentleman from New York (Mr. Hinchey), and pending that, I would like to remind the gentlewoman from Connecticut that 41,000 people in Connecticut are likely to lose employer-sponsored coverage under this bill.

Mr. HINCHHEY. Mr. Speaker, very few people are surprised that as soon as the Republican Party has control of both Houses of the Congress and the White House they move to destroy Medicare, and that is what this bill essentially will do. It will drive Medicare into the ground.

The disguise that they seek to use in order to accomplish that is a prescription drug program, but just today the National Center on Policy Analysis told us that only $1 out of every $16 in this bill will be spent to provide drugs for senior citizens who would not otherwise get them. Most of the rest of the money goes to drug companies and to insurance companies.

But the thing that surprises me about this bill is the Republican party engaging in price fixing. They fixed the price of drugs so that they cannot go down, they can only go up. They have made sure that we cannot import drugs from Canada or other places at a cheaper price, and they guarantee that every time the prices change it will go up. Price fixing, increasing the cost of drugs.

Mr. STARK. Mr. Speaker, may I inquire as to the amount of time remaining?

The SPEAKER pro tempore. The gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from California (Mr. STARK) have 2 minutes remaining.

Mr. STARK. Mr. Speaker, I yield 45 seconds of that precious time to the gentleman from Texas (Mr. REYES).

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

Mr. Speaker, I have a long been a strong advocate of a comprehensive Medicare prescription drug benefit, but I am opposed to this bill. I am opposed because the bill before us tonight would harm, rather than help, more than 77,000 Medicare beneficiaries in my district by breaking this program's promise of guaranteed quality health care for our seniors.

In my district, where approximately one in five seniors live below the poverty line, Medicare and Social Security are their only safety net in retirement. To jeopardize this safety net would be unconscionable.

Mr. Speaker, I urge my colleagues to oppose this conference report so Congress can instead offer America's seniors the kind of Medicare prescription drug benefit that they need and more than anything that they deserve.

Mr. STARK. Mr. Speaker, I am delighted to yield 45 seconds to the gentleman from Arkansas (Mr. Berry), one of the gentlemen who was a conference but does not know.

Mr. BERRY. Mr. Speaker, I thank the gentleman from California, and I appreciate his leadership on this matter for many, many years.

In the document that founded this great Nation, it says all men are created equal. Under this bill, the drug companies are a lot more equal than the senators I can tell my colleagues. Why would we for any reason prohibit the negotiation of lower prices by Medicare? Why would we do that?

Tonight, we make a choice. We either serve the drug companies or serve our seniors. I find this a very easy choice to make. I choose to serve our seniors. I will not be a part of the continued effort to allow the prescription drug manufacturers of this country to rob the senior citizens of America.

Mr. STARK. Mr. Speaker, I yield the balance of our time to the gentleman from New York (Mr. RANGEL), the distinguished ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I thank the gentleman from California (Mr. STARK) for the fine work he has done over the years on this subject, and as we close one-half of this debate on this historic subject, I would just like to remind those who were present at this event that when you excluded the Democrats from participating in the conference, you excluded 20 Members who are members of the Hispanic Caucus, 39 Members that are members of the Black Caucus.
my time, and I rise in strong support of this legislation. And, indeed, I believe its founders would be proud to have this bill. We bring a voluntary, generous drug benefit to all seniors under Medicare. This is a milestone. That is why AARP describes it as a historic breakthrough in the nation’s commitment to strengthen and expand health security for its citizens. Something that has not been talked about much here tonight is the new support for seniors with chronic illness. We forget that one-third of our seniors have five or more chronic illnesses and use 80 percent of the money under Medicare, and yet Medicare has no way of supporting them to prevent their chronic illness from progressing.

In this bill, we couple the drug benefit and the disease management program to help our seniors prevent their chronic illness from progressing and thereby keep them healthy and help Medicare costs under control. This is particularly important for minorities, for they tend not to use the medical system early, and they tend not to be diagnosed correctly with this illness. We provide an entry-level physical so we can see what early signs of chronic illness they have, and we can help them prevent their chronic illness from progressing.

This will be an extraordinary boon to the well-being of our senior citizens. This is a historic advancement in both bringing prescription drugs to Medicare and improving the quality of health care Medicare is able to deliver, and in assuring that Medicare will be able to deliver 21st-century, cutting-edge health care.

And this is a historic bill for the rural communities of our nation. Without it, they will not be able to attract the new generation of physicians as the current generation retires. They will lose small hospitals. They will lose small home health agencies. In fact, without this, our inner-city hospitals will not be able to continue to provide clinics, clinics for those with mental health problems. This is an important package in addition to it because it restores fairness to our payment system.

And lastly, it cuts prices dramatically. It cuts prices dramatically by bringing the bargaining power of the seniors to the table to reduce prices and piercing right through that price support system that keeps State prices high. I am proud to support this legislation, and I urge my colleagues to do likewise, for half of America’s women will experience free health care under this bill.

The SPEAKER pro tempore (Mr. Hastert of Washington) will control 30 minutes and the gentleman from Michigan (Mr. Dingell) will control 30 minutes.

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

Mr. Speaker, I hope you will all bear with me for a second as I tell a short story. I recently accompanied my son, Tom, who is 25 years old, to see the movie “Matrix,” the third in the evolution of the “Matrix” movies, a rather complex film. If you do not follow them, I think, better than my generation; but I try to follow them with him.

When we came out of the movie, I said, Son, what did you take from this? What did this mean to you? And he thought a long while and in the car with me he said, what I take from this movie, Dad, is that freedom is meaningless without choice. And I thought about that and I thought, that is precisely profound for a 25-year-old. What he was saying, basically, from this movie, is that if someone else is making all the choices for you, if you are without choice, you are not really free. Freedom, by definition, is choice. It is your capacity to choose for yourself right or wrong whatever our life.

And then it occurred to me how meaningful that little profound conversation we had was and how it relates to this issue tonight. Because as Americans who Tom Brokaw called the Greatest Generation of Americans, who fought for this entire world to be free, for we in this country to have freedom of choice in our lives. And every day we live in freedom, we have that freedom to think for itself. And the ironic thing about it, when it comes to their health care, is that so far we have not given them choice. We have basically said if you want health care as you get older, after you fought to give us freedom, we will give you one plan. We will give you the choice of government. And if it works for you, great; if it does not work well for you, sorry, that is your choice.

Every sport, every sport, every sport which is a part of our lives of the old days and for in medieval times took the attitude that the peasants, the servants were not smart enough to make choices for themselves; that they had to make all the decisions for them. That is the nature of people who think government always knows best and always knows the right answer and people are not wise enough to make good choices for themselves. The essence of this debate tonight is whether we are freedom-loving enough in this body, whether we understand and appreciate the freedoms that they fought for and gave to us, that we can, in the context of health care, give our seniors some real choice about how and where they take their health care and their coverage.

Now it is about adding a significant new benefit to Medicare. It is that. But it is also about creating other choices for seniors. And I brought a picture of my mother with me tonight. I thought about a small picture, but I wish you could all see it. She is a beautiful lady. She is 85 years old. She chose to remain in Medicare when she had a choice of a private plan in our hometown. She probably is going to choose to remain in Medicare and take her prescription drug benefit from Medicare when this program is completed and we pass this bill and it is signed into law. But I want her to have the choice to decide that that is the plan and any other plan that might be available, the same way we in this government, the workers and the Members of Congress, have choices to choose different plans for our medical needs.

So, I want Mom to have the choice. Her generation fought for me to have choices and to make choices, right or wrong. And sometimes it hurt her deeply when I made bad choices, but she always knew I had the right to make them. And people died to give me that right. I think we owe that generation choice. And that is one of the things we do tonight, we give them choice how they take this new benefit. And if they want to choose, like my mother, to stay with Medicare, we fought for the right to make sure it is still in the Medicare bill, and she will have that right.

The other thing we did was to make sure if she chooses to have Medicare, that, indeed, it is still going to be around for her for as long as, God willing, she lives. She is a three-time cancer patient. A marvelous woman. She won a national gold medal and she is the Senior Olympics again this year. She took top place in the shot put. You do not mess with Mamma Tauzin. She is quite a gal. And she will probably choose to take her prescription drugs out of Medicare in this plan. She never wants to take it out of one of the PPOs or the new programs we develop out of this bill, I want her to have that choice. She deserves it. She ought to get it.

And I think that is why AARP has endorsed our bill, because they know we have, in the past 50 years, in Medicare, when we did not have this, as AARP describes it, a historic break-
get it under a program they choose to live under.

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

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

(Out in the Committee on Ways and Means.

I want my colleagues to look at the kind of competition that the Republican Party is forcing upon the senior citizens of the United States: 120 or 125 percent of the costs of competing with Medicare is going to be given by the Federal taxpayer and by Medicare to, guess who, the HMOs. The Republicans have been trying to destroy this part for years. They are very close tonight.

A flawed process has brought forth a bad bill, which is laid before the House of Representatives this morning so that the people will not know what is going on. What is at stake here is the existence of the most successful program to provide health care for our senior citizens.

Let me just tell my colleagues, the competition is unfair, 120 percent and more they give. They put forward a sham discount card, which will probably be given mostly by the retailers, not by the prescription pharmaceutical manufacturers. The senior citizens will not get much out of that.

Now, Medicare is going to be rewarding now the Republicans’ friends in the HMOs and the pharmaceutical houses, huge amounts of money to each. No competition whatsoever will take place with regard to prescription pharmaceutical costs. Why? Because the Republican Members absolutely forbid that.

No wonder they want to do this at 2 a.m. in the morning. No wonder they want to foreclose the public from knowing. No wonder they would not let the people on this side of the aisle, they would not allow the Democrats into the meeting. Because it was the only way they could bring forward this slippery and dishonest program which is directed at destroying Medicare as we know it. It is a bad bill. It is one which takes which ones, the senior citizens. It is one which threatens Medicare. It is an unfair, dangerous piece of legislation conceived in the darkness of night and slipped through over the heads of the senior citizens.

Mr. TAUZIN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Speaker, I would say I wish I had $100 for every hour that I spent in the wee hours of the morning during the time that the gentleman’s party was in charge of this House.

Mr. Speaker, we have before us today an opportunity to finally provide our constituents with a meaningful prescription drug benefit that our Nation can afford. To finally do it; to finally do it and do it right; to demagogue it. For four decades the other party controlled, and they did nothing. It seems every time we, since gaining the majority, attempt to meet a need, the Democrats finally awaken with nay comments. They do nothing. They attempt to do something, and they call our efforts a charade. We have not taken a pass, as one gentleman from the other side of the aisle said earlier. I would suggest the gentleman’s party, which controlled for 40 years, took the pass.

While the bill before us certainly is not perfect, and we have admitted that, it targets the $400 billion available under our budget resolution towards areas where it can do the most good. Our bill provides a great deal of assistance to our low-income seniors. In fact, seniors who earn under $13,470 as a single or $18,100 as a couple will only be responsible for nominal copayments and will not experience a coverage gap. This is a very generous coverage for the population of seniors who need it the most.

The conference report will also ensure that seniors will have the peace of mind knowing that they will only be responsible for a very small amount of cost sharing once their out-of-pocket drug costs exceed $3,600 annually. It is a critical provision, and one I strongly support. This bill helps the poorest and sickest, and who can argue against that?

The conference report makes many other improvements to the Medicare program; in fact, too many to list tonight. However, I want to point out that the bill contains two provisions that I have long advocated for: improved reimbursements for our Nation’s physicians, and Medicare coverage for a physical exam upon entering the program. I call that the Dr. William Hale, 'Welcome to Medicare Program.’ Dr. William Hale of Dunedin, Florida, gave me the idea some time ago. I am confident that this new benefit will ultimately save the program billions of dollars in the long term.

I would like to close by quickly dispelling a number of myths that we have heard on the House floor tonight, and over the past few months. The conference report does not privatize Medicare. It improves it, namely by adding a voluntary prescription drug benefit available to everyone, including those who do not wish to leave traditional fee-for-service Medicare. We are not pushing seniors into HMOs; I will not be a part of that. Or creating a voucher system. We are offering seniors voluntary choices other than traditional Medicare. And, finally, the conference report does not signal the end of Medicare. Instead, it marks the beginning of a new, better Medicare that will be available for generations to come.

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

Mr. Speaker, thank you for this opportunity by thanking all of the staff members who have worked to help make this bill possible.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN. Mr. Speaker, I thank the gentleman from Michigan.

Earlier this year President Bush stood in this well and pronounced solemnly, ‘Medicare is the binding commitment of a caring society.’ Today just a few short months later, those words sound so empty. Our Medicare offers the same reliable health coverage to retired and disabled Americans regardless of whether they are rural or urban, whether they are rich or poor, whether they are healthy or sick. Our Medicare is equitable, dependable, it is flexible, and cost efficient; but their bill takes $20 billion out of our constituents’ pockets and showers those dollars on HMOs. It rigs the game so that the coverage seniors have today, the equitable, reliable, flexible coverage they have today, is sure to wither on the vine. That is the way they have set it up. As one of the authors of this bill, the gentleman from California (Mr. THOMAS) said, ‘To those who say this bill would end Medicare as we know it, our answer is we certainly hope so.’

A binding commitment, Mr. President? Their bill leaves seniors with such high drug costs they still will not be able to afford their prescriptions. Their bill places retiree drug coverage of $12 million seniors at risk. Their bill forces seniors to either pay significantly more than they would to their doctor and their hospital, or join an HMO that may or may not cover needed drugs, that may or may not raise premiums beyond the $35 guessimate,
that may or may not skip town if projected profits are not met. A caring society, Mr. President?

This bill is a big win for drug companies who stand to earn $139 billion in additional profits. No surprise there, the drug companies who stand to benefit from this bill because the drug companies have given $50–60 billion to President Bush and to the Republican majority. It is a big win for insurance companies who are the beneficiaries of a $20 billion slush fund, no surprise there because the insurance industries and the HMOs gave tens of millions of dollars to the President and Republican leadership.

This is a tragic loss for America's seniors. Medicare should be the binding commitment of a caring society.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON), a valuable, distinguished member of the Committee on Energy and Commerce.

Mr. FERGUSON. Mr. Speaker, in addition to expanding Medicare to include prescription drug coverage for 40 million seniors, this important conference report also represents significant benefits for my home State of New Jersey. For years, my State has offered an innovative, the Nation's most generous prescription drug benefit programs. It is called PAAD. Under this historic agreement to strengthen Medicare, New Jersey wins big time. In addition to ensuring a seamless integration of the new Medicare drug benefit and PAAD, this conference report also provides New Jersey with billions of dollars to strengthen PAAD and expand the number of seniors who benefit.

By using the drug discount card before the PAAD coverage begins, the State government will save $73 million. Because PAAD's enrollees will receive their drug benefit from Medicare, the State will save $2.8 billion. New Jersey will receive a 28 percent tax free subsidy offsetting the drug costs it provides for retired state employees, saving the State $222 million. PAAD will no longer be forced to pay drug costs for seniors who qualify for both Medicare and Medicaid, saving the State $972 million.

How else does New Jersey benefit? In addition to $80 million for increasing the Medicaid reimbursement rate, an additional $756 million will be forwarded to New Jersey's hospitals. That is nearly $5 billion in Federal aid for New Jersey.

This bill has language to require coordination between Medicare and PAAD, no disruption for any senior currently enrolled in PAAD, and billions and billions for our State government to strengthen PAAD, offset low-income seniors' drug costs and expand the number of seniors who are served under PAAD.

My colleagues from New Jersey on the other side who are more interested in attempting to embarrass President Bush and the Republican leadership of this House than they are in doing the right thing, the compassionate thing.

To suggest that this bill is nothing but a windfall for the pharmaceutical industry is like suggesting that Medicare Part A is nothing but a windfall for the hospital. Who is going to provide the prescription drugs, the chocolate chip cookie company? Give me a break.

But I say to my colleagues on the other side, stop the alliteration, stop the bizarre logic, the Mediscare rhetoric. Vote with us, vote for our seniors and make this truly a bipartisan victory.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I have listened to the rhetoric of the Republicans this evening, and it is cynical. They are trying to fool the seniors. I listened to the gentleman from Louisiana (Mr. WAXMAN) say that seniors are going to have a choice. They are not going to have any choice. They are going to lose their choice of doctors because they are going to be forced into an HMO. I listened to the gentleman from Florida (Mr. GINGREY) say that seniors are going to get a meaningful benefit. Again they are fooling the seniors. There is no meaningful benefit here. They are going to have to shell out more out of pocket than they are going to get back in terms of a drug benefit. I listened to the gentlewoman from Connecticut earlier saying that she is going to give the seniors a discount. What a joke that is. There is no cost containment in this bill. The bill says that the Secretary cannot in any way negotiate price reductions. There is no reimportation in this bill. There is no way you are even going to be able to get discount drugs from other countries. There is no discount. There is no savings. They are just trying to fool the seniors.

I heard another speaker say that Medicare is going broke. The only reason it is going broke is because you have taken money away from their trust fund through your tax policies. You are trying to fool the seniors again. And then you are saying that the seniors are going to be able to have traditional Medicare, they can stay in
Mr. TAUZIN. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Oregon (Mr. WALDEN), a member of our committee.

Mr. WALDEN of Oregon. Mr. Speaker, my parents are 80 years old. They died before this Congress could act to provide prescription drug coverage for them under Medicare. So they both paid for it out of their pocket. Let us talk about what this bill would do for those who will qualify for treatment. This bill would provide 514,456 Oregonian seniors with access to a Medicare prescription drug benefit for the first time in the history of this program. Beginning in 2006, there would be 129,000 Medicare individuals in Oregon who have access to drug coverage they would not otherwise have, and it will improve it for many more. They will get a $600 card if you are in the lower-income level of $12,000 a year. Couples who make $16,000 a year will have prescription drug coverage today would be given $600 in annual assistance to help them afford their medicines along with the discount card of 15 to 25 percent. That is a total of $500,000 a year to Oregon seniors that would help 76,000 of them be able to pay for their drugs in 2004 and 2005.

There are 151,000 seniors in Oregon who have limited savings and low income who will qualify for it. This gives them more generous coverage. They will pay no premium, no deductible for their prescription drug coverage, and they will just be responsible for a minimal copayment. They will get the coverage. If you have a low income plan, that is, they get the coverage. Perhaps that is part of why the Portland Oregonian has endorsed this program. More importantly, my State like many has faced some fairly difficult fiscal challenges. I work there when we implemented the Oregon health plan and helped put it into place. Today because of the fiscal challenges, we are having to cut people off of Medicaid in Oregon. This plan over 8 years will return $279 million by having Medicare pay for part of the cost of those senior low-income people.

This is a balanced plan that will help our seniors get the prescription drug coverage they need. We ought to enact it.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from New York (Mr. ENGEL).
would like to privatize Medicare and replace it with private insurance vouchers and HMO health care. That is what this bill does. It is the beginning of the destruction of Medicare and the destruction and privatization of Social Security, 4 decades.

You mark my words. We should be giving seniors a clean prescription drug bill under the Medicare program, but we do not have money for that because the Republican tax cuts for the rich and the stealing from the Social Security trust fund make it impossible to have any money left to pay for a real prescription drug program. The hodgepodge of benefits will do nothing but confuse seniors. After spending $2,200 in drug bills, seniors will have to pay the next $1,400 out of pocket without any help whatsoever while they still pay their monthly premiums. What kind of assistance is that? Seniors want a real drug bill and they want it to begin now, not in 2006. They want help in bringing drug prices down. This bill does none of that.

When I first came to Congress 15 years ago, I asked my mother what was the best thing we could do to help senior citizens and she said, give us a prescription program. Tonight, my colleagues, my mother gave me some more good advice. She said, vote against this sham bill. And that is exactly what I am going to do. Shame on this Congress for betraying our seniors and ramming this bill through in the middle of the night.

Mr. Speaker, I rise today in strong opposition to the Medicare Prescription Drug and Modernization Act. When I came to Congress 15 years ago, one of my highest priorities was to strengthen Medicare, provide drug coverage for seniors, and ensure that my children and generations to come would always have access to quality health care in their golden years. What the Republican leadership has put before us today does none of these things and threatens the very fabric of the Medicare program. The Republicans chose to give the richest Americans billions and billions of dollars in tax cuts rather than truly provide our seniors with relief from the high cost of prescription drugs. If this legislation is enacted, Medicare, and the cornerstone of Lyndon Johnson’s Great Society, will be decimated.

There is nothing I would like more than to vote for legislation that would provide a meaningful Medicare drug benefit for seniors. In fact, I authored legislation to do just that. My legislation would have provided seniors with coverage comparable to most private plans and those utilized by federal employees. But what we have in this Conference Report is a fraction of that coverage. Most seniors will see little relief from the high cost of prescription drugs. Seniors will pay at least $35 a month in premiums with a $250 deductible, but these are just benchmarks and seniors may wind-up paying much more. There is also a gap in coverage where seniors will pay the premium while receiving no benefit. The gap in coverage is between $2,200 and $3,650 of out-of-pocket costs. One senior for half the year a senior will be paying a premium and getting no assistance. Additionally, the drug benefit doesn’t even begin until 2006.

Seniors in my district tell me they need help now. They don’t want to wait two more years for this benefit to begin. I certainly think that they have waited long enough for assistance in paying for medicines that save and improve their lives. Our seniors deserve better treatment than this.

In keeping with the poor design of this benefit, it is expected that millions of retirees currently receiving drug benefits from their employers will lose it. So the Republican bill offers seniors a paltry benefit while taking away the quality care they now receive. Make no mistake. Wait till our seniors get a load of this.

As bad as all this sounds, it only gets worse. Despite the large outcry by seniors and Democrats across the country, this Conference Report embodies not the first small step toward privatization, but a giant leap that breaks the promise we made to our seniors and have kept since 1965 when Medicare was created. What is being dubbed as a demo project to “test” premium support, what is at best a voucher program, will encompass about 1/4th of Medicare beneficiaries. We’re talking about 7 million seniors in traditional Medicare and into HMO’s. These, the unlucky of all the Medicare population, will pay higher premiums and receive some type of benefits, but we don’t know what they are because the HMO’s will package them as they see fit. Seniors in different areas will be paying different premiums and receiving different benefits. What is most troubling is that this legislation is setting Medicare up to fail. This legislation includes a provision that automatically triggers cuts in the program if Medicare spending increases to an amount determined by the Republicans. The likely scenario regarding this is that sometime over the next several years Medicare spending will increase triggering the cuts. In order to get under the arbitrary cap traditional fee-for-service Medicare will be decimated. Republicans will then point to their privatization as Medicare’s savior and they will have finally succeeded in their ultimate goal of ending Medicare and leaving seniors to fend for themselves in the private market where HMO’s will be the order. Make no mistake, we agreed on the path to full privatization and an end to one of the most successful government programs in our history.

We have all heard that this group endorsed the bill and that group endorsed the bill, so why are Democrats opposing it. The only reason this legislation has any life in it is because the Republicans have doled out billions of dollars in payouts to insurance companies, drug companies, and other special interests. These groups are not endorsing the bill because it helps seniors, they are looking out for themselves. Well I am not going to sell out our seniors.

Mr. Speaker, the greatest generation is about to face the brunt of the greatest hoax since I have been in Congress. Most seniors are not watching this debate. They will have on their local news that Medicare will soon be covering their prescription drugs and they will be ecstatic. “Finally” many will say. What a shame it is that we’re playing a political game with the lives of seniors around the country. I urge my colleagues to vote this bill down so that the Senate enact a real benefit that strengthens Medicare and provides a comprehensive drug benefit that will make this wonderful program even better.

Mr. TAUSIN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I appreciate the leadership of our chairman on this important issue. For the fourth straight year, Medicare has helped millions of American seniors get needed health care, helping them live longer than any other generation before them. However, Medicare has become dangerously outdated. In America today, Medicare refuses to pay $80 a month for Lipitor to prevent heart disease, but will pay $20,000 in hospital costs after a life-threatening emergency has occurred. That does not make sense. Medicare needs to keep pace with these medical breakthroughs.

Medicare must also be preserved and strengthened for future generations. We worked hard and we must act now so that seniors, baby boomers, and our young people can count on Medicare tomorrow. From now on, millions of seniors will be paying much more. There is also a gap in coverage where seniors will pay the premium with a $250 deductible, but these are just benchmarks and seniors may wind-up paying much more. There is also a gap in coverage where seniors will pay the premium while receiving no benefit. The gap in coverage is between $2,200 and $3,650 of out-of-pocket costs. One senior for half the year a senior will be paying a premium and getting no assistance. Additionally, the drug benefit doesn’t even begin until 2006.

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Mr. Speaker, I rise today in strong opposition to the Medicare Prescription Drug and Modernization Act. When I came to Congress 15 years ago, one of my highest priorities was to strengthen Medicare, provide drug coverage for seniors, and ensure that my children and generations to come would always have access to quality health care in their golden years. What the Republican leadership has put before us today does none of these things and threatens the very fabric of the Medicare program. The Republicans chose to give the richest Americans billions and billions of dollars in tax cuts rather than truly provide our seniors with relief from the high cost of prescription drugs. If this legislation is enacted, Medicare, and the cornerstone of Lyndon Johnson’s Great Society, will be decimated.

There is nothing I would like more than to vote for legislation that would provide a meaningful Medicare drug benefit for seniors. In fact, I authored legislation to do just that. My legislation would have provided seniors with coverage comparable to most private plans and those utilized by federal employees. But what we have in this Conference Report is a fraction of that coverage. Most seniors will see little relief from the high cost of prescription drugs. Seniors will pay at least $35 a month in premiums with a $250 deductible, but these are just benchmarks and seniors may wind-up paying much more. There is also a gap in coverage where seniors will pay the premium while receiving no benefit. The gap in coverage is between $2,200 and $3,650 of out-of-pocket costs. One senior for half the year a senior will be paying a premium and getting no assistance. Additionally, the drug benefit doesn’t even begin until 2006.
to a great world power so it is right you rest at this late hour.

0:045

But while you slumber
There are voices raised
In our Capitol yonder
Of your health and your drugs of wonder.

This proposed legislation
Considered in the dark of night
Will not reduce your cost a "widow's mite."
Awake you will from your night's slumber
To repay and respond to those who plunder
Your hard-earned Medicare benefits.

Mr. Speaker, I rise in opposition to this so-called Medicare prescription drug conference report.

Much as I want to support legislation creating a prescription drug benefit for our Nation's seniors, I cannot support this bill.

The bill does absolutely nothing to drive down the outrageous costs of prescription drugs. In that, it misgivation expressly prohibits Medicare from using the negotiating power of 40 million seniors to demand reasonable prices for our Nation's seniors but allows insurance companies to negotiate.

The benefit has a huge "donut hole" that will force seniors to pay for all of their costs from $2,250 until their costs exceed $5,100.

If you have drug costs that are $300 to 400 per month, you're only going to get a benefit for the first half of the year.

The rest of the year, you'll continue to pay premiums, but get absolutely nothing from them.

And finally, this plan would require Medicare to compete with private plans that would be paid more to treat healthier seniors.

There is no way Medicare could honestly be expected to compete with these overpaid plans, and I think the bill's crafters did that on purpose.

Mr. Speaker, this legislation leaves people worse off than they were before it. The CBO estimates now indicate that 27 million employees will lose their retiree benefits.

More than 6.4 million Medicaid beneficiaries will lose their wrap-around coverage.

And in the long run, seniors will be left shouldering a significantly higher portion of their health-care costs. This is unacceptable, and I urge my colleagues to vote against this bill.

Mr. TAUZIN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I thank my friend for yielding this time. I probably will not need a minute to say what I want to say. But this bill was written by and for the pharmaceutical companies. Do the Members want an example of why I say that?

A few days ago the Blue Dogs met with our Secretary of Health and Human Services, Mr. Tommy Thompson, and two Democratic Senators were there, Senator Breaux and Senator Baucus.

And in that meeting, a question was asked: Why is there a prohibition against the Secretary from negotiating discounted costs for America's senior citizens? And Senator Baucus said it is in there because PhRMA insisted that it be in there. Shame, shame, shame on you.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds.

I want to point out that the language that the gentleman just referred to in the bill first appeared in the motion to instruct by none other than the gentleman from California (Mr. GILMAN), who offered a motion to instruct H.R. 4680 with instructions that included the very same language that the gentleman is complaining about that was referenced in the Blue Dog meeting.

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

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, the Hypocratic oath requires that doctors first do no harm. There is no such oath for Members of Congress. But we would be wise to heed it when we consider the Medicare prescription drug benefit tonight, for this bill certainly will do harm to millions. I know this. My constituents know this, and seniors across the country know this.

They are furious with the organizations and the Members of Congress that support this plan.

This is not an abstract debate. This has a huge impact on real people. It will do harm to people like Helen Lay, my constituent, a retiree in Colorado.

Helen is worried because, as she sees it, this bill has something in it for everyone except the senior citizens. Helen and her husband, Frank, are fortunate enough to have good prescription drug coverage through their retirement plan.

Right now, they spend about $800 a year on prescription drugs. Without insurance, they would be spending nearly $12,000.

This bill will do great harm to Helen and Frank and millions of other seniors because it will encourage employer retirement plans to end prescription drug coverage, forcing seniors into sub-standard plans that cost more, and no one knows what the coverage or the price will be.

Helen and Frank have other serious problems. They take 12 brand-name medications per month. But this bill specifically prohibits Medicare from negotiating drug prices, even though private companies like Wal-Mart and agencies like the Veterans Administration are able to negotiate cheaper drugs. That means even if this bill passes, Helen and Frank will still pay exorbitant prices.

I say to Helen that we are here to stand up for her today.

Congress first must do no harm. Send this plan back.

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

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise in opposition to the Medicare conference report. Seniors deserve a good prescription drug benefit through Medicare.

This bill cripples Medicare and truly is not a prescription drug benefit at all. It forces seniors into private insurance plans to get all of their health care and contains a time-released poison pill that will starve Medicare of needed resources by arbitrarily capping federal funding.

But on top of this, the conference report cuts cancer care by $1 billion a year, $10 billion over 10 years. So many rural cancer centers will close as a result, and others will lay off oncologists and critical staff. These centers are essential to the delivery of cancer care today. How can we do this to cancer patients? It is hard enough to live with this dreaded diagnosis, let alone the horrendous side effects of the treatments. And now this.

I repeat. This bill cuts $1 billion out of cancer care. I am ashamed.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. ROGERS) for the purposes of colloquy.

Mr. ROGERS of Michigan. Mr. Speaker, I thank the chairman for his leadership on this for the millions of seniors who today have no access, no access to prescription drugs that will have that when this bill is signed into law. I thank him for each and every one of them.

For the purposes of colloquy, it is certainly not the chairman's intent that the cuts to oncology practices are unintended. It is anticipated that the level of reimbursement that oncologists are currently receiving will be significantly reduced, by a level that would cause practices to close, thus jeopardize access to care for thousands of cancer patients, and should we see that CBO's projections were wrong and that oncologists were found not to be made whole for their drug reimbursement under the new Average Sales Price that we would swiftly reverse this payment methodology?

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

Mr. ROGERS of Michigan. Reclaiming my time, Mr. Speaker, I thank the gentleman for clarifying.

In addition, it is not the chairman's intent that small rural cancer centers across the country would go below such a neutral completely, and oncologists will be getting something like 2½ to 3 times the practice expense allowance that CMS now estimates they would receive under their own bill. It will actually give oncologists 100 million more dollars than they are currently getting under the old AWP formula this year, 2004, and $100 million less the second year. So it is a total neutral policy for that 2-year period.

Mr. ROGERS of Michigan. Reclaiming my time, Mr. Speaker, I thank the gentleman for clarifying.

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neighbors. And if we found that to be the case, we would swiftly review the specific impact such a payment methodology had on access to care in these rural areas.

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

Mr. ROGERS of Michigan. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, the gentleman is of course correct. That is why we built an ASP, Average Sales Price, to give the smaller oncology units a chance to buy, in case the larger units buy at a lower price, they could at least get coverage on top of the Average Sales Price to reimburse them, but we would always review that to make sure cancer care is indeed preserved.

Mr. ROGERS of Michigan. Mr. Speaker, I thank the gentleman for his attention on this matter.

Mr. DINGELL. Mr. Speaker, I yield 1 1⁄2 minutes to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

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

Earlier the gentleman from Louisiana (Chairman TAUZIN) waxed poetic about the deep meaning of a movie, of all things, and about the centrality of choice in our democracy. And I agree about choice.

But I have to tell the Members in all the years that I have worked for and with seniors, never, not once, did a senior citizen come up to me and say “What I really want is a choice of insurance plans. I want more salesmen to call me, send me those brochures, include all those charts and graphs and fine print. I cannot wait to sit down each year and choose among HMOs.” Never, not once.

Seniors want a choice all right. They want to choose their doctor. They want to choose the medication that their doctor prescribes for them. They want the choice of their pharmacy if they want to go to their neighborhood pharmacy. They want the kind of real choice they get under Medicare, the Medicare that they know and love. And that is the kind of choice they will lose under this bill and under a pile of brochures that they are going to be burdened with. But do the Members know what? That is okay. I want to tell the Members it is okay. The seniors know the difference between real choices and phony choices. And we can put all kinds of fancy pictures on it, but senior citizens will know, and I want to tell the Members that it is to their peril that they vote for this legislation and give seniors a phony choice.

Mr. TAUZIN. Mr. Speaker, I yield 1 1⁄2 minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, I thank the chairman for yielding me this time.

There has been some talk about this not being about prescription drugs and more about the changes that we are looking at for Medicare.

In the 1950’s and 1960’s on the border of Nevada and Arizona at the test sites for the atom bomb, the schoolchildren in Arizona, in Kingman, Arizona, were given the day off to go up on the mountains and watch the A-bomb blasts. The sky turned brilliant pink and orange. Years later, those adults are the ones that come down with the highest cluster rates of cancer in America. A lot of the folks in the Rust Belt send their cancer patients out to beautiful, warm Arizona, whereas one in the Midwest and the Northeast the suffering has been our ability to understand how to better treat cancer in these communities now rather than in the hospitals.

The nurses who provide that cancer care under the current Medicare are not allowed to bill and get their full amounts. That is because Medicare has not changed enough or at all since its inception.

Medicare must be updated. It must be modernized. To do so denies the ability to prove the upper billable hours for our nurses who provide cancer care and the better system of cancer care that we are seeing out in the West.

Modernize Medicare. Do not deny those nurses that kind of coverage.

Mr. DINGELL. Mr. Speaker, I yield 1 1⁄2 minutes to the distinguished gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we have talked a lot about this bill. I want to say just a couple words about my seniors up in Maine. Two points. First, they are desperate for lower prescription drug prices. Number two, they want to keep the Medicare program that they have because it is all they have. There are no HMOs in Maine to provide services to them.

And here is what they do. To get lower prescription drug prices, they call me every day. They pile into buses to go to Canada. They try to get their prescription drugs from Canada over the Internet. And so what do they get out of this bill? They get a provision that says the government will not be able to negotiate lower prices for them, will not be able to negotiate lower prices. They get an inadequate benefit that is not as helpful to most seniors in Maine as the Canadian drug prices. It is a big win for pfizer and a big loss for people in Maine.

Our seniors have come to rely on the stability, predictability, and continuity of Medicare. The chairman of the committee did talk about choice, but as in Illinois, no one in Maine has ever asked me for a choice between insurance plans. They have got the choice that matters now, a choice of doctors and hospitals. This bill over time drives them out of fee-for-service Medicare and HMOs. It is funded by an outrageous overpayment to private plans and HMOs.

My parents for 1 year were in a Medicare+Choice plan. It was not gold-en. It was not modern, not efficient, not fair. Just a bureaucratic nightmare. Defeat this Medicare bill. It is bad for Maine’s seniors.

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

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for calling me, send me those brochures, in case the larger units buy at a lower price, they could at least get coverage on top of the Average Sales Price to reimburse them, but we would always review that to make sure cancer care is indeed preserved.

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Mr. Speaker, for every $100 we are spending to run our government tonight, we are only taking in $80, and you are taking money out of the Social Security trust fund and then some to make up the difference. So what is your strategy to deal with this deficit? It is to add a $400 billion entitlement that you cannot pay for. You are using Social Security funds that are supposed to pay for Social Security benefits for our future generations to pay for a sham prescription drug benefit for our grandparents.
Mr. MARKEY. Mr. Speaker, 40 years ago today President Kennedy’s assassination released an energy in our country that led to the passage of the Civil Rights Act and Medicare. By contrast, the bill before us today was conceived in secret, crafted by special interests, and cloaked in a prescription drug benefit to disguise its real purpose: the destruction of the Medicare program as we have known it in the United States over the past 40 years.

The turkey in my hands is about to pass a $400 billion-insured prescription drug benefit, which will force millions of our frail elders to pay more for prescription drugs than they now do. Some claim this bill will provide America’s senior citizens with new prescription drug coverage, but it will force millions of our frail elders to pay more for prescription drugs than they now do. Some claim it will lower Medicare premiums, but it will require Medicare beneficiaries to forfeit the power to choose their own doctors or their own drugs. Some claim it will make the Medicare program more efficient, but it will stick taxpayers with the tab for the very high drug prices they are forced to pay.

Mr. DINGELL. Mr. Speaker, I yield myself 30 seconds. That was an interesting speech, but I got a letter from the Congressional Budget Office indicating that the preliminary estimate of the impact of the Democratic amendment to H.R. 1, the Democratic plan; and the estimate of CBO of their plan is $1 trillion. So a speech complaining about the fact that we included $400 billion for this important program for seniors is wrong, when the other side prepared an amendment for $1 trillion; that is a little outrageous.

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

Mr. DINGELL. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Arkansas (Mr. BERRY).

Mr. RANGEL. And I hope that this entire conference committee, I hope that everyone here this evening will join me in thanking them for the magnificent job that they have done for America and America’s seniors.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds. While he is not here, I think the Members on our side ought to show their appreciation for the chairman of the Committee on Ways and Means, they prepared a preliminary estimate of the impact of the previous generation. This bill does that. It gives the new generation choice in drug coverage for the first time.

This, indeed, is a time of Thanksgiving, and this House is about to say thank you to a generation of Americans who we ought to say thank you to, and we are about to say it in the most important way we can. We are about to pass a $400 billion-insured drug account for these citizens who have no drug insurance today. We are about to pass a voluntary plan that gives them the right to choose or not join, their choice, not mandated by government. It includes catastrophic coverage so they never have to lose everything they have worked for and saved for all of their lives. And we give to all Americans this Thanksgiving holiday a chance to open up health savings accounts, tax-free in, tax-free out, tax-free interest earned to build their own long-term health care plans for the future.

This, indeed, is a time of Thanksgiving, and it is indeed a time for this generation to be true to our obligations of the previous generation. This bill does that. It gives the new generation choice in drug coverage for the first time.

It is amazing to me tonight, this debate. I have taken my parents to the hospital many times during my dad’s life and my mom’s. I do not ever once remember a doctor asking me as I checked in to the room there whether my mom was a Democrat or a Republican. This is not a partisan issue. I have gone and filled my mom’s prescription every single time. I have never asked her what party she belongs to. And when health deserts us in our senior years, when the ravages of time take us and we pass away, no mortuary worker stamps Democrat or Republican on our tombstones.

Health care is not a partisan issue, and it should not be a partisan issue.

Mr. Speaker, I rise in strong opposition to this bill. I rise in strong opposition to this extremely flawed bill. A bill that takes care of drug and insurance companies at the expense of our Nation’s seniors.

Instead of helping our seniors, Mr. Speaker, this bill is a result in higher drug prices. It increased Medicare premiums for seniors who refuse to be forced into HMOs, and the erosion of retiree coverage for over two million seniors.
These are just a few of the problems with this bill, Mr. Speaker. There are far too many to name in the limited time I have.

Our seniors deserve better. They have worked and sacrificed and contributed greatly to our country. We must not turn our backs on them, Mr. Speaker. We disagree with the passage of this bill. Instead, let us honor our seniors by defeating this bill and coming back with a prescription drug plan that is affordable, comprehensive and guaranteed.

A plan, Mr. Speaker, that protects Medicare and does not destroy it.

Let tonight’s victory be for our seniors, not the phony privatization companies. Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. SPRATT).

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

Mr. Speaker, when we began this quest several years ago, our object was to make Medicare better by filling a big gap in its coverage. This conference report covers that gap with a benefit that is barely adequate and badly in need of redesign. The bill then goes on not to make Medicare better, but to move Medicare toward privatization, heavily subsidizing managed care with funds that could better be used to improve the meager drug coverage this bill provides.

I will vote against this bill not to kill it but to send it back to an open conference, where all participate, in an effort to make the bill worthy of our senior citizens who badly need this coverage, and depend on Medicare.

Here are some of the problems and objections that I find with this bill:

H.R. 1 couples meager drug coverage with major changes that move Medicare toward privatization. The terms of coverage seem reasonable at first until you realize that they are not guaranteed. The premium of $35, the deductible of $250, and the co-payment of 25 percent are illustrative of what insurance companies may offer, but not written in stone. In any event, the co-payments grow at CPI (1.5 percent to 3 percent). The $2 and $5 co-payments will rise each year, far exceeding the annual 1.5 percent Social Security COLAs.

H.R. 1 provides $16.5 billion to sweeten HMOs to drive down the price of drugs—H.R. 1 fiat prohibits the Secretary of Health and Human Services from negotiating better prices for prescription drugs. The bill divides Medicare’s 41 million beneficiaries into numerous regions and to one or more private plans within each region. This fragmentation runs contrary to trends at the state level, where states have used the purchasing power of big beneficiary pools to negotiate better prices. This prohibition also flies in the face of prevailing federal practice, which requires government officials to seek the best possible price when spending the taxpayers’ money—especially when spending $400 billion.

H.R. 1 overpays HMOs to induce them to join Medicare and draw seniors into private plans—H.R. 1 provides $16.5 billion to sweeten private plans paid to managed care plans and induce them to enter markets they have not previously served. Lifted from President Clinton’s $225 billion plan to subsidize managed care plans, this bill then forces traditional Medicare to compete with the plans. This competition, known benignly as “premium support,” will destigmatize Medicare as we have known it and lead to premium increases for seniors who want to stay with the government-run program.

According to the Medicare Payment Advisory Commission, Medicare already overpays managed care plans by 19.6 percent. They are paid 19.6 percent more than their members would cost if enrolled in traditional fee-for-service Medicare.

H.R. 1 increases HMO payments by another $4.5 billion and sets up a $12 billion fund to induce private plans to enter new markets. According to MedPAC, these changes will result in overpayments to managed care plans of 25 percent.

Medicare fee-for-service will then have to compete with private plans in six metropolitan areas starting in 2010. Obviously, the increased payments will allow private plans an advantage in the competition, one they will enhance by marketing their services to healthy seniors.

Managed care plans have a record of designing and marketing benefit packages that appeal to healthy beneficiaries. As private plans “cherry pick” healthier beneficiaries, traditional Medicare will be stuck with sicker, more expensive beneficiaries. If competing private plans run costs below traditional Medicare, the beneficiaries in fee-for-service Medicare will be assessed the difference through their Part B premiums. Traditional Medicare premiums will spiral upwards, forcing seniors who cannot afford the rising premiums to move into private plans that limit their access to doctors. The process will repeat itself year after year, beginning an insurance “death spiral” that will destroy traditional Medicare.

H.R. 1 will cause over six million low-income seniors to be worse off—The 6.4 million low-income and disabled individuals who now receive health coverage from both Medicare and Medicaid will be worse off under this bill.

Under current law, when a benefit or service is covered by both Medicare and Medicaid Medicare serves as the primary payer and Medicaid “wraps around” that coverage. Medicaid fills gaps in coverage that exist under the Medicare benefit. Medicaid also picks up most or all of the beneficiary co-payments that Medicare charges.

This bill largely eliminates Medicaid’s supplemental—or “wrap around”—coverage under the new Medicare drug benefit. As a result, substantial numbers of poor elderly and disabled people would be forced to pay more for their prescriptions than they now do.

In addition, in cases where Medicaid covers a prescription drug but the private plan that administers the Medicare drug benefit in the local area does not provide that particular drug under Medicare, poor, elderly and disabled beneficiaries who now receive the drug through Medicaid could lose access to it.

Under current law, low-income beneficiaries have co-payments that run from zero to as high as $3; but these amounts do not increase from year to year. The conference report raises cost-sharing for those with the lowest incomes by requiring $1 and $3 co-payments for beneficiaries whose income is less than $8,980 a year and $2 and $5 co-payments for beneficiaries whose income is between $8,980 and $12,123 a year. In addition, the $1 and $3 co-payments grow at CPI (1.5 percent to 3 percent). The $2 and $5 co-payments will rise at the same level as prescription drug spending, which is projected to average 10 percent a year, far exceeding the annual 1.5–3 percent Social Security COLAs.
According to the Center on Budget and Policy Priorities, this provision will result in higher drug costs for 4.8 million seniors. H.R. 1 will cause nearly 3 million seniors to lose retiree coverage—According to CBO, some employers will stop providing retiree coverage to former employees. However, 23% of these seniors, or 2.7 million individuals, will lose this coverage. This loss of coverage results from the structure of the drug benefit, which gives employers an incentive to drop retiree coverage.

The drug bill targets Federal assistance toward those seniors who lack supplemental private drug coverage, most noticeably through the requirement that payments made by supplemental private drug coverage, most noticeably through the structure of the drug benefit, which gives employers an incentive to drop retiree coverage.

H.R. 1 spends nearly $7 billion on tax shelters for the healthy and wealthy—Rather than marshaling funds to improve drug coverage, H.R. 1 diverts $7 billion to Health Security Accounts, which have nothing to do with Medicare drug coverage, and create an unprecedented tax break, which could undermine our employer-sponsored insurance system.

Under H.R. 1, tax-advantaged savings accounts to pay out-of-pocket medical expenses would be made universally available. These could be used with high-deductible health policies, but not with the comprehensive health coverage that seniors who lack retiree coverage results from the structure of the drug benefit, which gives employers an incentive to drop retiree coverage.

This would establish an unprecedented and lucrative tax shelter. In the existing tax code, when funds deposited in a tax-favored account are deductible, withdrawals are taxed. On the other hand, withdrawals are not taxed when deposits are not deducted. There is no precedent in the tax code for providing both “front end” and “back end” tax breaks. The political pressure to do the same for other types of savings and retirement accounts could become irresistible. A proliferation of such tax-favored accounts would lead to a large number of people left in comprehensive plans who would be older and sicker, causing premiums for comprehensive insurance to rise significantly.

That, in turn, would drive still more healthy workers out of comprehensive insurance, making those that remain more costly to insure, adding pressure on employers to stop offering comprehensive coverage. Older and sicker workers could wind up paying more for health coverage or losing it altogether and becoming uninsured.

This suggests what could be done to make this bill better if it were taken back to a fair and open conference committee. The $7 billion allocated to Health Security Accounts and the $17 billion allocated to subsidizing HMOs could be used instead to narrow the “doughnut hole,” the zone where there is no coverage between $2,250 and $5,100. This is just one example of how this bill can be fixed and improved, and should be before it is passed.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. FATTAH).

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

Mr. FATTAH. Mr. Speaker, I rise in opposition to this conference report.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arkansas (Mr. Ross).

Mr. Ross. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

Mr. Speaker, in 2001, the Republican Congresswoman, the gentlewoman from Missouri (Mrs. Emerson), and I offered up a bipartisan plan that would truly modernize Medicare to include prescription drug coverage that recovered 80 percent of the cost of prescription drugs for our seniors, while taking on the big drug manufacturers, and the Republicans told us that we could not afford it. They said we could not afford $750 billion over 10 years.

But what has happened since then? They passed a $350 billion tax cut for the wealthy, and now they are proposing a $400 billion major prescription drug plan. I was not real good in math in high school, but I think I can figure that one out. That totals $750 billion. Two years later, we are getting a plan that does not even kick in until 2006. Our plan would be in effect today.

Mr. Speaker, I will be offering a motion to recommit to give seniors a meaningful prescription drug plan.

Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, again let me read the language of the bill that the gentleman just referred to, that terrible piece of language. It says in effect that in administering the prescription drug benefit program established under this, the Secretary may not, number two, interfere in any way with negotiations between private entities and drug manufacturers or wholesalers; or, three, otherwise interfere with the competitive nature of providing prescriptive drug benefit through private entities. This motion matches the conference report dollar for dollar on provider payments. It allows the Secretary of HHS to negotiate lower drug prices. It eliminates premium support ensuring that seniors will not have to pay more than they would have if Medicare coverage were what they know and trust. It rejects the poison pill language that guts reimportation, and it prevents millions of retirees from losing their benefits and protects

Mr. Speaker, I rise in opposition to this conference report. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. TURNER) for purposes of explaining the motion to recommit, which will be offered at the conclusion of the debate. I hope my colleagues will listen closely to this.

Mr. TURNER of Texas. Mr. Speaker, for years the pleas of our hurting seniors fell on the deaf ears of our Republican majority until one day our Republican friends were struck with an ingenious idea, wrapping a plan to privatize Medicare into a deceptive package called prescription drugs for seniors.

It keeps the drug companies happy because they can still charge twice as much for medicine here as anywhere else in the world. It keeps insurance companies happy by paying them 25 percent more to cover seniors than taxpayers pay to cover seniors under traditional Medicare. It keeps doctors and hospitals happy by paying them billions while leading them like sheep into the perils of managed care.

And it costs taxpayers $400 billion for a meager prescription drug savings of 25 percent, a savings that could be achieved at no cost to taxpayers by giving seniors the right to buy drugs at the same price they can get them in Canada. All this slight of hand to force seniors into privatization is part of some day to give them a voucher and tell them fend for yourself. No security, no certainty, no guaranty of coverage, you are on your own. And the promise of Medicare is no more.

My seniors in east Texas see right through this. In a poll conducted throughout over 6,000 seniors in my district, 85 percent said they were opposed to the Republican plan. Dress it all up as fancy as you can, it is a bad deal for America’s seniors and they know it.

Mr. Speaker, I will be offering a motion to recommit to give seniors a meaningful prescription drug plan. The conference report, the bill that the gentleman just referred to, that terrible piece of language, report dollar for dollar on provider payments. It allows the Secretary of HHS to negotiate lower drug prices. It eliminates premium support ensuring that seniors will not have to pay more than they would have if Medicare coverage were what they know and trust. It rejects the poison pill language that guts reimportation, and it prevents millions of retirees from losing their benefits and protects
low-income seniors by allowing Medicaid to provide wrap around coverage.

Mr. Speaker, let us give the greatest generation the certainty, the security, and the guarantee they deserve. Vote for this motion to recommit.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Chair would advise Members that there are 2 minutes remaining on either side. The gentleman from Louisiana (Mr. TAUZIN) has the right to close.

Mr. TAUZIN. Mr. Speaker, I might inquire of the gentleman from Michigan (Mr. DINGELL) if he has further speakers. I am reserving for the Speaker of the House to close.

Mr. DINGELL. Mr. Speaker, at this time I would inform my distinguished friend in the House, the gentleman from Louisiana (Mr. TAUZIN) that we have only one speaker remaining who will close for this side.

Mr. TAUZIN. Mr. Speaker, then I would advise my friend to take advantage of that time at this time and the Speaker will close on the Republican side.

Mr. DINGELL. Mr. Speaker, is my good friend assuring me he has only one speaker remaining?

Mr. TAUZIN. Mr. Speaker, I can assure my friend that is true.

Mr. DINGELL. Mr. Speaker, then with a great deal of pride and pleasure I yield the remainder of my time to the distinguished Speaker of this, the whole House of Representatives, the gentleman from Illinois (Mr. HASTERT). I also want to thank all those folks at the Congressional Budget Office who crunched the numbers day after day after day to produce a bipartisan bill that will be sustainable over time and meet the needs of our seniors and disabled. I urge them to stand with 40 million seniors and disabled Americans who look to us for help and hope at this defining moment.

Speaking on the day when he signed Medicare into law, President Johnson said that this Nation’s commitment to its seniors was part of a noble tradition that calls upon us never to be indifferent toward despair, never to turn away from helplessness, never to ignore or spurn those who suffer in a land that is bursting with abundance. Tonight the hopes of 40 million seniors and disabled Americans rest upon us. They have waited too long, fought too hard, endured too many broken promises, only to be sac- rificed on the altar of the special interest. We cannot, we must not, and we will not abandon them now.

Mr. TAUZIN. Mr. Speaker, in order to close this historic debate we yield the balance of our time to the distinguished Speaker of this, the whole House of Representatives, the gentleman from Illinois (Mr. HASTERT).

Mr. TAUZIN. Mr. Speaker, I thank the gentleman from Louisiana (Mr. RANGEL), and the gentleman from Arkansas (Mr. BERRY), all for their leadership on this important issue.

Sad to say, Mr. Speaker, the Republicans would not let these appointed conferees into the conference room. And this bill does not reflect the benefit of the thinking and experience of our very diverse House. That is a great loss to this debate and a great loss to our country.

Mr. Speaker, the Democratic Party has made ensuring the dignity and security of our seniors a cornerstone of our mission for generation after generation. Nearly 40 years ago, a Democratic Congress and the Democratic President, Lyndon Johnson, honored that mission by making Medicare the law of the land. Ever since then, America’s seniors have known where Americans stand. We created Medicare and we want to protect it and strengthen it.

America’s seniors have also known where Republicans stand. For 40 years, they have waged war on Medicare. When Congress passed Medicare in 1965, only 13 Republicans in Congress supported it. Only 13 in Congress supported it. When Newt Gingrich and the Republicans tried to gut Medicare in 1994, only 13 of them voted to keep it. That same year, Newt Gingrich made his intentions about Medicare clear. He said, “Now, we did not get rid of it in round 1, because we do not think that is politically smart, but we believe it is good for America to have Medicare.” And tonight, the Republicans want to deliver the final blow. On behalf of America’s seniors and disabled, we must stop them.

Recognizing the desperate need of America’s seniors citizens, Democrats proposed a guaranteed, defined, affordable prescription drug benefit under Medicare. Instead of joining us in this historic opportunity, Republicans offered up a $5,000 drug benefit for seniors. And this deceptive prescription drug benefit is intended to win their 40-year war against Medicare.

Republicans said this is a first step toward a prescription drug benefit. This Republican plan is not a first step, it is a final step. It puts profits for HMOs and big pharmaceutical companies over seniors, providing a $12 billion slush fund for HMOs and gives a $139 billion windfall profits to the pharmaceutical companies over 8 years.

The Republican plan does not lower costs for prescription drugs. It prohibits the government from negotiating for lower prices. It privatizes Medicare and pushes seniors into HMOs. It makes seniors pay more to keep the Medicare they know and trust. It does all of this for a deceptive plan that makes most seniors pay $4,000 out of their first $5,000 in prescription drug costs. How do you explain that to mom? You are going to get a new benefit, this is the Republican plan. And of the first $5,000 of prescription drugs cost, you, senior citizen of America, are going to pay the first $4,000.

Nearly half of all Medicare beneficiaries, up to 20 million seniors and disabled Americans, will fall into a coverage gap, meaning they will pay premiums all year without receiving any benefits at all. Under the plan most seniors will be worse off than before, and millions of retirees will lose their existing employer provided coverage.

Republican priorities are clear. They place the special interest of the HMOs and the pharmaceutical companies before the public interest of America’s seniors and disabled. This is not the beginning of a real prescription drug benefit under Medicare. On the contrary, this is the beginning of the end of Medicare as we know it. The more seniors across America learn about the details of this scheme, the less they like it, and the more they want us to keep fighting for real prescription drug benefit that really answers their needs.

Mr. Speaker, this is an hour of decision. Tonight there is one new way to improve this bill and that is to and to provide the benefit seniors need and deserve and that is to vote no. I urge my colleagues to vote against this Republican hoax. I urge them to send all of the conferees, Democrats and Republicans, to the Senate floor to produce a bipartisan bill that will be sustainable over time and meet the needs of our seniors and disabled. I urge them to stand with 40 million seniors and disabled Americans who look to us for help and hope at this defining moment.

I want to thank those folks at the legislative counsel who spent untold hours of trying to craft the right language to make this legislation the right legislation for the American people, and those folks at the Congressional Budget Office who crunched number after number day after day after day to make things work.

In this time and space of legislative arena, there are times when things come together. There are times of great opportunity. And there is a time for change.

This, indeed, is one of those times for that opportunity. This, indeed, is one of those times for great change. A poet once said that “things fall apart, the center cannot hold. The best lack conviction while the worst are full of passion, intensity.”

For the good of our senior citizens and for the good of our Nation, the center must hold. The best must be full of...
These health savings accounts give consumers more power to choose health care costs and deliver better health care for our citizens and for our seniors. As we make these necessary financial reforms in Medicare, we also modernize the program with a prescription drug benefit. And after this legislation goes into effect, low-income seniors will never be confronted with the choice of putting food on the table or paying for life-saving prescription drugs. Low-income seniors will finally have the benefit that will take care of their drug costs, and this will save the deposit money in the long run. For example, if a low-income senior has diabetes, the monthly cost of Glucophage, a drug that helps control that disease, is about $30 a month. But if diabetes is left untreated, a single hospitalization for renal kidney failure is about $6,700. The benefit is both penny-wise and pound-wise.

It will also help the typical senior by cutting down their drug costs by 40 percent. And those seniors with high drug costs will save even more, up to 60 percent or more. In other words, this prescription drug benefit is a good deal for all seniors.

This legislation has other important factors. It includes incentives to employers so that they will not drop their current plans. In fact, this bill will make it more likely that if you have a certain employer, that employer will continue to offer that benefit. It also includes vital important help to rural America. And if you live in the cities or urban America, it is probably not a problem. But if you are trying to keep hospitals and keep doctors and hospitals going in rural areas, you know that is a problem.

This bill solves the problem. It takes care of rural hospitals. It provides rural health care. That is something that many of us have been fighting for for a long, long time. Let me be the first to admit that this conference report is not perfect. The far left does not like it. And our friends on the far right do not like it. But let me tell you who does like it. The AARP has endorsed it. So has the American Hospital Association and the American Medical Association and almost every other major seniors organization and doctor and patient group. I urge my colleagues to put politics aside. I urge you to consider this piece of legislation for the good of this Nation. I urge you to stop and think when is the last time that we have really been able to change the paradigm of health care in this country. When is the last time that we have really had the chance to offer our seniors in this country the best care, good pharmaceutical coverage and for a chance to live and enjoy a great future. I ask for a positive vote.

Additional, more than 2 million retirees, who currently have drug coverage through

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This legislation does nothing that its supporters claim it does. They claim that this bill will help seniors with their prescription drug costs and give them more choices in their healthcare. But actually, this bill does none of that. It does not provide a comprehensive, affordable or reliable prescription drug benefit. Further, it unravels the guaranteed healthcare coverage that seniors have come to expect under Medicare. This bill is so bad, that even some Republicans refused to support it. Opponents of this terrible legislation see through the smoke and mirrors that support for putting up an insurance barrier, this bill was not about helping seniors pay for their prescription drugs or giving them access to better care, but that this bill was actually about helping the bottom lines of private insurance companies, HMOs and the pharmaceutical companies.

There are many, many bad provisions in this legislation, and I would like to highlight some of the worst of them here:

One: Under this bill, Medicare as we know it is completely unravelled. First, Medicare Part B will be forced to compete with private managed care plans. This leaves the health of our seniors to the whims of private insurance companies and does not guarantee that all seniors will be receiving the same benefits across the country. That means seniors in my District in San Diego, CA might have better coverage than seniors in New York. Or seniors in New York might have better coverage than those in San Diego—we just don’t know—it’s completely up to the private insurance companies and HMOs to decide how much coverage they provide. Not only is the amount of coverage going to vary, but so are the costs of the premiums. Again, that means seniors in San Diego might pay more than seniors in New York—or vice versa—depending on how much the private insurance companies and the HMOs decide they want to charge!

Secondly, this bill would institute a “means test.” In layman’s terms, that means that in 2007, the Medicare part B premium would be linked to income. This not only goes against the main tenet of Medicare—which grants coverage to everyone, regardless of income—but also, higher premiums create an incentive for healthier seniors to leave Medicare. This would leave only the sickest seniors in Medicare and drive up premiums even more.

Two: The so-called prescription drug “benefit” is absolutely inadequate and actually decreases coverage for some seniors and can cost them more than they’re paying right now. Supporters of this bill claim that the prescription drug benefit will help seniors cover the costs of their medications. However, there are so many problems with it that it’s hard to decide where to begin. First of all, this benefit does not even kick in until 2006. When it finally does begin, seniors are expected to pay a high deductible. Then, there is a piece of de resistance of this so-called benefit: there is a big hole in coverage. Rather than providing continuous coverage throughout the year, this bill has a $2,850 coverage gap in which seniors don’t receive any coverage at all. Half of America’s seniors fall into this hole. The icing on the cake is that despite the fact that they would not be receiving coverage for part of the year, they are still expected to continue to pay the premiums.

Additionally, more than 2 million retirees, who currently have drug coverage through
their former employers, will lose that coverage. Because drug costs keep rising and this bill has no measures to keep drug costs low, it is very tempting for employers to simply drop their coverage and force seniors onto this inadequate drug coverage plan. Furthermore, rather than having Medicare kick in when a retiree reaches catastrophic coverage, this bill forces the employer-provided benefits to cover those costs—yet another reason for employers to pull their coverage.

Three: This bill explicitly prohibits the government from negotiating with drug companies for lower prices on their products. One of the greatest strengths of a prescription drug plan under Medicare is that it could reduce drug prices for participants using the large number of participants in the Medicare program to bargain with pharmaceutical companies for better prices on their products. Yet this bill denies Medicare participants those lower costs, ensuring continued skyrocketing prescription drug prices.

It is for those reasons—and many many more—that I could not support this poison pill for Medicare and a placebo of a prescription drug benefit.

Mr. THORN BERRY. Mr. Speaker, like most bills brought before us, this bill is a mixture of provisions in the interests of support, such as the payment increases for providers and many many more—rather than having Medicare kick in when a retiree reaches catastrophic coverage, this bill forces the employer-provided benefits to cover those costs—yet another reason for employers to pull their coverage.

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Mr. THORN BERRY. Mr. Speaker, like most bills brought before us, this bill is a mixture of provisions in the interests of support, such as the payment increases for providers and many many more—rather than having Medicare kick in when a retiree reaches catastrophic coverage, this bill forces the employer-provided benefits to cover those costs—yet another reason for employers to pull their coverage.

Three: This bill explicitly prohibits the government from negotiating with drug companies for lower drug prices. One of the greatest strengths of a prescription drug plan under Medicare is that it could reduce drug prices for participants using the large number of participants in the Medicare program to bargain with pharmaceutical companies for lower prices on their products. Yet this bill denies Medicare participants those lower costs, ensuring continued skyrocketing prescription drug prices.

It is for those reasons—and many many more—that I could not support this poison pill for Medicare and a placebo of a prescription drug benefit.
Finally, the bill gives seniors help with their prescription drugs almost immediately by authorizing a discount drug card. In a serious level of effort, I worked with four of my colleagues in drafting legislation to add a drug card to the Medicare program. Under our approach legislation, we would have been able to choose from a variety of discount drug cards available at a very low annual fee. We also included funds for seniors, based on income, to help seniors pay for drugs; a catastrophic limit; and a mechanism for seniors to save and for others to help seniors pay for their drugs.

Frankly, this is a better approach, and I would have preferred to see it made a permanent feature of this bill, rather than expiring at the end of 2 years. Nonetheless, the discount drug card provisions of H.R. 1 do incorporate many of the ideas that my colleagues and I advocated.

I am troubled by the present fallback provisions, by the extent of the subsidies permitted under the bill, and by the uncertainty as to whether Medicare will be adequately reimbursing physicians for providing care to patients needing injectable drugs. I am also concerned that this bill still does not effectively keep the costs in-line with the ability of the taxpayers to fund the benefits.

Nonetheless, the bill, on the whole, is more positive and I am fully aware that Congress will have to tackle difficult issues down the road, however, I will support H.R. 1, to add a prescription drug benefit to Medicare and create long-term solutions to solve access, choice, and solvency of Medicare when baby boomers become seniors.

Mr. BERERT. Mr. Speaker, this Member wishes to add his support for the Medicare conference report and would like to commend the distinguished Chairman of the House Ways and Means Committee (Mr. THOMAS); the distinguished Chairman of the House Energy and Commerce Committee (Mr. TAUZIN); and the other Medicare conferees for their leadership, expertise, and good efforts on this comprehensive Medicare reform package. This legislation is especially lauded by the distinguished gentleman from California (Mr. THOMAS) and his staff for the time he spent briefing this Member on the rural health provisions as Medicare conference negotiations were taking place and for his work to bring greater equity to the rural health care delivery system.

This measure may well be one of the most complex and important bills that this Member has ever had to consider during his tenure in Congress. Although the conference report lacks, I am concerned with the high cost of pharmacueticals—the market-oriented and pro-competition cost-containment provisions provided for the existing Medicare program are critically important reforms. The conference report makes Health Savings Accounts available for the first time ever to all Americans, and includes the undoubtedly controversial, but necessary means-testing of Part B premiums on a sliding scale, beginning at $80,000 (for singles). The rural health care reforms are also exceedingly important for millions of Americans. The conference report is certainly not the prescription they need. These benefits may be both unaffordable and a huge disappointment to the intended beneficiaries.

Yet, the Medicare reform and greater Medicare coverage equity for citizens of rural and non-metropolitan areas make this conference report on H.R. 1 worthy of an “aye” vote. Congress will have ample time and opportunity to address concerns, enhance, revise, and improve upon this historic legislation.

Until this year, there has been nothing but gridlock and delay in terms of how to reform the Medicare program. The Medicare conference worked long and diligently to develop the Medicare reform agreement before us today. We cannot afford to let this prospect of Medicare reforms slip away.

Mr. Speaker, the rising cost of prescription drugs has become an issue that simply must be addressed. Senior citizens in Nebraska and throughout the United States should not have to compromise their quality of life or their health because the cost of their prescriptions is more than their income allows. Without an end to the ever higher prescription drug cost—the product largely of huge international cost-shifting onto the backs of American consumers—the prescription drug benefit we are adding will cost more than the $400 billion already authorized for prescription drugs for our Nation to bear, even with Federal taxpayor funds. Therefore, this Member is very concerned that the measure lacks immediate restraints on the high cost of pharmaceuticals.

This Member is extraordinarily disappointed, but not unreasonably. I am also concerned that unimplementable reimportation language included in the conference report. Drug re-importation from Canada was not the best approach to meeting the problem of escalating drug costs and it could be only an interim approach, but it is the only tool now available.

The provisions of the bill allow for the importation of drugs from Canada, but the measure contains language in which the Department of Health and Human Services can say it cannot responsibly or legally implement the provision, as it has done on two previous congressional efforts. This language is the “poison pill,” and it is wholly unsatisfactory.

Mr. Speaker, it is additionally important that the conference agreement authorizes $50 million for fiscal year 2004 for the Agency for Healthcare Research and Quality (AHRQ) to conduct research on health care outcomes, comparative clinical effectiveness, and appropriateness of health care items and services— including prescription drugs. This Member has been a strong advocate for such research, as evidenced by his amendment to the Labor, Health and Human Services, and Education appropriations bill (H.R. 2660).

Americans deserve the best health care for their dollar. Clinicians, patients, and those financing health care services need credible, reliable, unbiased comparative information to make informed decisions about the prescriptions they consume and prescribe. Consumers need information regarding the effectiveness, quality, and cost-effectiveness of new drugs, in comparison with existing alternatives, especially when new drugs can cost much more than those now on the market.

This Member is pleased that the conference report language authorizes the AHRQ to conduct such research and that comparative clinical effectiveness is referenced but is concerned that cost-effectiveness is also not mentioned.

Mr. Speaker, in addition to adding a long overdue prescription drug benefit to the Medicare program, the conference report provides for robust reform of the rural health care delivery system. It is the best bill ever for the health care of citizens living in rural and non-metropolitan areas; it moves them to a more equitable position with respect to their urban counterparts. This Member is extremely pleased that the Medicare conference report includes a substantial amount of funding specifically for rural areas and small communities. As the Interim Co-Chair of the House Rural Health Care Coalition, this Member has been working diligently to address rural health care issues and the needs of those individuals who practice, work, and live in rural areas. This conference report includes funding that is dedicated to assisting community hospitals, outpatient facilities, home health agencies, skilled nursing facilities, ambulance service providers, rural physicians, and other skilled health professionals. Such funding is crucial for cash-strapped rural facilities which are near a breaking point and in need of urgent aid.

This Member is especially pleased that the Medicare conference report includes language to address the significant differential in Medicare reimbursement levels to urban and rural skilled health care professionals. For the past 2 years, this Member has introduced the Rural Equity Payment Index Reform Act to assure that physician work is valued, irrespective of the geographic location of the physician. The Medicare conference report establishes a 1.0 floor on the Medicare physician work adjuster from 2004 to 2006, thereby raising all localities with a work adjuster below 1.0 to that level.

This is a huge victory for this Member, my very able legislative assistant, Ms. Michelle Spence, for Nebraska, and for all Medicare localities with a physician work adjuster below 1.0.

Several other provisions are included in the Medicare conference report to assist rural areas physicians and other skilled health professionals. For example, the measure protects senior citizens’ access to physicians by replacing a 4.5 percent across-the-board physician payment cut—scheduled to take effect on January 1, 2004—with 2 percent increases. Additionally, this Medicare agreement provides a five percent bonus payment for primary and specialty care physicians who practice in scarcity areas.

This Member is also pleased that the Medicare conference report addresses hospital payment disparities to ensure that facilities in rural areas and small cities can stay in business and continue serving patients who need care by permanently extending the standardized base payment. This policy will help maintain access to care in underserved urban areas of the country by better aligning hospital payments to actual costs. The estimated impact of eliminating the base rate differential will result in $26.7 million over 10 years for Nebraska hospitals in the First Congressional District, according to the American Hospital Association.

Additionally, the Medicare conference report lowers the labor share of hospital wage index to 62 percent. This change will increase inpatient reimbursement for many rural hospitals and will more accurately reflect the labor costs in many rural facilities. According to the American Hospital Association, this provision would bring $3.3 million over 10 years to the First Congressional District of Nebraska.
Several other provisions are included in the Medicare conference report to address rural hospitals. For example, the agreement increases disproportionate share hospital payments for small rural and urban hospitals and increases critical access hospital payments to 101 percent of reasonable costs.

Mr. Speaker, in closing, this Member supports the Medicare conference report. It finally gives the American people some of the critical reforms that are essential if the system is to avoid fiscal disaster or unaffordable burdens on American employers and employees. And, on what basis, not until we face the huge international pharmaceutical cost-shifting onto Americans, it will provide senior citizens with access to prescription drugs when they need them most and it will greatly improve health care for Americans living in rural areas.

Mrs. MALONEY. Mr. Speaker, the seniors in my district have made their views on Medicare clear. They believe that it should provide the same coverage for prescription drugs that it does for doctors and hospital stays. And they think that they should no longer pay the highest prescription drug prices in the world.

Unfortunately, however, the bill before us will provide inadequate benefits that would leave half our seniors paying more out of pocket for prescription drugs than they do now. And it contains a gap in coverage that will leave half of seniors without any drug coverage for part of the year.

Just as bad, this bill will impose a global ceiling on the size of Medicare. If the overall cost of the Medicare program exceeds a pre-determined cap, Congress will immediately be forced to slash benefits or hike premiums for those currently on Medicare.

To add insult to injury, this bill will undermine initiatives to cut the cost of prescription drugs. It would bar by law any effort by the Secretary of Health and Human Services to try to negotiate with pharmaceutical companies to lower prescription drug prices.

This bill will undermine and ultimately destroy Medicare as we know it. It’s a magic pill. It’s a poison pill. I urge my colleagues to vote “no.”

Mr. LANGEVIN. Mr. Speaker, I rise today gravely disappointed by, and opposed to, the Medicare Modernization and Prescription Drug Act of 2003. The 108th Congress has squandered our best opportunity yet to provide a meaningful prescription drug benefit for our nation’s seniors. I am outraged that the republican leadership has taken advantage of the public’s cry for medication coverage. They have used the demand to exploit the elderly, funneling money and insurance dollars for private companies and privatize Medicare. Sadly, this debate is no longer simply about a prescription drug benefit. This debate is about the survival of the health care system that has been serving and protecting our seniors since 1965.

In a striking divergence from the universal nature of Medicare, the conference report we are voting on today establishes a system wherein seniors rely on private, drug-only companies to administer their drug coverage. Each of these companies will develop their own rules about premiums, deductibles and what drugs they will cover. The standard for this bill sets for the companies only offers 75 percent coverage of the costs up to $2,250—and no coverage at all until the expenses then reach $5,100. During that significant gap in coverage, seniors will still be responsible for paying a $35 monthly premium. Even more in-furating, that premium will not count toward their out of pocket expenses, making it take even longer for them to reach the catastrophic level. The “Regional” plans provide no help for the poor, and indeed, premium sub-sidies are available to individuals earning less than $6,000 a year or couples earning less than $9,000. But these vulnerable, low-income seniors must first meet a strict assets test, where cars, burial plots and even wedding rights will be counted as assets. Additionally, I remain deeply concerned that the legislation fails to include a meaningful fallback plan seniors can rely on if private companies fail to emerge in their area, an all too likely scenario that it is our duty to protect against.

The prescription drug component of this bill contains a particularly troubling provision that strictly forbids the Secretary of Health & Human Services from using the bulk purchasing power of Medicare beneficiaries to negotiate lower prices for senior citizens—a tactic that has proven effective in the state programs, as well as 25 other industrialized nations. America’s seniors have made it clear that they want the government to assist them in obtaining their prescription drugs at a fair price. It infuriates me that that we have a government that is supposed to provide a fair price. It infuriates me that that we have a government that is supposed to protect their interests and protect their health care. I remain deeply concerned that the legislation fails to include a meaningful fallback plan that America’s seniors, in mind.

The problems with this conference report go far beyond the inadequacy of the drug benefit. This bill not only fails to meet the needs of seniors and jeopardizes the retiree coverage used by 12 million Americans, it also lays a strong foundation for the demise of the Medicare program as we know it. Beginning in 2010, this agreement will expose millions of seniors to new benefits and uncertainties in as many as six large metropolitan areas, possibly including my home state of Rhode Island and neighboring Massachusetts.

This vast demonstration project, which will involve up to 7 million seniors, will subject Medicare to competition with private companies, coercing seniors into HMOs, subjected to a different plan, a different level of care-related paperwork and receive lower-payments for their services. Providers are already overburdened by Medicare-related paperwork and leave the majority with no support from their providers. The conferees failed to take this into account, they did not go far enough to understand the true impact this bill would have.

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This vast demonstration project, which will involve up to 7 million seniors, will subject Medicare to competition with private companies, coercing seniors into HMOs and private plans. These private companies will be given huge financial incentives to offer health coverage for seniors, funneling critical resources away from Medicare and those who rely on it. If a senior wishes to stay in the Medicare program, and decide to put their resources and their trust in the hands of insurance companies and drug companies. The high turnover rate of providers in participating Medicare + Choice plans signals the instability this will cause, for providers and patients alike.

In this year’s debate over Medicare, once again, Congress has lost sight of what the public has asked for, and what American seniors need. Our seniors are choosing between paying their rent of buying food and obtaining the medication they need to stay alive. They need relief from prescription drug costs. They do not need the added burden of huge financial incentives to offer health coverage for seniors, funneling critical resources away from Medicare and those who rely on it. If a senior wishes to stay in the Medicare program, and decide to put their resources and their trust in the hands of insurance companies and drug companies. The high turnover rate of providers in participating Medicare + Choice plans signals the instability this will cause, for providers and patients alike.

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that their top concern is the high cost of prescrip-
tion drugs coupled with the lack of cover-
agement for these lifesaving medicines under the
Medicare program.

Regrettably, the bill before us today does
nothing to address the high cost of drugs, and it
comes at too high a price for coverage. Many
Americans who currently lose the expanded cov-
eration they currently have through their retire-
ment and many others couldn’t afford the high
 premiums, deductibles and gaps in coverage.

Despite the hard work and good intentions
of many members of Congress on both sides of
the aisle, we have lost the forest for the trees.

And so I rise today in opposition to the con-
ference report on H.R. 1.

In August, I sat in the House gallery with
some guests as the reimportation bill came to
the floor. We sat with a group of interns and
some guests as the reimportation bill came to
conference report on H.R. 1.

You couldn’t necessarily tell what anyone’s
party affiliation was by the impassioned way
they took on an issue that cuts across party lines. The vast majority of us were ada-
amant about fighting for the people we rep-
resent back home who are no longer willing to
tolerate the fact that people in Mexico and
Canada can get their drugs for less than Ameri-
cans.

That bill passed overwhelmingly, and yet
this conference report has failed to include
drug reimportation. It has failed to address the
elephant in the middle of the living room: the
high cost of drugs.

Seniors can’t afford drugs, and they can’t af-
ford high priced coverage, or loss of coverage
they currently enjoy.

Unfortunately, when we were closest to get-
ting agreement on making medicines more af-
fordable for all of the Nation’s seniors, the
pharmaceutical companies, who make the life-
saving drugs that patients need, killed every
attempt to allow Americans to benefit from the
same low drug costs that other countries enjoy.

They also made sure that this legislation
specifically prohibits the Medicare program
from negotiating the prices of drugs, a power
that even other government agencies, such as
the Department of Veterans
Affairs, have.
Why? Because seniors would finally have the
leverage to lower drug costs for themselves in
this country. They would make one heck of a
purchasing pool.

And, when we were closest to getting
agreement on improving coverage for every-
one, the conference failed to adequately protect
retirees’ health coverage. Unfortunately, some-
where along the way we forgot that this isn’t
just a pharmaceuticals bill, this is a seniors’
bill.

We lost sight of what senior’s struggle with
most . . . drug costs and the cost of cov-
ervation. And believe me, seniors themselves
have noticed that we’ve lost sight of them.

Take 79-year old Ruth Beale of Portland
who was just diagnosed with Parkinson’s dis-
ease who writes: “I still work 3 days a week
as a companion to a 103 year-old. This gives
me just enough cash to pay the $300/month
for my prescriptions. Of course that doesn’t in-
clude the pain medication for the Parkinson’s,
my doctor gives me free samples when she can,
though sometimes she runs out.

My Social Security check is barely enough
to cover rent (and live in a cheap apartment),
food and the $72 per month for my
Medicare HMO premium. Under this plan, I
wouldn’t get any help for my drug costs. I
really can’t afford to pay any more than I do
now. So I guess I’ll just keep on working until
I can’t anymore—I’m going to give this Parkin-
son’s a run for their money.

And God bless her.

Although Dorothy Patch of Salem has sup-
plemental insurance, she still pays over
$230.00 per month out of pocket for her pre-
scription drugs. Dorothy is concerned about
being pushed out of the coverage.

Dorothy figures that she would actually pay
more for her coverage if this legislation
passes. Why?

1. Only 75 percent of her drugs would be
covered up to $2,250 per year.
2. From $2,250 to $5,100 Dorothy would fall
into the “donut hole” and not receive any cov-
ervation at all, while she is still responsible for
paying a $250.00 deductible and $35.00
monthly premiums.
3. Even though under her current plan,
Dorothy is paying $230.00 per month, there is
no donut hole in her coverage and she is cov-
ered no matter how high her drug costs be-
come per year.

4. She is using a fee for service system and
does not want to be forced into an HMO.

The truth is that people who currently have no coverage would gain a little
at a very high price, a cost that many who
have contacted me say they cannot afford. For
many in the district I represent, this legislation is a step backwards. For others, it is a sore
disappointment that we were unable to slay
the giant and make reasonably priced medi-
cines within their grasp.

At the beginning and in the end, for me, this
issue has always been about the high cost of
drugs and the need to affordably expand cov-
ervation. Regrettably, this bill prohibits ways to
lower drug costs for American seniors and, for
many, the coverage provided in the bill comes
at a high price they simply cannot pay.

I urge my colleagues to reject this bill, go
back to the negotiating table and give seniors
what they really need: affordable drugs and af-
fordable drug coverage.

Mr. MATSUMI. Mr. Speaker, I rise today in support of the Medicare Prescription Drug Conference Report, and thank all the Con-
ferences for their dedication to providing relief for
our seniors. This landmark legislation updates Medicare to finally bring it into the 21st Century by modernizing the program and
providing a prescription drug benefit. While not perfect, this bill presents us with an
historic opportunity of providing 40 million Medicare beneficiaries with relief in the face of rising prescription drug costs. Every member of this body has identified health care reform as a top priority and now we have the oppor-
tunity to make progress. The reality is—
every year we postpone this debate and fail to
compromise on a Medicare and prescription drug bill, while the burden of drug costs on
seniors continues to increase.

In 1965 when the Medicare program first
began, the average senior’s spending for pre-
scription drugs was $65 a year. In 2002, over
all spending had risen to $2,149—a 35-fold in-
crease. The average out-of-pocket prescription price increased more than three times the rate of in-
flation from 1998 to 2000. Over 60 percent of
seniors spend more than 1,000 per year on
prescription drugs and of those seniors, 17
percent spend more than $5,000. And with 80
percent of seniors taking one prescription drug
every day, the expense for many is out of
reach. These statistics clearly show the transi-
tion of patients relying mostly on hospitals and
physician for their health care needs to patients relying more on prescription drugs as measures for health treatment and prevention.

The bill aims to make prescription drugs more affordable and more accessible by creating a voluntary prescription drug benefit. For the first time since the creation of the Medicare Program, seniors, no matter where they live, will be able to receive financial assistance to help pay for these drugs, which are becoming increasingly integral to disease prevention, management and treatment. Seniors can keep whatever drug coverage they have now, choose a private plan or stay in the traditional Medicare program.

Once the benefits is in place, Medicare will pay 75 percent of seniors’ drug costs up to $2,250 per year, with a $250 deductible and a monthly premium of $35. With the CBO estimate indicating that the average senior will spend $1,891 on drugs in 2006, I think most seniors will find this to be a strong improvement. Importantly, this legislation provides the most generous benefit to the lowest income seniors. These seniors do not pay a premium, nor do they have a deductible and there would not be gaps in coverage for the drug benefit.

This bill also takes strong steps towards preparing Medicare for future challenges, such as being equipped to meet the needs of retiring baby boomers. We offer new preventative measures for funding an initial physical and certain preventative benefits such as diabetes and cholesterol screening as well as chronic care disease management. These common sense reforms are long over due—who can believe that Medicare was not covering an initial physical for seniors? Empowering beneficiaries to participate in preventive and early detection programs can not only improve their immediate health, but has potential to save billions in future healthcare costs.

Another key component of this legislation is incentives for employers to retain and enhance retiree coverage. During the debate in both the House and Senate a significant amount of time focused on employer-based coverage. With increasing costs of health care as a whole, it is logical that employers are looking for ways to reduce their overhead. Most likely, retirees who tend to be more costly than younger, healthier workers, are targeted for cost cutting measures. These are concerns that provisions would be included in this legislation to allow employers to drop coverage, based on age, but fortunately, due to the work of many, that did not happen.

One-third of all Medicare beneficiaries currently have prescription drug coverage through their former employers. Retirees want to keep that coverage and frankly, I believe they should be able to receive that coverage themselves. This legislation provides a percentage subsidy to employers who maintain coverage for their retirees, which also saves Medicare money. Specifically the legislation will provide a federal subsidy to employers equal to 28 percent of drug spending by their retirees between $250 and $5,000. This applies not only to private companies, but also to state governments, and unions, like teachers unions, which often have very generous retiree packages. Of course, this is not a fail-safe solution. The higher costs associated with retiree health care coverage has not been an easy task for the other cost centers of the healthcare industry to bear. This legislation will not prevent employers from dropping coverage for their retirees in the future but it will fund a program to provide them with the immediate relief in this bill.

The cost of prescription drugs is rising everywhere. The U.S. Census Bureau, an estimated 15.2 percent of the population or 43.6 million people were without health care coverage during the entire year of 2002, up from 14.6 percent in 2001. That is an increase of 2.4 million people. What’s even more disconcerting is the percentage of people who are employed but lack health care coverage. The number dropped from 62.6 percent to 63.1 percent.

I commit myself and I hope others will join me, in continuing to address the rising cost of health care, prescription drugs and the rising ranks of the uninsured. According to the U.S. Census Bureau, an estimated 15.2 percent of the population or 43.6 million people were without health care coverage during the entire year of 2002, up from 14.6 percent in 2001. That is an increase of 2.4 million people. What’s even more disconcerting is the percentage of people who are employed but lack health care coverage. The number dropped from 62.6 percent to 63.1 percent. However, these are clear and challenging issues that we must address in the upcoming session.

Despite these and other concerns I have, I am supporting this legislation because I believe it provides desperately needed relief to Americans suffering from their overwhelming health care costs. American seniors have waited long enough for this assistance and I encourage my colleagues to provide them with the immediate relief in this bill.

Mr. RODRIGUEZ. Mr. Speaker, I rise to express my strong opposition to the Medicare Prescription Drug Conference Report that we are forced to vote on today. This bill has been crafted behind closed doors with the help of those corporate interests which will benefit most. Unfortunately, the bill they have created offers nothing more than empty promises to our Nation’s seniors.

Please remember the principle that all seniors should have access to health care, regardless of how much you make or where you live. And for forty years, this program has successfully worked to provide access to health care, offering hope and security to America’s seniors. As the nature of health care has changed over the years, however, we recognize there is a need to improve upon the program and address the prescription drug price crisis.

Seniors that I have met with back home have told me that I fight for prescription drug benefit under the traditional Medicare plan and that is exactly what I have done. Over the years, I have worked to enact legislation that would establish a guaranteed and affordable prescription drug benefit for all Medicare beneficiaries.

The industry-backed bill that Congress will vote on today falls far short of a benefit that will truly fit seniors’ needs. While the bill provides $112 billion to entice managed care companies to participate in the program, seniors must face out-of-pocket costs for their drug costs. For the first $2,000 of coverage, the consumer will pay over $1,100; for the first $5,100 of coverage, the consumer will pay approximately $4,000. Put another way, if a consumer buys approximately $5,100 of drugs a year, the consumer will pay nearly 80 percent of that care cost.

Despite the $400 billion price tag, millions of retirees and low-income beneficiaries will find themselves in an even worse situation. Up to 6.4 million of the poorest and sickest Medicare beneficiaries, including close to 390,000 Texas seniors, could have drug coverage reduced. The bill prohibits Medicaid, the nation’s low-income health insurance program, from helping with co-payments or paying for prescription drugs
Mr. Speaker, I urge my colleagues to vote against this bill. I do not agree with those who still others will lay off oncology nurses and others will have to admit fewer patients, and if this happens, many cancer centers will close, like this will be devastating to cancer care. If cancer care system of $1 billion a year. A cut compromise, the bill will deprive America's cancer care system. Despite several efforts by the cancer community to reach a compromise, the bill will deprive America's cancer care system of $1 billion a year. A cut like this will be devastating to cancer care. If this happens, many cancer centers will close, others will have to admit fewer patients, and still others will lay off oncology nurses and other critical support staff.

Mr. Speaker, I urge my colleagues to vote against this bill. I do not agree with those who say something is better than nothing. I say a bad bill is worse than no bill at all. This proposal goes against the fundamental principles of a program created to serve all seniors. Let’s not give America’s seniors more bad medicine. We need a plan and a program that provides real coverage for all seniors.

Mrs. TAUSCHER. Mr. Speaker, “I strongly believe that seniors deserve and need a prescription drug benefit that’s part of Medicare. I believe we should strengthen Medicare by adding drug coverage that will save seniors money and preserve the choices that matter. I will vote against this bill because it does not get us where we need to be.

"This legislation prohibits Medicare from negotiating lower drug prices; gives big drug and insurance companies $82 billion in subsidies just to compete with Medicare; and will privatize Medicare by pushing seniors into HMOS.

"I introduced a bill that would have provided immediate, real drug discounts to all seniors without turning over part of Medicare to HMOS. Unfortunately, it was not brought to a vote.

"There are many serious problems with the bill being debated today. People are literally going to sweep under the rug. Up to a quarter of seniors on Medicare would pay more for prescriptions than they do now. Up to seven million seniors would pay higher Medicare premiums unless they join an HMO and give up their choice of doctor. Two to three million Medicare beneficiaries would lose the drug coverage provided by their former employers. Millions of seniors would go without drug coverage for parts of every year, even though they would be charged premiums year-around. Seniors would be prohibited from purchasing American-made drugs from Canada at lower prices. After they have spent $1,169 on prescription drugs, seniors will have to pay their full drug costs until they reach $3,600 in drug expenditures.

"I am deeply suspicious that this bill, written almost entirely by Republicans, puts the special interests of drug companies and pharmaceutical companies over seniors’ interests. It will give $82 billion to private insurance companies so they can compete with Medicare, yet Medicare will be forbidden from negotiating lower drug prices with drug companies and competing in the same way the insurance companies in this bill. The company derivatives almost 60% of its annual revenue from selling insurance products. If they capture only 10% of the prescription drug market, their profits would be $1.5 billion.

"As a former investment banker, I know risk management. The magic of Medicare is that everyone has always been in the pool—the wealthy and healthy as well as sick and lower-income seniors. This bill will turn that on its head—driving the healthy and wealthy out of Medicare and creating large tidal pools in which sick and lower-income people are left without anything.

"It is a bad bill that will hurt millions of seniors and not really benefit anyone but the drug and insurance companies. I will vote against it, and I encourage all of my colleagues to stand up for seniors and do the same."

Mr. HOLT. Mr. Speaker, I rise in opposition to this legislation.

As my constituents in central New Jersey know, I have been working ever since I came to Congress to help the beneficiaries with coverage for the prescription drugs that improve their quality of life and often save or extend lives. Today we are considering a bill that purports to provide such coverage, but unfortunately fails on several counts.

I have pledged to the seniors in my district that I will vote against legislation that undermines Medicare, a program that has succeeded in providing adequate health care to tens of millions of seniors for nearly 40 years. That is why I cannot and will not support the proposal that is before us. We can do much better, and with something this important, we should not get it wrong.

First and foremost, this legislation would devastate the Medicare program. It forces several million seniors into private plans and lays the groundwork for privatizing the traditional fee-for-service program. In New Jersey alone, an estimated 186,000 seniors will be affected. We need to strengthen Medicare with a drug benefit, not use prescription drug coverage as a mechanism for dismantling the entire program. The government simply does not have the money to spend $12 billion of taxpayers’ money just to set up a for-profit competitor to Medicare.

Second, even after the government spends all this money, seniors will not even get a very good benefit. It is true that any level of assistance will be of some help to seniors, but the gap in coverage under this legislation will mean the most senior citizens will still paying thousands of dollars out-of-pocket. In fact, seniors with high drug costs must pay over $4,000 to receive $5,100 worth of medications. For many seniors, after August or September or whenever their drug bills reach $2,250, they would get no benefit—even though they would continue to pay their monthly premiums.

Third, this bill clearly undermines the universal nature of the Medicare program. Everyone, no matter what his or her income level, pays Medicare payroll taxes, and everyone is entitled to an equal benefit. But under this legislation, many low-income seniors could be subject to an assets test to see if they qualify for low-income subsidies. I know seniors in my district will be up in arms when they hear they have to send in bank statements or declare the value of things they own, potentially even having to sell some to get the benefit.

This bill is also bad news for the 220,000 seniors who currently receive low-income prescription drug coverage through New Jersey’s highly successful Prescription Drug Assistance for the Aged and Disabled (PAAD) program. While the bill will allow the state to receive Medicare funds for its PAAD spending, it also means that seniors will not receive their prescription drugs in the same simple, reliable way they did under PAAD. Seniors may find themselves limited to a list of approved drugs and face other restrictions not imposed by PAAD.

The bill also fails our physicians and other health care providers. While it purports to solve the problem of insufficient reimbursement, it actually offers less than a Band-Aid. Two years of a 1.5 percent increase will provide some small measure of relief, but Congress must still address the long-term problems inherent in the current physician payment system.

Health care providers should also be alarmed by the provision that triggers an automatic congressional procedure once general revenues make up an arbitrary proportion of Medicare spending. This means that a few years down the road, providers may find themselves facing drastically insufficient reimbursement levels, and seniors will find themselves with fewer benefits and fewer doctors willing to accept Medicare patients. One editorial writer noted that the spending trigger would sound an alarm if Medicare spending exceeds certain levels, but the bill itself does almost nothing to control spending.

This bill fails our seniors, and unfortunately, it will fail the test of history. We have a historic opportunity to craft a bill that genuinely helps seniors afford the medicine they need. Sadly, the Republican leadership has decided to write a bill that privatizes Medicare, moves...
seniors into managed care plans, leaves gap-in coverage, and puts current retirees’ benefits in jeopardy. I will not support such a plan.

I urge the Congress to address this again in January. I firmly believe we can pass a bipartisan prescription drug benefit that is affordable, voluntary, dependable, and affordable, if we make the choices that put seniors first.

Mr. SKELTON. Mr. Speaker, there is no truer indication of a nation’s priorities than the investment it makes in the health of its citizens, and providing our senior citizens Medicare was created nearly 40 years ago with a basic fundamental principle in mind: health care coverage should be guaranteed, affordable, and equitable to all seniors. Throughout the time I have been privileged to serve in Congress, I have worked to make sure Medicare remains strong for those currently benefitting from its coverage and for those who will rely upon its benefits in the years ahead. As a member of the Rural Health Care Coalition, I was pleased when the administration and congressional leadership announced earlier this year that they would provide a prescription drug program within the reliable Medicare system was a high priority for the 108th Congress. However, it has become clear throughout the year that efforts to provide a meaningful prescription drug benefit within Medicare were being undermined by a system that would destroy the Medicare program. I am disappointed that the bill before us today, H.R. 1, does just that, undermining the very foundation of Medicare while creating a new prescription drug benefit to enroll in private drug plans which rarely operate in rural America. These plans would be run by large insurance companies that would likely charge different premiums for prescription drugs. As an added benefit to large insurance companies, H.R. 1 would provide them with a $12 billion taxpayer subsidy while creating a $2.800 gap in prescription drug coverage for seniors. According to an article published in The Wall Street Journal on November 18, 2003, "for the drug industry, the legislation is good news, at least in the short run.” This is just plain wrong.

For rural Missourians, H.R. 1 would also impose an asset test on low-income seniors who earn below 150 percent of the federal poverty level. Seniors whose income falls within this financial threshold may be forced to either pay additional prescription drug costs if their assets—their car, their farm equipment, or their acreage, for example—total $10,000 or $20,000 per couple, or sell their possessions to get cheaper pills. Many seniors in rural areas rely solely on their Social Security checks to get by each month and they should not be forced to sell their belongings or their property to qualify for a prescription drug benefit.

While I am dismayed that the leadership of this Congress would work to dismantle Medicare through this legislation, I am pleased that conferrees were able to address Medicare reimbursement rates for rural doctors and hospitals. Through the years, I have worked with my colleagues in the Congressional Rural Caucus to boost reimbursements to those who provide health care in rural America. In fact, time and time again on the House floor, I have voted to instruct the conferees writing the Medicare bill to abandon divisive ideas of privatization in order to provide more adequate reimbursement to rural providers. Unfortunately, these motions were defeated each time.

Mr. Speaker, senior citizens throughout Missouri understand and trust Medicare. They have worked all their lives, paid their taxes, and contributed to a system that takes care of their health care needs. Medicare is a contract with our seniors that should not be broken. That is why I will oppose H.R. 1 and urge all my colleagues to do the same.

In the days ahead, I look forward to working with my colleagues in a bipartisan manner to provide senior citizens with a real prescription drug benefit that strengthens Medicare.

Ms. CORRINE BROWN of Florida. Mr. Speaker, today the Republican party will finally do what it has been trying to do for 35 years, destroy Medicare.

Claude Pepper, my mentor on health care issues, the most well known advocate for seniors, a man who fought for years and years to strengthen Medicare and Social Security, would be rolling in his grave if he were here today.

This is a life and death issue for many of our senior citizens, and this hollow bill does nothing for them.

A snake is a snake, no matter what color it is, and AARP is getting into bed with a snake, the Republican party, in supporting this bill. To the AARP leadership, I have some sage advice that my Grandmother used to tell me: “Those who sleep with dogs, wake up with fleas.”

Each provision in this bill is one more nail in the coffin of a program that has guaranteed health care for this Nation’s seniors for 38 years. Under the Republican plan, HMO’s that provide a substitute to Medicare will pick and choose their customers, and get paid more than Medicare to do it. And yes folks, these are the same Plus Choice providers that are fleeing your districts in droves, and leaving your seniors with absolutely no healthcare options.

Even more disturbing is the fact that this bill prohibits, yes, prohibits, Medicare from using its bargaining power to cut drug prices.

What happened in the 2000 election is a U.S.A. coup d’etat. This is what happens when you don’t have fair elections. Folks, it matters who is in the White House. This is entirely a Republican initiative, and their goal is to destroy Social Security and Medicare entirely. Their goals is not to modernize it, but to have it wither on the vine.

Strickland. Mr. Speaker, today, this Congress is missing a golden opportunity to pass a real prescription drug benefit for all seniors. During the Energy and Commerce Committee’s consideration of the prescription drug bill this summer, my colleagues and I offered many amendments which improved this bill to ensure that all seniors, regardless of where they live, have access to an adequate, affordable, reliable prescription drug benefit. But my Republican colleagues defeated our amendments and pushed through a partisan bill that will do little to give meaningful health care assistance to middle income seniors who most need a prescription drug benefit.

In other words, Congress is passing up an opportunity to ensure that the retired, 68-year-old steelworker who had a heart surgery last spring and lost his retiree health insurance this summer, and who, along with his wife, has an annual income of about $28,000 can afford the prescription drugs they need to stay healthy. This bill does not even ensure that a person under these circumstances can access affordable prescription drugs from Canada or elsewhere in the world. For shame that we are passing up such an opportunity to do the right thing by our seniors.

The AARP says that the prescription drug bill we are considering today is better than nothing, that it’s one foot in the door. I disagree. The voucher demonstration program in the bill lays dangerous groundwork for a privatization scheme that I believe will undermine Medicare’s ability to provide a guarantee of health security for all Americans when they turn 65. In addition, the drug benefit created by H.R. 1 will force rural seniors to private insurance plans for their drug benefit. My colleagues who support this bill say that seniors want “choice” and that the private plans will give them the choice they want. Well, the seniors I talk to want choice, but not one of a privatized plan. Instead, they want choice of their doctor, pharmacist, and hospital; they want the ability to choose their treatment plan when they are sick and the choice to access preventive services to keep them as healthy as possible. If seniors in my district have the choice of a private plan, the Medicare safety net will be hollowed out today.

This is especially true since the bill we are considering tonight doesn’t require these private plans to offer a standard premium, deductible,
or copayment—indeed, where these private plans have been tried, monthly premiums have ranged as high as $85 a month, not the $35 promised by proponents of this bill. I cannot overstate this: the bill we are voting on does not mandate a $35 premium.

Additionally, this bill includes a $12 billion slush fund to bribe private HMOs to participate in Medicare. This $12 billion is in addition to about $8 billion in huge overpayments to private plans. I believe that the billions we are spending in this bill in payments to private plans is an ideology of privatization that seeks to destroy Medicare. This ideology is needless when you consider that traditional Medicare has both a strong track record with seniors and the amazingly low administrative overhead cost of only 2 to 3 percent.

It is for all of these reasons that I cannot support this bill. However, it does include some good provisions that I wish I could vote for today. I wholeheartedly support the physician and hospital provisions, particularly for rural providers. For the last 2 years, doctors have seen their Medicare payments cut in order to support an ideology of privatization that seeks to destroy Medicare. This ideology is needless when you consider that traditional Medicare has both a strong track record with seniors and the amazingly low administrative overhead cost of only 2 to 3 percent.

This enterprise was meant to help seniors and the disabled get the prescriptions they need at affordable prices, but that’s certainly not where it is ending up. This bill both increases the burden on seniors and lays the groundwork for taking Medicare apart altogether.

Coverage is limited and complicated, and there is a huge “donut hole” in coverage that, when combined with premiums, deductibles and copayments, can leave seniors paying up to $4,000 of the first $5,000 of prescription expenses as well as paying premiums but receiving no benefits for the high prices for Medicare beneficiaries. It also ignores the will of most Members of Congress who support reimportation of prescription drugs from Canada and other select countries. What a windfall for the pharmaceutical companies!

Millions of retirees who now have coverage through their former employers may end up without it when the bill’s incentives cause employers to drop retiree health benefits.

The premium support demonstrations present insurers with the opportunity to cherry-pick healthier, wealthier beneficiaries, leaving seniors, the dual eligible seniors, and the poorer elderly and disabled, who would force fewer beneficiaries to pay higher premiums until Medicare became unaffordable and unsustainable.

There are many other reasons to oppose this conference report. Let me just note that it does not include the Senate provision to remove the 5-year bar on federal health benefits for legal immigrant children and pregnant women.

The Republicans have not been shy about announcing their intention to dismantle the Medicare program, and this bill is a major step down that path.

Mr. Speaker, this is a profoundly bad bill that should go back to the drawing board. As the National Committee to Preserve Social Security and Medicare wrote to Members yesterday: "...a bad bill is worse than no bill at all".

Mr. Speaker, I urge my colleagues to vote no.

Mr. MORAN of Virginia. Mr. Speaker, I rise in opposition to the conference report on H.R. 1, the Republicans’ Medicare “doom” bill. In procedure and on substance, the legislation is deeply flawed and the best course now would be to start all over and work toward a bipartisan package that truly provides benefits to our elderly and disabled Medicare participants. Otherwise, I have expressed the reasons to oppose this legislation, so I will not take much time to repeat what has been said. But I will quickly mention the major flaws.

Drug prices in this country are high and rising fast, keeping even seniors with drug coverage through their employers facing difficult choices between medicines and other necessities. But the bill before us explicitly prohibits the Federal government from negotiating lower prices for Medicare beneficiaries. It also ignores the will of most Members of Congress who support reimportation of prescription drugs from Canada and other select countries. What a windfall for the pharmaceutical companies!

Drug Administration.

Unfortunately, this conference report does not reflect the vision and ideals of Medicare set forth by President Johnson and Congress, and will, if passed and signed into law, harm the 57 million seniors in my congressional district and millions of other seniors in America.

It had been my hope that any expansion of the Medicare program to include a prescription drug benefit would be above partisan politics.

We have all heard first-hand from seniors how the high prices of their prescription drugs negatively impact their already limited incomes.

This issue which cuts across political lines should be about what’s in the collective interest of our nation’s seniors.

Unfortunately, this debate on one of the most important domestic issues, which not only affects today’s seniors, but future generations as well, did not rise above partisan politics or special interest groups.

In a decade, 10,000 people a day will turn 65 years old and with the retirement of the Baby Boom generation, America’s senior population will almost double.

This conference report provides a weak prescription drug benefit for all seniors—regardless of income, and will change the Medicare program as we currently know it, by overpaying private insurance companies to administer this drug benefit, while giving them great latitude in setting premiums, deductibles, and pharmacy choice with little oversight through a premium support system.

One of the reasons why I voted against the House version of the Medicare Prescription Drug and Modernization Act of 2003 (H.R. 1) was that the Medicare beneficiaries would pay 20% of their drug costs up to $2,000 and 100% of drug costs from $2,000 to $3,500, while still subjecting them to monthly premiums that would result in a gap in prescription drug coverage for most beneficiaries.

The coverage gap that exists in this conference report is even worse. Seniors will pay 100% of costs between $2,250 and $5,100—

a gap of $2,800 which will be increased to over $5,000 by the year 2013.

I also cannot support a conference report that cuts nothing to alleviate the high costs of drugs imposed on seniors. This conference report actually prohibits the Secretary of the Health and Human Services from negotiating lower drug prices with the bargaining clout of the 40 million Medicare beneficiaries as well as the importation of drugs from countries where drug prices are lower, except Canada and only if they are certified by the Food and Drug Administration.

While I am pleased that this Congress has finally addressed the issue of reimbursement for doctors, hospitals, and other important health providers, I am discouraged that this conference report is still a bad deal for our seniors, and the endorsement of this legislation by the AARP, comes into question. The AARP is not recognizing its membership’s need for a real prescription drug benefit without the heavy reliance on the private health insurance industry.

It is with great sadness that I will have to vote no on this conference report. My constituents want a legitimate Medicare prescription drug benefit, lower drug prices and better Medicare services.

This conference report undermines the Medicare system, and I am afraid, will do...
more harm in the long run than good in the short term for our seniors.

Mr. ETHERIDGE. Mr. Speaker, I rise in opposition to H.R. 1. As the Representative of North Carolina’s 2nd District, I know firsthand how hard our older people have to struggle to pay for prescription medicine. When I began my service in the people’s House in 1997, I have worked to create a prescription medicine benefit for our seniors. Seniors deserve a guaranteed Medicare prescription medicine benefit, not empty promises. I have consistently supported a prescription medicine benefit plan that features low, predictable premiums and allows seniors to obtain medicine from any doctor they choose. And I want seniors to be able to get their medicine from the local pharmacy, not some huge mail order company.

I oppose H.R. 1 because it does not deliver on its promises. This bill will force 73,000 Medicare beneficiaries in North Carolina to lose their retiree health benefits entirely and leave thousands more with significantly reduced benefits. According to the nonprofit Congressional Research Service of the Library of Congress, this bill will force 222,800 Medicaid beneficiaries in North Carolina to pay more for the prescription medicines they need. Under this bill 95,500 fewer seniors in North Carolina will qualify for lower-income protections than under the Senate bill because the assets test and lower qualifying income levels. This provision will hit particularly hard the few short years ago, we had achieved sur-

test costs and will have less available for other important priorities. “For example, even before this bill passage, this year the federal government will pay 1.2 bill, I strongly urge my colleagues to reject this bad bill.

Ms. SOLIS. Mr. Speaker, in 1965, Congress created Medicare and promised seniors that after a lifetime of working and paying into the system they will have access to health care coverage during their retirement years, regardless of where they live, their age or their income. Thirty-eight years later, instead of honoring our commitment to affordable, accessible health care for all seniors, Congress is set to create a prescription drug benefit program that will do more for the prescription medicines they need. The bill will increase drug prices and will have less available for other important priorities. “For example, even before this bill passage, this year the federal government will pay 1.2

test costs and will have less available for other important priorities. “For example, even before this bill passage, this year the federal government will pay 1.2
claims to represent the needs of seniors throughout the country, but I can tell you that the seniors I represent are upset that AARP has chosen to endorse this wrong-headed bill that doesn’t even meet the criteria they set back in July. I encourage seniors to continue to contact Congress and let them know their views on this Medicare bill.

Let’s be clear—the endeavor to make prescription drugs more accessible for seniors began as a bipartisan effort to modernize Medicare for our new era. Now it has turned into a fight for the soul of Medicare. I am tremendously disappointed that my Republican colleagues have chosen to reward the private insurance companies and big pharmaceutical industry at the expense of seniors. However, I will continue my efforts to ensure that seniors have access to the medicines they need.

Mr. REYES. Mr. Speaker, it is with great regret that I rise in opposition to the conference report on the Medicare Prescription Drug and Modernization Act of 2003.

I regret that I must do so, because I have long been a strong advocate for providing America’s senior citizens with an affordable, comprehensive prescription drug benefit under Medicare. Unfortunately, however, the bill before us today would harm rather than help the more than 77,500 Medicare beneficiaries in El Paso County, Texas, which I represent, and millions of seniors like them across the country. For example, instead of a comprehensive, continuous prescription drug benefit, the bill offers a benefit that has a $2,800 gap in coverage that will leave about half of Medicare beneficiaries without any prescription drug coverage for part of the year, even though they will still be paying monthly premiums. While without coverage, many Medicare beneficiaries in my district will have to pay the entire cost of their prescription drugs out of their own pockets, which is the very circumstance we are supposed to be remediing.

Rather than doing more to help low-income seniors, this bill fails to ensure that they will receive the prescription drugs they need under the proposed new program. The bill would, for the first time, prohibit federal Medicaid funding from being used to pay for drugs not paid for by Medicare. In Texas alone, it is estimated that 389,400 Medicaid beneficiaries would pay more for their prescription medications under the bill. In my congressional district, where approximately one in five people over age 65 lives below the poverty line, this change could be devastating.

At the same time, the bill requires states to make large annual payments to the federal government, offsetting the savings states would have realized by having the federal government provide drug coverage for low-income seniors under Medicare. In short, for the first time ever states will have to fund a federal Medicare benefit, at a time when my state of Texas and many other states are facing budget troubles.

Instead of expanding re-importation of prescription drugs, with appropriate safety checks, the bill blocks re-importation. By doing so, it ensures that Americans will continue to subsidize low drug prices in other countries, while paying the highest drug prices in the world here at home.

Rather than empowering Medicare with the authority to use its purchasing power to negotiate better drug prices, as the Veterans Administration currently does, the bill specifically prohibits Medicare from doing so. As a result, the pharmaceutical companies benefit, but hard-working taxpayer will have to foot the bill for the higher costs. Perhaps most troubling, the bill puts us on a path toward privatizing the entire Medicare program, breaking our government’s solemn promise to America’s senior citizens to provide guaranteed, quality healthcare under Medicare. Two generations of seniors have relied on Medicare and Social Security to ensure their quality of life in their retirement years. For many poor seniors in my district, these programs are their only safety net. To jeopardize that safety net would be unconscionable.

This bill, with all its shortcomings, will cost the American people nearly $400 billion over the next decade. It does include a few provisions that I strongly support and have voted in favor of repeatedly—most notably provisions providing increased Medicare reimbursement rates for healthcare providers and funding to reimburse local governments and emergency medical providers for providing care to undocumented immigrants. However, the bill would do such significant harm to Medicare recipients and the Medicare program that, on balance, I find that I cannot support the legislation.

Mr. Speaker, I urge my colleagues to oppose this conference report, so Congress can instead offer America’s seniors that kind of Medicare prescription drug benefit they desperately need and truly deserve.

Mr. BACA. Mr. Speaker, I rise in opposition of the Republican Conference Report on H.R. 1.

I oppose this Republican plan because it is bad for seniors. It’s bad for California. And it’s simply bad for the American people.

There are 40 million seniors across this Nation that need a safe and reliable healthcare plan that protects them, whether they are sick or not.

This plan will not help seniors. This is a $400 billion plan that will privatize care and cost seniors more than they pay now. This plan is similar to having car insurance that doesn’t really protect you. You’re fine as long as you don’t get into an accident.

Seniors are only fine under this plan if they don’t get sick. Under privatization, when a senior gets sick, this plan offers no guarantee that their premium will stay the same or that their carrier will continue to cover them.

Under Medicare, seniors at least had a guarantee that they would be insured. They at least had a guarantee that if they got sick; someone would be looking out for them.

Under this plan, privatization could force as many as 7 million seniors into HMO’s. Seven million. How is this fixing Medicare? Who is this guaranteeing that all seniors have coverage?

Our parents and grandparents deserve better. They do not need privatization. They need to know they are going to be insured.

They need to know they are going to be protected despite the cost.

Under this plan, there is a $2,800 gap that will leave millions of seniors without drug coverage. This plan leaves seniors uninsured for part of the year despite the fact that they are paying premiums.

Much like car insurance, if you knew your car wasn’t going to be insured for half of the year, you wouldn’t drive it.

But we can’t do that with our health. Seniors can’t say I just won’t get sick. It doesn’t work that way.

In my district of San Bernardino, California, we have seniors who board buses to travel down to Tijuana to purchase life saving prescription drugs.

Will this plan help the seniors in my district get off that bus? No. If we pass this bill, seniors will still have to travel to Mexico to get their prescriptions.

The practice of forcing seniors to go across the border must stop. We have no way of knowing what our seniors are actually purchasing. This isn’t safe and it isn’t fair.

This bill could actually raise the cost of prescription drugs for over 6 million low-income seniors, and one in six Hispanics. In my home state of California, almost 900,000 will have to pay more.

Those are the people in my district. Those are the people that are risking their lives, going across the border, to purchase their prescriptions. And this bill does nothing to help them.

The Republicans are ignoring what seniors need.

Under this plan, over 3 million low-income seniors are going to be forced to pass a test before they get help paying for prescription drugs.

If you are a senior and you simply own a home, a car, or even a burial plot you could be considered too wealthy to get help with prescription drugs, under this plan.

If you are a homeowner, you’d better catch the bus for Tijuana because that is the only way you will be able to afford your prescription drugs because the Republicans think that you are too wealthy.

Many seniors in my district have worked hard their entire lives trying to put food on the table for their families. Many of them have been fortunate enough to have some health coverage from their employers.

Under this plan, 3 million retirees could lose that coverage. That affects over 250,000 seniors alone in California.

This plan leaves the seniors in my district with no protection but privatized healthcare.

Our abuelos, our grandparents, have worked too long and too hard to be ignored.

They need a prescription drug coverage that preserves traditional Medicare, helps low-income seniors afford prescription drugs and keeps retirees in employer sponsored health plans.

It’s time to give seniors what they want, what they need, and what they deserve.

Mr. OSBORNE. Mr. Speaker, I rise in support of H.R. 1, the Medicare Prescription Drug, Improvement and Modernization Act.

Today, this House will consider landmark legislation to help our Nation’s seniors afford their prescription medications. I am particularly pleased with the generous assistance this legislation provides for the low-income seniors in my district.

Those seniors with incomes below 135 percent of poverty (individuals with incomes under $12,123 and couples under $16,362) will be eligible for a prescription drug discount card that immediately applies $600 annually toward the purchase of their medicines and can reduce them to 90 percent of their prescription drug costs. Seniors with incomes between 135 and 150 percent of the federal poverty level ($12,123–$13,470 for individuals and
$16,632–$18,180 for couples) could ultimately have 85% of their drug costs covered.

Beginning in 2006, seniors without coverage would have the option to join a Medicare plan that requires a $35 monthly premium and would cut seniors’ yearly drug costs roughly in half. But without any drug coverage and monthly drug costs of $200 would save more than $1,700 each year. Seniors with no drug coverage and monthly drug costs of $800 would save nearly $5,900 on drug costs each year. In addition, seniors would be protected against high out-of-pocket costs with Medicare coverage as our nationwide 95% of drug costs over $3,600 each year.

Mr. Speaker, this legislation also provides a historic opportunity to help strengthen the rural health care delivery system with billions of dollars in additional Medicare payments. For far too long, Medicare has short-changed rural health care providers in my district, which threatens seniors’ access to care. This legislation eliminates many of the disparities that exist between rural and urban physicians, hospitals, and other health care providers. Finally, it establishes important cost-containment provisions. These accounting safeguards will alert future Congresses and Presidents if the expenditures of the entire Medicare program exceed 45 percent of total Medicare spending so they can address the problem.

This may not be a perfect bill, but it is a good bill, and I urge my colleagues to support the Medicare conference report.

Mr. CANJORSKI. Mr. Speaker, I rise today to speak on the conference report on H.R. 1, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. While I wholeheartedly support providing a prescription drug benefit to our Nation’s seniors, I cannot support this bill in its current form because it does more harm than good.

Since the House of Representatives first began debating the creation of a prescription drug benefit for Medicare recipients, I have consistently maintained that this proposal must adhere to four key principles to garner my support. These provisions must create a benefit that is affordable, easy to administer, nationally available, and comprehensive. I believe that the bill crafted by the conference committee falls short on all counts.

In addition, there are many other provisions folded into this legislation that will substantially alter the Medicare system as we know it. These provisions would privatize the program, cause millions of seniors to lose their prescription drug coverage through their employers, and result in insufficient reimbursements for some Medicare providers. These ill-crafted proposals also influenced my decision to vote against this bill.

AFFORDABLE PRESCRIPTION DRUGS

In working to create a prescription drug benefit, we must ensure that the plan is affordable for Medicare participants. The benefit that is outlined in this legislation, however, will provide little relief for the senior citizens in my district. Because the plan requires sizable premiums, deductibles and copayments, seniors can still expect to pay between 50 and 80 percent of the cost of their prescriptions. This bill also creates a gap in coverage that will leave millions of seniors with drug costs between $2,250 and $3,600 without any benefit, even though they continue to pay premiums. While some may conclude that this is a good start to providing a prescription drug benefit, I disagree. We must do more to make prescription drugs affordable.

Seniors across the country, and especially in my district, cannot afford to pay thousands of dollars each year in prescription drug costs. Those seniors living on fixed incomes must already sacrifice on other necessities in order to afford their costly medications. These seniors need immediate relief and this legislation will not provide that help. In addition, to the cost-sharing provisions, the benefit does not even go into effect for another two years. In the interim, seniors will receive a discount drug card that will provide only minimal relief.

This legislation also purports to protect low-income senior citizens. Individuals at the poverty level will not pay premiums under the program and will have copayments of only $1 to $3 for each prescription. In addition, for individuals slightly above the poverty level, assistance with premiums and the deductable will be available. This benefit, however, will be subject to an assets test. Individuals must have less than $6,000 in assets to receive the benefit while married couples must have less than $9,000 in assets. Therefore, any low-income senior who owns a home, a car, or any other large asset will not be eligible for this financial assistance. In my view, we should not force senior citizens to choose between selling their homes and getting their prescription drugs.

In addition, this legislation does nothing to address the high cost of prescription drugs. Under the current bill, there is no methodology for insurance companies to negotiate for lower drug prices. If the program were administered through Medicare, the Government could negotiate with the pharmaceutical companies for lower prices. The program, however, may reduce the incentives to develop new, more affordable drugs because the program would cover a larger number of seniors. Furthermore, with my support, the House recently passed legislation that would allow for the reimportation of prescription drugs from 24 foreign countries. These medications are often the same as those sold in the United States. They are, however, sold at a much lower price. Unfortunately, this legislation provides only for the reimportation of drugs from Canada and requires that the U.S. Food and Drug Administration certify that the reimportation of drugs is safe. While this may seem like progress, it is not. The Food and Drug Administration has already indicated its unwillingness to consider such a certification. Consequently, this legislative sleight of hand on drug reimportation will not increase the availability of affordable prescription drugs in the United States.

EASE IN ADMINISTRATION

A Medicare prescription drug plan must also be easy to administer. The proposal before us fails to meet this standard. This plan will create a complicated system of payments and programs. As a result, it will be difficult to administer.

In particular, senior citizens should not have to worry about whether the amount of money they spend on prescriptions during the year will leave them paying the whole amount of their drug costs at some point during the year as this bill does. Seniors who annually spend more than $2,250 for prescription drugs will find themselves without any coverage at all for their drug costs. If they do not remain in the program, however, these seniors will need to continue to pay the monthly premium, whether the program provides assistance or not.

Such a system will create confusion for seniors. This benefit should provide a sense of security for the elderly, who are used to receiving their benefits through the Medicare program. Instead, this complicated program will only serve to provide older Americans with more worries about their health care needs.

An effective Medicare prescription drug plan must also be available nationwide. By making the benefit available through private insurance companies, there is no way to ensure that benefits will be equal across the country. In addition, Northeastern Pennsylvania, this scheme would have a devastating effect. By moving towards privatization, areas like mine would be disadvantaged because insurance companies would not be enticed to operate there. Northeastern Pennsylvania has a higher concentration of older residents than most areas in the country, and insurance companies will not want to operate in our area because they would not find it profitable, unless they charge exorbitant premiums. As a result, the government fallback provision would end up paying the tab.

We have tried such a scheme before. In 1997, we created the Medicare+Choice program. This failed experiment operated in Northeastern Pennsylvania for a while. Initially, this program provided tens of thousands of seniors in our area with prescription drug benefits. Insurance companies, however, discovered that they could not make a profit because of the economics of the region. As a result, they abandoned the program, leaving thousands of senior citizens without affordable prescription drugs once again. By providing a prescription drug benefit through private insurance companies, we can expect this legislation to result in a similar outcome for Northeastern Pennsylvanians.

In addition, this faulty Medicare plan already anticipates that there will be a problem with providing prescriptions through private plans in areas like Northeastern Pennsylvania. In fact, the bill is a provision to set aside $12 billion to pay insurance incentives to provide the prescription drug benefit. One must ask why, if we already anticipate the failure of the program, we are not considering alternatives, such as adding the benefit through Medicare.

COMPREHENSIVE BENEFITS

Finally, a prescription drug program must be comprehensive. Under a government program, seniors should have access to any drug prescribed by their doctor and the program should cover the costs of that drug. This bill, however, establishes a limited list of categories and classes of drugs, and only these drugs will be covered under the program. Hence, this exclusion will leave many seniors to cover more costly medications and experimental treatments out of their own pockets.

In addition to the prescription drug coverage, there are other changes made to “reform” Medicare by this legislation. If passed, for example, this legislation would put in place a radical system to privatize Medicare. For example, rather than providing a prescription drug benefit through the current Medicare system, it will, as I have previously noted, instead be offered through private insurance companies, which can profit from their
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participation in the prescription drug program. Once the system is in place it will be difficult to go back and make the necessary changes to make the prescription drug benefit affordable, easy to administer, available nationwide, and comprehensive. Earlier this year, I supported the Democratic version of this legislation that would have provided prescription drugs through Medicare and achieved these objectives. We should be considering that bill today.

This bill will also change the way the current Medicare program is run and move it towards a total privatization of the benefits Americans have worked their whole lives for and have come to depend on in their golden years. In 2010, this legislation would create a premium support demonstration program. This program would require seniors to enroll in a private plan and would provide a voucher for the cost of the insurance premiums. In addition, this bill would break the country into sections, providing different benefits in each. Therefore, the amen to labor, a person residing in the same Pennsylvania pays could be substantially higher than the amount paid by a senior living in another part of the country.

In my view, this program will move the country in the wrong direction. It privatizes Medicare. Rather than providing health care benefits to senior citizens that are guaranteed, money would instead be provided to insurance companies to support seniors in a private program. We should not allow Medicare to wither on the vine. There is also no reason to believe that other benefits, such as Social Security, would not also eventually be privatized if we begin to privatize Medicare now.

PROVIDER ISSUES

This prescription drug bill also seeks to increase Medicare payment to physicians and hospitals. I must acknowledge that some of the provisions in this bill would provide relief to the doctors and hospitals in my area. In particular, the bill’s provision altering the weight given to labor costs in determining the reimbursement rate for an area would provide millions of dollars to the hospitals in my district. In addition, physicians who are anticipating a 4.5 percent cut in their payment through Medicare would instead receive a 1.5 percent increase. Further, this bill provides additional funding for rural hospitals and for teaching hospitals.

For hospitals like the ones in my district, this legislation provides only minimal relief and these changes should not be used as a justification for voting for this bill. As one hospital administrator in my district said, “If you are dying of thirst in a desert, even a drop of water looks good.” Rather than providing a band-aid fix to these hospitals experiencing genuine financial difficulties, we should have worked to equalize reimbursement across the country.

In addition, there are portions of this bill that will have severe impacts on the providers in my district. For example, the legislation provides a more competitive bidding process for durable medical equipment to begin in 2007. This change in the program will have a devastating effect on the numerous small- and medium-sized medical equipment providers in my district. The competitive bidding system will cause a race to the bottom, resulting in cost cutting measures like layoffs and the loss of services provided for users of durable medical equipment.

Beyond privatizing Medicare, this legislation will result in millions of retirees losing their employer-sponsored drug coverage, dealing an irreversible blow to the employer-based system that is the backbone of our Nation’s health care. The employer-sponsored retiree health benefits are the single greatest source of drug coverage for retirees, providing benefits to one in three Medicare beneficiaries. They also generally offer the best coverage available—generous benefits and low-cost sharing.

The Congressional Budget Office, however, projects that 2.7 million seniors in employer-based retiree plans will lose the coverage they have today due to the discriminatory treatment to receive drug coverage in this legislation. As a result, those individuals would be forced into the flawed prescription drug program outlined in this measure. Men and women who have worked their whole lives with knowledge that they will have health and prescription drug benefits in their retirement could not be forced into a program that could leave them with inadequate benefits.

CLOSING

In sum, I cannot support this legislation. It falls short of providing seniors with an affordable, widely available, easily administered, and comprehensible drug benefit. It will privatize the program and it will result in millions of retirees losing coverage through their former employers. Ultimately, this legislation will hurt senior citizens more than it will help them. We should do better for Americans in their golden years by defeating this bill and drafting a new one.

Mr. PASTOR. Mr. Speaker, I strongly support efforts to give prescription drug coverage to the Medicare patients who do not currently have it. But, this bill does a poor job of meeting our prescription drug needs, and it drastically and negatively alters the overall structure of the Medicare program.

We have the ability to give Medicare patients prescription drug coverage. But our current limits have been tied by the arbitrary budget limits Congress has set on funding such a program. Congress and the President decided that, over the next 10 years, $400 billion was all we could provide. Clearly, this bill could do far more in helping those who need prescription drugs. So, in order to meet this number, a prescription drug bill has been written that will prove inadequate for meeting the basic needs of today’s senior citizens while proving itself a champion at destroying health care for the seniors of the future.

Simply put, Mr. Speaker, this bill is no longer about prescription drug coverage. It is about ending traditional Medicare coverage. I oppose this bill for several specific reasons.

First, the bill will do little to alleviate significant out-of-pocket costs for most senior citizens. A senior who spends $2,200 a year, less than $200 a month, on prescription drugs, will be required to pay almost $1,200 for this coverage. Another senior, spending $3,500 a year on prescription drugs will be forced to pay almost $2,500 out of his pocket. That is 70 percent of the total drug costs. While this bill provides some help, I fear it will not be enough to keep the poorest of our elderly from making the difficult choices between buying medicine and groceries.

I am also opposing this bill because, in essence, it is designed to privatize Medicare.

The “demonstration” projects to be established in six areas of the country, the so-called Premium Support Program, is nothing more than a first step toward complete privatization. The authors of this bill hope that more and more people will forego traditional Medicare for cheaper private HMOs with less overall coverage. Insurers companies would receive billions of dollars in subsidies for luring patients away from the traditional program. We all know that the private insurance companies will only accept the healthiest of patients, leaving the sickest patients to traditional Medicare. In turn, would result in higher costs for traditional Medicare because it would serve a sicker population.

Additionally, I am opposing this plan because it will mean that a good portion of the 75 percent of Medicare patients who already have prescription drug coverage, many through former employers, will be dropped from their current plan and forced into a more expensive plan with less coverage. In hopes of avoiding that event, this bill is paying a tremendous subsidy to keep these companies from dumping their beneficiaries.

So, this bill provides billions and billions of dollars to private companies to help them lure senior citizens away from traditional Medicare and to continue to provide prescription drug coverage to former employees. There is some disconnect here. As Robert Robb, the noted Arizona Republic conservative columnist writes, “Congress is proposing to subsidize private drug plans that are currently being offered at no cost to taxpayers, in order to force taxpayers to pay the high drug coverage to seniors that Congress hopes they won’t take.” He continues, “See what I mean about being sort of stupid.”

Mr. Robb and I rarely agree on issues. But he has hit this nail right on the head. A more logical solution might be to take these subsidies and use them to simply pay for prescription drugs for those who don’t currently have coverage.

Mr. Speaker, I say, let’s give prescription drug coverage to the senior citizens who need it, in a way that is meaningful. We only need the desire to do so. But, let’s not hurt the seniors who have coverage, and all those in future generations, by passing this ill-advised legislation. We have the opportunity to do something good and important. Yet, the drafters of this bill have taken it as an opportunity to change the Medicare program so drastically that it can only prove devastating to this country’s older population. Let’s reject this bill and force ourselves to set aside partisan ideologies and help the current and future senior citizens of this great land.

Mr. BLUMENAUS. Mr. Speaker, our senior citizens need help with spiraling drug costs. It is outrageous that moderate income seniors pay the highest prescription drug prices in the world. The idea was to fix this problem, but somewhere along the line, the bill was hijacked by the Republican leadership for other purposes. I can’t remember how many of my Republican colleagues have told me that they think this is a bad bill. From the Wall Street Journal to consumer advocates, thoughtful conservatives to people who classify themselves as very liberal, all find this bill deeply flawed.

Spending what’s claimed to be $400 billion, but will actually entail far more cost to the
Treasury, and the unprecedented pressure and advertising may pass this bill. The fascinating reversal of position by the leadership of the AARP gives a public relations boost, but that move has already been attacked by its own members.

The basis of this bill is putting something in for almost everybody: not just the drug companies, but doctors, hospitals, insurance companies, and so on, but ignoring the fundamental needs of senior citizens. As over a thousand pages come into focus, details leak out and are investigated by outside groups. The press, even Members of Congress, it is clear the bill still does not meet the needs of our seniors. After all the dust settles, our senior citizens will still pay out of their pockets the highest drug prices in the world.

There’s something wrong when the only people who appear to be happy with the Medicare Prescription Drug bill are the drug companies. They were able to strip out provisions that would have allowed reimportation of cheaper drugs. It is illegal for the government to negotiate lower prices for Medicare recipients. Future price increases will not be indexed to inflation, but to the rate of runaway drug costs, ensuring that spending will continue to spiral out of control.

For many seniors, the holidays may come a little early this year. Sadly, deserving senior citizens who need help won’t even get this inadequate drug plan until 2006. Told that even in 2006, they will have to pay $4,000 of their first $5,100 of drug costs, they’ll feel that they didn’t get a present. I will vote against the conference report.

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is about as ugly as it gets. Just when I thought the Republican Leadership could not work any more prodigiously for the Democratic process, to abuse their power, and to play politics with critical issues at the expense of the American people—they have just taken it to a higher, or should I say lower level. Call it what you will. The Alliance for Retired Americans calls it the Repeal Rx special Christmas package. I call it a rotten turkey. Whatever it is, it is sure isn’t medicine for the American seniors who need it.

When Medicare was founded in 1965, U.S. Government formed a covenant with the people, and work hard and pay our share, we will make sure that you have access to health care when you retire. Modern medicine has made great strides over the past decades at managing health problems, not just through surgery and hospitalizations, but also with pharmaceutical drugs developed through great research at the National Institutes of Health, and in pharmaceutical companies here and around the world. These drugs can lead to dramatic improvements in quality of life, by helping Americans live longer, more comfortable lives.

As great visionaries Lyndon Johnson and his Administration recognized, it is time to trade the status quo for something better. The Bush administration’s Medicare Prescription Drug Plan is the wrong approach for our seniors, and the wrong approach for the Medicare program.

Medicare has evolved over the years. It is a program that has been reformed and refined by Congress, working together in a bipartisan manner, to ensure that Medicare is always there for our seniors, while delivering the medical services they need. The Bush administration’s Medicare Prescription Drug Plan is the wrong approach for our seniors, and the wrong approach for the Medicare program.

The Bush administration’s Medicare Prescription Drug Plan is a misdirected attempt, with a terrible goal. It privatizes Medicare, it replaces choice with competition, it undermines the trust of the American seniors, and it is a disaster, highlighting Republicans failure to fund critical programs.

It seems like at this point, we might say, ‘well money is tight, so let’s just take what we can get, and be happy with this bill.’ But the conference report that we are now finally getting a glimpse of is so bad, it would actually leave millions of senior citizens worse off than they were without it. And as doctors say in the Hippocratic Oath, the most important rule in healthcare is do no harm.

Furthermore, there is no rush to pass this bill. The Republican authors conveniently made their plan kick in in 2006, well after the Presidential elections of 2004. Obviously, they don’t want seniors to go to the polls furious when they realize how bad this plan is. The point is, we can wait until senior and do this job— and still make the 2006 timeline.

AARP used to agree with us on every point I am making, but in a bizarre twist, this week the group, that supposedly represents the interests of our Nation’s seniors declared that they would support this lousy bill. I was mystified by this until I learned that, according to a study done by Public Citizen that AARP will make an extra $1.56 billion in profits if this bill goes through. AARP is in the insurance business, and has become too tied to that industry and the Republican leadership. They have betrayed the trust of our seniors, and seniors are angry. It is a sad turn of events.

With the measly Republican benefit, the average senior will actually be paying more for their prescription drugs a year after the bill kicks in, than they are paying now. And as every senior knows, it has a giant donut hole in the benefit plan, where seniors have to pay every nickel for their medications—thousands of dollars—while they keep paying premiums. This is tragic for seniors on fixed incomes, and it is a disaster for our nation’s seniors and our economy.

No one who administers pharmacies. It is a gimmick to compensate for the fact that the Republican administration has squandered and mismanaged our economy to a point that now they say we have no money to fund critical programs.

It seems that at every turn, the people who need our help are getting the short end of the stick. Minorities, who already suffer from tremendous disparities in health and health care, are left behind. While this bill gives a giant gift to the drug and insurance industries and other special interests, it does little to reverse those life-threatening disparities. My Democratic colleagues and I, in both the House and Senate, all came together recently and put forth the Healthcare Equality and Accountability Act of 2003. Our bill is the kind of thoughtful and comprehensive approach that healthcare deserves. One provision I wrote will create a Center for Cultural and Linguistic Competence to help every American take advantage of the health revolution that is upon us. The Republican Medicare bill seems to have the opposite goal.

For example, this conference report does not contain the Legal Immigrant Children’s Health Improvement Act (ICHIA), included in the Senate Medicare bill, which would have
removed the 5-year bar on Federal health benefits for legal immigrant pregnant women and children. While these children and pregnant women may still get emergency medical care, States are unable to cover this population with basic medical services that may reduce the need for such emergency care. This unwarranted overreach, we believe, costs too much.

Hispanics are the largest minority group in the United States, and it’s estimated that by 2025, Hispanics will account for 18 percent of the elderly population. Currently, one in six Hispanics seniors live under the poverty level. For these Americans, an increase in prescription drug payments or doctor’s visits could mean disaster. Houston has a strong Hispanic population, and therefore my district will be hit especially hard by this bill.

And there is more bad news for Texas. 132,300 Medicare beneficiaries in Texas will lose their retiree health benefits. 389,400 Medicaid beneficiaries in Texas will pay more for the prescription drugs they need. 209,000 fewer seniors in Texas will qualify for low-income protections than under the Senate bill because of the assets test and lower qualifying income.

If the Republican bill were to pass, it would mean $52 billion in lower Medicare revenues over the next 10 years. We must make it clear that the Senate bill is the better alternative because it provides a needed Medicare Part B premium, and makes Medicare more predictable for seniors. We must insist that the Republicans provide funding to shore up our rural hospitals. We must insist that the Republicans provide tax free contributions that give the millions of workers in rural communities tax free health care money to their employees. Health Savings Accounts established in this year of intense demands for limited government and with a total cost of around $400 billion Medicare Reserve Fund that was laid out in this year’s budget resolution. In a year of intense demands for limited government resources, this Medicare Reserve Fund was the largest policy initiative in the budget resolution and was arguably its centerpiece. Because the budget resolution struck a real problem affecting all Americans who deserve to control important decisions over their own medical care. We must insist that the Republicans provide tax free contributions to their employees.

This bill is a cruel and expensive—joke on our seniors on Medicare. I don’t want to do that to Houston. Let’s don’t do that to America.

I will vote against this bill, and keep fighting to get this done right.

Mrs. CHRISTENSEN. Mr. Speaker, I have listened to the debate tonight, and I think everyone agrees that some seniors and disabled would benefit by this bill. But if truth be told, many of these seniors and disabled would benefit by this bill. But if truth be told, many of these seniors and disabled would benefit from this legislation, which this fiscal year, but fix the formula, so that the payments won’t be cut again next year.

But what we must not do, is let this divide and conquer tactic make us pass a bill that will do more harm than good and physicians and hospitals should not allow themselves to be used to dismantle the very program they and the patients they are sworn to serve, depend on for the long run.

With a few crumbs to seniors and the disabled, and plastic cards instead of hospitals and doctors, this bill is nothing more than another corporate give-away.

We can afford to vote this bill down, start again, with an inclusive process—the benefit doesn’t start for two years anyway. What we can afford to do and must not do is to kill Medicare; we must vote no on H.R. 1.

Mrs. KELLY. Mr. Speaker, I rise in support of this important legislation. The Medicare Prescription Drug and Modernization Act will provide prescription drug coverage, and provide additional money for doctors and hospitals, both of which are the front line in providing health care.

I am particularly pleased with provisions in the bill which seek to provide financial assistance to hospitals currently experiencing difficulties with inadequate wage index reimbursement rates. And I am encouraged by the potential this bill holds for assisting hospitals in the Hudson Valley which are adversely affected by their proximity to the New York City Metropolitan Area.

I would also like to direct my colleagues’ attention to an aspect of this legislation which perhaps hasn’t received a great deal of attention, and that’s the provision that creates Health Savings Accounts. For years we have been concerned about the many people in this country who have no health insurance. Many of the uninsured are small business owners or employees who simply cannot afford health insurance. With the Health Savings Accounts established in this year of intense demands for limited government, we can afford to vote this bill down, start again, with an inclusive process—the benefit doesn’t start for two years anyway. What we can afford to do and must not do is to kill Medicare; we must vote no on H.R. 1.

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In the last five days, I’ve heard a lot about what this bill doesn’t do. Let me be frank: life is not about what we don’t do; it’s about what we accomplish.

And, if I had a friend in need who asked me for $100 and all I had was $20, I wouldn’t give him nothing. But that’s what some here are preparing to do—to turn away a friend in need.

For years we have agreed that our seniors needed a prescription drug benefit in Medicare; but unfortunately we have yet to provide them with any relief.

This Medicare bill offers a prescription drug benefit through competing private health insurance plans—marking the first time private sector plans and consumer choice would be the principal vehicle for delivering Medicare benefits. It also includes common sense reforms like preventive care and health savings accounts.

This is the first step in the direction of true reform. It’s a step in the right direction and it is time we take it.

Mr. ORTIZ. Mr. Speaker, Congress created Medicare in 1965 to make healthcare affordable and available for all senior citizens. My colleagues and I have fought to maintain this original intent.

Today, the leaders in Congress are pushing dangerous legislation—called Medicare reform—on South Texas seniors that fails to include a prescription drug benefit while privatizing Medicare, killing the program at the end of the decade.

This prescription drug “coverage” is not what seniors expect or deserve. When seniors have more than $2,200 in drugs costs, they will hit a gap, where Medicare will no longer cover the costs of their prescriptions until they reach $5,000.

When this happens, these seniors will be forced to pay 100% out of their own pockets while still paying monthly premiums. Meanwhile, their HMOs will select their doctors and their pharmacies.

Over 185 organizations with an interest in seniors’ issues are wholly opposed to this bill. While one of the largest senior organizations has lent support to this bill (The American Association of Retired Persons, AARP), it is the only one to do so . . . it is the only one that provides insurance to seniors at a profit of $635 million . . . and the only one poised to take advantage of billions of dollars in the bill to entice private insurers to cover seniors.

The bill effectively ends drug reimportation by allowing by the Secretary of Health and Human Services (HHS) to decide what prescriptions could be reimported. The HHS Secretary has already said he would allow none. If this is not the answer, what is? I stand on my record, lobbying 8 times for a complete Medicare Rx drug plan . . . voting 6 times and co-sponsoring 6 bills supporting higher reimbursements to doctors and hospitals . . . voting 6 times not to kill Medicare . . . and voting 8 times and co-sponsoring 3 bills to improve it.

Nothing in this bill makes prescription drugs cheaper. Other Federal programs, such as the Veteran’s Administration, get cheap drugs negotiating directly with the big drug companies. The plan will keep the government from negotiating for lower drug prices for Medicare beneficiaries.

This plan protects the profits of drug manufacturers instead of providing real savings to seniors. Rising drug prices are unaddressed in this bill, a victory for the drug industry for preventing any attempts to lower drug prices.

Meanwhile, the value of some seniors’ properties will be used to determine their level of coverage—including jewelry, cars, and other property of value for which they worked their entire lives.

In South Texas, for the short term anyway, the bill (which would not take effect until 2006) would help only about 30% of low-income seniors. Effectively, that means this bill will not help over two-thirds of our most needy seniors.

When I think about the seniors that bill will affect, I think of the ladies who took care of me as I grew up of Robstown, Texas. Life for them revolves around family and children, paying the bills and finding health care in their senior years.

These are the people affected by the bill, which ends Medicare as we know it, privatizing the entire program by the end of the decade. It is thousands of South Texans like these who have raised voices in opposition to this bill. I stand with them and Medicare.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in opposition to H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003. Some may claim that this legislation is the answer to the high prices seniors are paying for their prescription drugs. That is far from true. The reality is that this legislation is a Medicare privatization plan masquerading as a prescription drug relief bill. The big winners in this bill are not the seniors that desperately need relief, but pharmaceutical companies and big business.

Does this conference report strengthen the Medicare program that seniors know and trust? The answer is no. It includes a premium support demonstration project that is the first step towards forcing all seniors to choose private insurers to get the prescription drug benefit they need, or to pay more to stay in the traditional Medicare program. This bill having any effect at all is contingent upon the willingness of HMOs and insurance companies to participate, and the track record does not paint a positive outlook. We in Connecticut remember HMOs pulling out of Medicare Plus Choice plans because they simply could not make a profit.

Does this conference report allow the Government to negotiate the costs of prescription drugs and provide relief to seniors? The answer is no. It excludes the Secretary of Health and Human Services from leveraging the tremendous buying power of the Federal Government to negotiate lower drug prices for 40 million Medicare recipients, a system the VA currently uses.

Does this conference report allow reimportation of drugs from other industrialized nations so that seniors will be able to purchase less expensive drugs? The answer is no. It ignores the reimportation measure that this House passed this summer and places the decision in the hands of health officials who have vocally opposed reimportation.

Does this conference report help low-income seniors who need help the most? The answer is no. First, the proposal actually reduces coverage for the 6.4 million lowest-income and sickest beneficiaries who qualify for Medicaid today. It prohibits Medicaid from helping these beneficiaries with copayments or from paying for prescription drugs not on the formularies of the private insurers administering the new Medicare benefits. It also prohibits Medicare from paying the 3.9 million seniors who would have qualified under the Senate bill. One reason for this is the imposition of an invasive assets test. This means that seniors with modest savings will not receive any assistance with the cost of their premiums, the deductible, co-payments, or the cost of medications while they are in the $2,850 coverage gap.

Does this conference report help cancer patients? The answer is no. It falls well short of the drug and practice reimbursements needed to provide millions of cancer patients with the care they need.

Will this conference report prevent employers from dropping health insurance for their retirees? The answer is no. Though incentives are included to encourage employers to maintain their retiree plans, the Congressional Budget Office estimates 2.7 million retirees will lose the existing coverage they rely upon and countless others may have their benefits reduced. Furthermore, it does nothing to protect retired teachers, firefighters, police officers, Scout groups, and those who worked for nonprofit organizations.

Does this conference report help the hospitals and doctors struggling to meet the needs of their patients? The answer, surprisingly, is yes. It provides an increase in the Medicare Disproportionate Share Hospital cap for rural hospitals and urban hospitals with fewer than 100 beds. It increases payments for indirect medical education that would provide increased funding for the twenty Connecticut hospitals that have medical education programs. Also, it eliminates the 4.2% reduction in payments to physicians in 2004 and replaces it with a 1.5% increase for the next two years. These provisions are positive. But, this was intended to be a prescription drug relief bill and these positives are by far outweighed by the negatives of this legislation.

So, who are the winners in this conference report? The answer is pharmaceutical companies. They will receive the majority of the $40 billion that this legislation will cost. But, even better for them, they will not be forced to lower their prices. The Government will not be allowed to negotiate prices and seniors will not be allowed to purchase imported drugs from other industrialized nations. Apparently, the industry’s army of lobbyists and $22 million in campaign contributions were effective.

Who are the losers? The answer is seniors, the ones this bill was meant to assist. They asked for prescription drug relief and we are trying to give them a Medicare privatization bill. That is why I urge my colleagues to join me in voting against this conference report.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today with great disappointment in the conference agreement that has been brought to the floor. I sincerely hoped that the bill that passed the House in July would have been moderated with provisions included in the other chamber’s bill.

Unfortunately, instead of considering legislation today that would have modernized the
Medicare program to provide prescription drug cost relief and coverage for seniors throughout this great nation, we have this agreement that is geared toward dismantling one of the most successful government programs ever implemented. Instead of considering legislation to modernize the Medicare formulas to fix the inequities and unaffordable drug costs, we are considering an agreement that wraps these crucial fixes in with a prescription drug benefit that is designed to achieve the ideologically extreme goal of privatizing Medicare.

Mr. Speaker, I certainly admit that the provisions package included in this agreement is excellent. For years doctors, hospital administrators, and other health care providers have suffered under the unfair Medicare formulas that severely hampered their ability to provide care to Medicare beneficiaries. The labor share revision, the geographic physician pay adjustment, increasing home health services furnished in rural areas, critical access hospital improvements—these are all incredibly important provisions that I strongly support in order to help strengthen the health care economy in the States. I also support fixing the inequitable disproportionate share formula, which is done to a degree in this agreement. Unfortunately, however, the conference agreement removes language that would have given New Mexico a larger increase of DSH payments to $45 million. The physician fee formula update is another provision that is incredibly important. Without this fix, physicians will have no other choice but to stop seeing Medicare beneficiaries, which will lead to the total breakdown of a system that is already badly strained to its limits.

I recognize the importance of these provisions. I understand the difficulties that those in the health care industry are facing. I understand the difficulties seniors are facing in trying to purchase and pay for their medications. That is why I have cosponsored legislation to fix the disproportionate share provisions, I have cosponsored legislation to fix the Medicare physician payment updates, I have written letters supporting these provisions and urging Chairman Thomas to include these rural fixes in the legislation, I have written a letter urging them to refer these provisions, and, when this bill passed in July, I voted in favor of the Democratic alternative that not only included stronger rural provisions than those included in the Majority's bill, but also contained a real prescription drug benefit—not a benefit engineered to bring about the demise of the Medicare program.

Mr. Speaker, lets be clear about what our goal was supposed to be. We were supposed to create a new prescription drug benefit in Medicare. That's what we were supposed to be doing in this important legislation. Unfortunately, we are doing much more than that, and a lot of it is terrible. We were supposed to be reducing the costs of drugs for seniors. Yet this plan prohibits the federal government from using its clout to force down the price of needed medicines.

We were supposed to help seniors keep their current drug coverage if they are fortunate enough to have it. Yet this plan may force up to three million seniors out of their current employer-based plans.

We were supposed to be strengthening the Medicare program by adding a voluntary benefit for prescription drug coverage. Yet this plan, under the guise of a premium support demonstration, weakens the Medicare program by forcing beneficiaries to pay more for Medicare if they don't give up their doctor and join an HMO.

We were supposed to help low-income seniors who get additional assistance from Medicaid afford their prescriptions. Yet this plan epitomizes what is not one of the most successful government programs ever implemented. Instead of considering legislation to modernize the Medicare formulas to fix the inequities and unaffordable drug costs, we are considering an agreement that wraps these crucial fixes in with a prescription drug benefit that is designed to achieve the ideologically extreme goal of privatizing Medicare.

Mr. Speaker, I am extremely disappointed with this agreement. I am disappointed because what should have been a straightforward approach took a wrong-turn along the way. I think this is a terrible way to spend $400 million dollars on a supposed prescription drug benefit, and I will be forced to vote against this measure. I urge my colleagues to reject this shameless assault on Medicare.

Mr. STUPAK. Mr. Speaker, I rise today in opposition to this Medicare bill and with limited prescription drug coverage. This plan is bad for America's seniors and especially bad for rural areas like Northern Michigan, which I represent.

Medicare should be a right—this Republican Medicare bill threatens to undercut this right and destroy a program that seniors have trusted for nearly 40 years.

For most seniors, the prescription drug plan does not begin until 2006 while the Democrats' plan would have begun next year.

The Republican plan has a gap in prescription coverage the size of the Upper Peninsula. This gap starts at $2,250 and goes on until you hit $5,100.

We should be giving our seniors a real prescription benefit not one that gives you part-time coverage.

Illnesses and diseases do not take time off—you're not sick part of the time—seniors need full prescription coverage throughout.

Those seniors who now have coverage may lose it—CBO estimates that up to 3 million could lose their existing prescription drug coverage.

I cannot support a bill that will undercut our seniors' right to Medicare.

While Congress provides universal health coverage for Iraq that includes full prescription drug coverage—seniors in America will receive part-time prescription drug coverage but pay 100 percent of the costs.

Vote "no" on a clearly ill-conceived bill.

Mr. DAVIS of Illinois. Mr. Speaker, I have heard my colleagues describe the prescription drug plan as "not perfect" and a "step in the right direction." However, this legislation is neither. Our seniors will not gain better health coverage or a prescription drug benefit that is affordable. Instead the CBO estimates that approximately 2–3 million seniors, 107,000 alone in my state of Illinois, who currently have drug coverage from their employer, will lose that coverage. This bill lowers Medicare's assistance to the employers making it unaffordable to keep seniors in these jobs.

This means that current seniors who pay on general revenue spending will cause reductions in provider reimbursement rates, higher out of pocket cost, or even raise the payroll tax—once again passing the buck along to future generations. Worst of all for our senior consumers, we do not even allow the Secretary of HHS to negotiate lower drug prices for them.

I am disappointed in this House for turning its back on fulfilling its promise to seniors, but I am extremely disappointed that we are completely abandoning our Nation's most needy—our Nation's poor seniors. We are expecting our States to pay the Federal Government 90 percent of the cost of drugs for our low-income seniors. During a time when States are already faced with large deficits and complicated decisions on what to cut next—how do we expect the States to afford 90 percent of the cost of drugs for our poor seniors? An estimated 6.4 million low-income and disabled people will have significantly worse coverage under this new plan. It is probably because this bill actually prohibits Medicaid from helping with copayments or paying for prescription drugs that are not approved by the private insurers. This means that certain, needed medications that are currently covered by Medicaid will no longer be covered for our seniors if they are fortunate enough to have a part-time prescription drug coverage.

This plan does not even provide assistance for our seniors that are between 150 percent and 160 percent of the federal poverty line that is an annual income of $15,300 to approximately $17,850.

Mr. Speaker, no one is saying that we should give our seniors something for free. But we are saying lets give them something that is fair, reasonable, and makes sense.

Mrs. BONO. Mr. Speaker, I rise in strong support of the Medicare Prescription Drug and Modernization Act of 2003. This has been a very long and cumbersome process; however, I believe that the American citizens will be pleased with what we have accomplished. I would particularly like to laud the accomplishments of the conference who put in tireless hours crafting this monumental legislation.

More often than any other concern, I hear from the constituents of the 45th District regarding health care. They are legitimately frightened that without reform, they will lose their existing benefits and the standards of care of which they have become accustomed. The time had come to pass substantive legislation that will allow seniors to spend less money on prescription drugs and spend less time navigating through the red tape and paperwork.

This landmark legislation is responsive to the needs of our seniors and will allow access to affordable prescription drugs and improve health care to millions of our most needy senior citizens. This is the most generous package Congress has considered for rural and urban senior health care giving seniors will have better access to doctors, hospitals and crucial treatment options, regardless of where they live. Additionally, this bill addresses the needs of the low income.

I am particularly proud that the bill includes the critical funding for relief from the drastic penalties reduction in the Medicaid disproportionate share hospital (DSH) program. The provision will go a long way toward protecting California's fragile health care safety. The funding in the conference report will restore several hundred million dollars to safety-net providers in California in fiscal years 2004 and 2005.

Safety net hospitals across the state of California, two of which are located in the 45th District in Moreno Valley and Indio, have had
to absorb drastic reductions in Medicaid DSH funding at a time when demand for their services has been increasing. The additional funding will help ensure that services to the most vulnerable populations are available.

This bill represents a breakthrough in the nation’s commitment to strengthen and expand health security for its citizens at a time when it is most needed. I rest assured knowing that our nation’s future generations will continue to receive the highest level of health care available.

Mr. BIGGERT. Mr. Speaker, no single piece of legislation is as important to meeting the health care needs of Americans as is the bill we will vote on shortly, the conference report to H.R. 1, the Medicare Modernization and Prescription Drug Act. I rise to express my strong support for this legislation.

Today is truly a momentous day. Finally, Medicare will catch up with the realities of twenty-first century medicine. When the program was first created in 1965, the majority of medical services were provided in a hospital setting. That is reflected in Medicare’s current generous hospitalization benefit and paltry prescription benefit.

Well, times have changed, to say the least. Today, many treatments that used to require hospitalization are being managed, and can result in less serious health outcomes. These new benefits can be used to screen for heart disease, help detect diabetes, screen for high blood pressure, and enable early detection of diabetes, giving users a discount at the time of the purchase.

Another very important benefit kicks in beginning in 2005, when all newly enrolled Medicare beneficiaries will be covered for an initial prescription drug benefit. Passage and enactment into law of this conference report will help to ensure that this never happens again.

Here’s how it works.

Six months from now, seniors will begin to see the benefits. In April of 2004, any senior who wishes to have one will be issued a voluntary drug discount card that will save them 10 to 25 percent on their prescriptions. For low-income seniors, $600 automatically will be added to their cards to help them afford the drugs they need. The discount card will work like a supermarket discount card, giving users a discount at the time of the purchase.

All beneficiaries also will be covered for cardiovascular screening blood test, and those at risk will be covered for a diabetes screen. These new benefits can be used to screen Medicare beneficiaries for many illnesses and conditions that, if caught early, can be treated, managed, and can result in less serious health consequences.

And perhaps most importantly, beginning in 2006, for the very first time in the history of Medicare, seniors will have a prescription drug benefit. If they choose to participate, seniors would pay about $35 a month. Once they have met the $250 deductible, 75 percent of their drug costs will be covered up to $2,250. When drug costs exceed $2,600 a year, 95 percent of costs will be picked up by Medicare.

No matter where in the country they live, seniors will be able to choose between at least two prescription drug plans.

If seniors are happy with the coverage they now have—and many in my district are—they do not have to switch into a new plan. This new benefit is absolutely, completely, 100 percent voluntary.

But there is much, much more to this bill than a prescription drug benefit option for seniors. In fact, this bill can affect the health and wellbeing of all American citizens; it does not matter how young or old. How is this so?

Well, first, this bill will expand access to health care for everyone. As you know, physicians who see Medicare beneficiaries are reimbursed for the extra cost of treating these patients. These payments are already under pressure. Physicians have been forced to stop taking on Medicare beneficiaries because they simply cannot afford to keep seeing them. Under current law, these reimbursements will be cut by an additional 4.5 percent next year.

I am very, very pleased that the conference report addresses this issue by reversing the scheduled cut and increasing the payments by 1.5 percent. This means that more doctors will be able to treat more seniors, and more seniors will have a choice of which doctors they see.

Hospitals also will be better off under this bill. The conference report provides increases in payments to teaching hospitals and increases funding for hospitals that treat a large number of Medicare patients. It also reimburses hospitals for the costs of using the most advanced technology. In short, the conference report ensures that hospitals can continue to care for Medicare beneficiaries.

Finally, this legislation encourages Americans of all ages to save for their own health care needs. The Health Savings Accounts—HSAs—will let people save money and accumulate interest—tax-free—in order to take care of health care premiums and other medical expenses.

HSAs are completely portable, so when people change jobs, they can take their accounts with them. Individuals also can make “catch-up” contributions to their accounts once they turn 55, and still enjoy the tax benefits. These accounts will help thousands of individuals who do not have access to health insurance—or who wish to augment their coverage—to better afford it.

Our seniors have worked hard throughout their lives. They should be enjoying their golden years, not worrying about how to pay for their life-sustaining medicines. This legislation will go a long way in helping them get back to the business of enjoying life.

Drug discount cards, baseline physical examinations, prescription drug coverage, and disease screenings are just a few of the great new features that will help seniors stay healthy.

Health savings accounts and improved levels of physician and hospital reimbursements will go a long way to improving access to health care for Americans of all ages.

I am honored to support this legislation and encourage my colleagues to do so as well. Mr. CAPUANO. Mr. Speaker, I rise today to voice my strong opposition to H.R. 1, the Republican Prescription Drug Bill.

This bill represents the first step in a Republican plan to end Medicare as we know it. Under the guise of providing seniors with tax breaks, they so desperately need, this Congress is attempting to destroy the program that seniors have depended on for over 35 years to provide them with the affordable, reliable health care they need and deserve.

Mr. Speaker, not only does this bill fall far short of what the senior citizens of this country expected of us, but it fails by the most basic standards: it prohibits the federal government from negotiating drug prices; it may lead to 3 million seniors losing the good prescription drug coverage they currently have through former employers; it subsidizes HMOs at 124 percent of what it pays to traditional fee-for-service Medicare; it creates new Health Savings Accounts, which benefit mostly the wealthy; and it sets “waiting-out” measures, designed to lay the groundwork for future cuts to beneficiaries and providers. But most alarmingly, this bill contains a massive demonstration program that it the first step toward the privatization of Medicare.

The “premium support” demonstration project in this bill could force 7 million seniors to be subject to a social experiment that has never been tested. Under the demonstration program, HMOs could “cherry-pick” healthy and wealthy seniors citizens, leaving the poor and sick in the traditional program under- and uninsured. For those in the traditional program would be driven up, and they could also vary by region and fluctuate from year to year. This is an unacceptable assault on the Medicare program that will only result in higher profits for the insurance industry.

There is no denying that some people may benefit from this bill. For example, it does provide some prescription drug coverage for those with the lowest incomes. Although institutions—the first asset test for low-income beneficiaries in Medicare’s history, it will mean that many of these senior citizens now have access to prescription drugs.

Further, as the Member representing many of the teaching hospitals in the Boston area, I am well aware of the important provisions in this bill that will provide essential funding for the world-class hospitals, dedicated doctors, and other health care professionals who work so hard to provide quality care to all the citizens of my district.

However, the positive elements of this bill do not outweigh my concern for the damage this bill could do to a program that has become an integral part of our society. The steps toward privatization contained in this legislation are unacceptable. I am not willing to gamble with the health of our nation’s seniors, placing their well being in the hands of the insurance industry. I do not believe this is a risk worth taking. Medicare has served us well for over 35 years. Its demise would mean an America where senior citizens are left to fend for themselves in the private insurance market—a safety net. While this bill may offer some appealing short-term benefits, the price could be the end of Medicare as we know it. I cannot and will not be a part of it.

I urge Members to vote “no” on H.R. 1.

Mr. SHERMAN. Mr. Speaker, I rise to protect the American people from the worst aspects of Medicare reform and prescription drug legislation, before the House today. These procedures could only be described as undemocratic and unfair.

Mr. Republican Leaders were in the room for weeks as this bill was drafted, and were able to brief their members on its contents. Democratic Members could not begin to analyze the bill’s provisions until yesterday.
We were given almost no time to review the conference report for this momentous legislation. We have waived the rules of the House to allow for this haste, almost immediately consideration of a bill more than 1,000 pages long, so that not even the members of this body, to say nothing of the public, can fully grasp what is in it.

There is no way that we, with a fairly full day of debate in this body, could have read the bill in the short time provided. And it is not a day of debate in this body, could have read the long, so that not even the members of this body have had time to fully deliberate and debate this legislation.

Mr. Speaker, again, I rise to express my strong opposition to the process by which we are today voting to overhaul one of the most important institutions in our country. American seniors deserve better, and we owe them more of our time; we owe them full deliberation, debate and our full consideration of this legislation.

Mr. ROTHMAN. Mr. Speaker, for seven years, I have been pushing and voting for a voluntary prescription drug benefit under Medicare. Such a plan would give seniors access to the quality, affordable, life-saving medicines they need. Unfortunately, the final Medicare bill—written in secret by the very same Republicans who eight years ago shut down the federal government as part of their strategy to force Medicare to wither on the vine—does exactly the opposite of what it is supposed to do. Instead of providing seniors with a voluntary, guaranteed drug benefit, the bill provides a drug coverage until 2006, and then forces millions of seniors to pay more for drugs if they don't give up their doctor and join an HMO—HMOs that can raise premiums at will and will throw out seniors who get too sick. The bill is nothing less than an outrageous giveaway of taxpayer funds to the health-insurance industry.

A $12 billion slush fund in the bill will be doled out to insurance companies that offer privatized Medicare services and employers are given a $70 million windfall to maintain their retiree drug plans. These subsidies create a huge bias in favor of private plans. That's not competition, it's corporate welfare, and it's wrong.

The Congressional Budget Office projects that when the drug benefit begins in 2006, the average senior will spend $3,155 annually on prescription drugs. Under the Republican bill, because it so loaded up with giveaways to the private insurance industry, a senior with an income over $13,500 will pay $2,075 out of the first $3,155 in total drug costs—66 percent or two-thirds of the total. These subsidies create a huge bias in favor of private plans. That's not competition, it's corporate welfare, and it's wrong.

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Further, the bill is sorely lacking in any provision that might restrict the skyrocketing costs of the drugs themselves. It does not include meaningful reimportation language, strong language ensuring access to generic drugs, or meaningful reimportation language, strong language ensuring access to generic drugs, or permitting lower drug prices on behalf of America’s 40 million Medicare beneficiaries. It also blocks the re-importation of drugs from Canada at lower prices. Additionally, the plan will create health savings accounts, which are tax-free savings accounts for medical expenditures. This creates an unprecedented tax loophole that would undermine existing employer coverage and provide $6.7 billion in tax relief for the wealthy.

Earlier this year, I supported a bill that provides for a voluntary prescription drug benefit under Medicare. Medicare would pay 80 percent of drug costs after a $100 deductible and port, the overall legislation is deeply flawed. This plan would cover all Medicare beneficiaries, regardless of previous health conditions, and guarantee people’s choice of medication, pharmacy, doctor and hospital. The plan that I supported would also give the Secretary of Human Services the authority to use the collective bargaining power of 40 million beneficiaries to secure lower costs for the most popularly prescribed medications to end price gouging by the big drug companies.

Minnesota seniors and persons with disabilities deserve better than the Republican bill that is before us tonight. I will only vote for a prescription drug benefit that is affordable and available to all seniors and disabled Medicare beneficiaries regardless of geographic location or health condition.

Mr. BISHOP of Georgia. Mr. Speaker, although the massive conference agreement over Medicare reform contains some of the provisions the country needs and that I support, the overall legislation is deeply flawed. Congress can do better. By voting against the agreement, I am calling on Congress to correct the flawed provisions that would deny many seniors any prescription drug benefit, increase health care costs for many lower income citizens, push Healthy seniors into managed care, put employer-based prescription drug coverage at greater risk, and create an uncertain privatization process that could change the face of Medicare forever.

By voting down this proposal, we could fix the critical flaws and still have time to enact a sound Medicare reform bill that the country desperately needs before the end of the 2003 session. I am cosponsoring a bill introduced Friday (11/21) that would shore up rural providers and maintain the integrity of Medicare for rural communities, while putting aside the more rancorous issues until later. I urge its consideration.

Among the agreement’s provisions that I strongly support are those that would provide real and meaningful Medicare benefits to rural areas, including giving rural hospitals parity with urban hospitals. Many community hospitals have shut down, and many are struggling to survive. This puts the health of many of our rural citizens, and the viability of many rural communities, at risk. Relief for at-risk hospitals is one of the positive things about the agreement, and it should be a part of any health care reform enacted by Congress.

But I cannot overlook the agreement’s overwhelming downside.

Dr. Kenneth Thorpe, a noted health policy authority from Emory University, calculates that under this agreement 51,450 Georgians would lose employer retiree health benefits; 161,161 Georgians would pay more for prescriptions; 82,000 fewer Georgians would qualify for low-income benefits than under the Senate version; and 34,000 Georgians would pay more for Part B premiums for doctor and outpatient care.

There are other sections of this lengthy bill, released the same day debate began, that few outside the conference committee have had an opportunity to examine. But much of what we know is disturbing.

There are no measures in this bill to respond to the problem of skyrocketing drug costs. Not only would the government be prevented from negotiating drug prices, the possibility of reimportation of less expensive medicine from Canada is effectively killed.

The actual prescription drug benefit is skimpy, with an enormous coverage gap and an asset test designed to limit access for thousands of truly needy Americans. Moreover, millions of retirees will see the superior coverage they now receive from their former employers weakened or eliminated. That’s nearly 3 million individuals nationally and more than 50,000 in the state of Georgia alone.

The biggest concern about the agreement’s push to privatization. As drafted, it appears private insurers would tend to pull in the wealthiest beneficiaries while those with medical problems would remain with Medicare, causing Medicare costs to sharply rise. This will create what some are calling a “death spiral” of escalating costs in traditional Medicare. More and more seniors would be pushed into the less-expensive HMOs and PPOs simply because they could not afford the higher cost of Medicare.

From the enormous premium support “demonstration projects” to the weakened Federal fallback for areas without meaningful access to private prescription drug plans, this agreement reveals a poor understanding of the needs of rural providers and patients.

All of these flaws make this agreement unattractive in the short term. But if we look just a bit further down the line, the picture becomes even bleaker. In 2006, when the prescription drug benefit would actually begin, the benefits would be even less valuable to the average citizen. And, when 45 percent of spending on Medicare comes from general revenues, extreme measures to curtail Medicare spending would be triggered. It’s extremely cynical to institute such a dramatic cost-containment mechanism while excluding responsible measures to control Medicare spending.

There is much that is wrong in this bill, and much less that is right.

Rarely will we consider any legislation that will have a greater impact on the well being of the American people.

Let’s get it right!

Mr. OBERSTAR. Mr. Speaker, Medicare is the most successful health initiative in American history—improving the quality of life for America’s senior citizens, extending their longevity, and relieving their anxiety about affording the health care they need.

For the past several years, Democrats in Congress have worked tirelessly for affordable, comprehensive, and guaranteed coverage for prescription drugs under Medicare.

H12290
CONGRESSIONAL RECORD — HOUSE
November 21, 2003
This week, the Republican majority in Congress is poised to pass legislation that will require seniors to pay significant out-of-pocket costs for prescription drugs, will eliminate employer-provided health care coverage for 2.7 million retirees nationwide, and will ultimately undermine Medicare. Instead of providing a Medicare prescription drug benefit for seniors, congressional Republicans have embarked on a radical and untested social experiment that threatens the future of Medicare.

The final Medicare bill clearly takes the first step toward privatizing Medicare by implementing a “premium support demonstration project” in six metropolitan areas. The bill threatens traditional Medicare because it includes provisions designed to stack the deck in favor of the health insurance industry. The legislation allots $17 billion to HMOs to lure them into the market to provide senior citizens with taxpayer-financed health and drug benefits. As the Washington Post recently pointed out, if Medicare “privatization is such a good idea, why do the private insurance companies need such big subsidies to enter the Medicare market? . . . That’s not capitalism or competition. That’s corporate welfare.” Rather than divert $17 billion from Medicare to prop up private sector competition, it would be far better to invest that money in Medicare’s future.

Seniors will essentially receive a voucher for services to cover the lowest-cost private insurance plan, if such plans are offered, which is not at all certain. If this plan does not pay for the services they need, seniors will have to cover the difference—which could be a big figure—out of their own meager income. Masking as increased efficiency, this concept disproportionately benefits healthier seniors and leaves seniors with more costly health care coverage than an estimated 25 percent more for traditional Medicare. Seniors living in different regions will also pay different prices for the exact same benefit. I believe America’s seniors deserve a guaranteed drug plan that is available for all Medicare beneficiaries—regardless of where they live.

II. IMPROVED MEDICARE REIMBURSEMENT FOR RURAL HEALTH CARE PROVIDERS

I have strongly supported efforts to eliminate disparities in Medicare reimbursement for rural areas, and I am very pleased that the conference report contains significant improvements for rural health care providers. Health care is essential in greater Minnesota. The hospitals in many small communities throughout northern Minnesota are the major employer in town, and the health care they offer is critical for economic development and tourism.

It is encouraging news that 31 hospitals in my congressional district would receive $39 million over 10 years under this bill in improvements in Medicare reimbursement, including fourteen Teaching Hospitals, Disproportionate Share Hospitals (DSH) and 12 Critical Access Hospitals (CAHs). Other notable changes in the policies for CAHs—albeit not attached to a dollar amount—would improve the delivery of mental health services in rural northeastern Minnesota by permitting 10 beds to be used for psychiatric or rehabilitative services. Physicians would see a payment increase of 1.5 percent rather than a 4.5 percent decrease. Teaching hospitals would each receive an additional $183,000 spread out over 10 years in additional payments for Indirect Medicare Education, which would greatly assist the training of medical students at the University of Minnesota, Duluth, as they prepare to serve rural Minnesota.

III. PRESCRIPTION DRUG BENEFIT

Seniors will be eligible for drug coverage only through private insurance companies that will have wide latitude in setting premiums and deductibles. Private insurance companies will also be able to make decisions about which drugs are covered, as well as which pharmacies seniors can use.

The plan is difficult to explain, but let me try: it begins with uncertain private health insurance premiums, estimated to be $35 per month. But for seniors who, in addition, pay a $250 deductible before they receive any assistance, after which they will pay a 25 percent co-insurance for up to $2,250 in drug costs. However, there is a large coverage gap where no assistance is provided between $2,250 and $5,100 in drug spending, the “hole in the doughnut,” where seniors will be paying premiums but receiving no assistance at all. Those seniors with $5,100 in drug costs annually will still pay $4,020 under this bill. This plan is as unfair as it is complicated and costly to older Americans living on fixed incomes.

IV. IMPORTATION/COST ISSUE

I firmly believe that in order to ensure the continued affordability of Medicare benefits for seniors, Medicare must be made to address escalating health care costs, particularly the price of prescription drugs. Yet this bill does precious little to contain the cost of prescription drugs in the future. The legislation once again deceptively appears to permit drug importation, but for seniors it is white glove; a poison pill that the Secretary of the Department of Health and Human Services must certify to the Congress that its implementation does not present a health risk. During the Clinton Administration, HHS Secretary Donna Shalala refused to make such a certification, as has the current Secretary, Tommy Thompson. When Americans are paying 30 to 300 percent more for prescription drugs than Canadians or people in other industrialized countries, there must be a concerted effort to fix the safety problem in the current system rather than jetison the entire effort with this poison pill.

Despite claims that this legislation introduces free market principles and competition, this bill is designed to allow the Republicans’ Medicare plan prevents federal cost-saving efforts that would reduce prescription drug costs for seniors. At a time when many seniors must pinch their pennies to afford the basic necessities, this bill—incredibly—explicitly prohibits the Secretary of Health and Human Services from negotiating lower drug prices on behalf of America’s seniors. Unlike the Department of Veterans Affairs, which does have such authority, the Secretary of HHS would not be allowed to leverage the market power of 40 million Medicare beneficiaries to reduce prices.

In my view, the big winners are the drug and insurance companies, at the expense of our nation’s seniors. In addition to providing $17 billion to HMOs and prohibiting the Secretary of the Department of Health and Human Services from negotiating lower prices, the final Medicare bill will eventually undermine community pharmacies. Pharmacy benefit managers (PBMs), charged with administering the prescription drug benefit, will be able to contract out and establish an unequal playing field whereby mail order companies can sell larger quantities for lower co-pays than community pharmacies can. There is no transparency for PBMs—just a conflict of interest; and PBMs, held responsible to report rebates or kick-backs they might receive from the pharmaceutical industry for selling specific drugs—that provision was stripped from the conference report. I am continually dismayed that Republicans go to great lengths to serve special interests rather than the public good.

I have voted many times this year in support of a strong prescription drug program that would strengthen the Medicare program. However, I am not willing to cast a vote to underwrite a program that seniors and the disabled must pay for nearly 40 years, in exchange for an atrocious prescription drug benefit that directs formidable sums of money to special interests. Congress can do better; our seniors certainly deserve better.

Mr. DAVIS of Illinois. Mr. Speaker, it is said that the cruellest lies are often told in silence—that the cruelest lies are often told in silence. We promised the American people we would protect and strengthen traditional Medicare, but the legislation does the opposite; it begins coercing millions of seniors out the common Medicare insurance pool into private HMOs. It creates huge new tax shelters for the ultra wealthy with the ironic name of “Health Savings Accounts.”

Meanwhile the very poorest seniors, those who also qualify for Medicare, will see their benefits slashed.

The bill places draconian new caps on future Medicare services and spiraling new tax burdens on middle income families. The bill also intrudes into the private health care world.

The bill inaugurates the process of means-testing and asset-testing seniors before providing them benefits—of checking their wallets before checking their health.

It would also add heavy new financial burdens to state budgets already strained to bursting by federal cutbacks. All this in return for a pathetically inadequate prescription drug benefit and skyrocketing drug company prices and profits as far as the eye can see.

For me once, shame on you. Fool me twice, shame on me. Fooling our seniors shame on all of us.

Mr. Speaker, this Medicare prescription drug bill is not what it is advertised to be. It is a cruel hoax and a danger to the health and well-being of America’s seniors.

As Representatives of the American people, we have a special moral responsibility to be honest with the people.

This legislation breaks that sacred trust. This bill deceives and dispossesses America’s seniors.

I’m with Will Rogers: I’d rather be the man who bought the Brooklyn Bridge than the man who sold it.
Mr. VAN HOLLEN. Mr. Speaker, with regret, I rise in opposition to the Medicare conference report now before us. Rather than giving seniors the simple, comprehensive and affordable prescription drug benefit they deserve, this bill recklessly undermines the Medicare program, threatens to rip apart the existing drug coverage and fails to bring down skyrocketing drug costs.

Let's be clear: This is not about whether we ought to add a prescription drug benefit to Medicare. Democrats—including myself—have been calling for a meaningful Medicare prescription drug benefit for years. Now that the Republican party has dropped its historic opposition to modernizing Medicare, there is broad consensus—at least rhetorically—on the importance of this goal.

Additionally, this is not about whether doctors should receive a positive payment update for services rendered under Medicare. I think everyone in this chamber understands we could pass a free-standing positive payment update bill and do it tomorrow. Frankly, I would be first in line—because I don't think you can ask providers to participate in a program without adequate reimbursement. But if we were really interested in giving doctors a fair reimbursement rate, we would do away with the ritual of dodging the next round of scheduled payment cuts with stop-gap, band-aid measures and finally get around to fixing the obviously flawed Medicare reimbursement formula once and for all. Unfortunately, that's not what we are doing here today.

Instead, after months of secretive negotiations and much more publicity bickering, the majority is now presenting this House with a prescription drug bill that blatantly violates the first tenet of responsible medicine: Do No Harm.

If this conference report is enacted into law, as many as 7 million seniors will be forced to pay more for Medicare—unless they agree to give up their doctor and join an HMO, according to an analysis done by the House Ways and Means and Energy and Commerce Committee minority staff. Additionally, over 2 million retirees who already have private prescription drug coverage stand to lose that coverage, according to the same report.

That also is the conclusion reached by the former Republican Majority Leader of the House Dick Armey, who called on Congress to reject this misguided bill in today's Wall Street Journal, saying in part: "(T)his bill is going to cost millions of seniors their current prescription drug coverage."

In my home state of Maryland, an estimated 60,000 Medicare beneficiaries could lose their existing private prescription drug benefits, according to analysis based on CBO data prepared by the House Ways and Means and Health, Education, Labor and Pension Committee minority staff. Moreover, similar analysis from the Senate HELP Committee minority staff using CRS data projects that 75,000 Maryland Medicare beneficiaries will pay more than they do now for the prescription drug coverage they need.

This legislation puts seniors with existing coverage—and the future of the entire Medicare program—at risk. And for what? A prescription drug benefit that—at all the premiums and deductibles and co-pays and coverage gaps and out-of-pocket costs are accounted for—provides $1 of assistance for every $4 that seniors with significant drug costs will still have to pay themselves.

There are smarter, more efficient ways to spend $400 billion on a Medicare prescription drug plan. For starters, we should eliminate the $12 billion subsidy being offered the private insurance industry as an inducement to participate in the Medicare market. If HMOs and PPOs are really more efficient than traditional Medicare in delivering high quality care at a lower cost, they don't need a $12 billion taxpayer handout to do it. Additionally, we should scrap the Administration's ill-conceived and deceptively named "Health Security Accounts", which amount to a program that will willfully break the back of the wealthy. And finally, we should get serious about making drugs affordable for seniors and for all Americans—through such common sense steps as permitting re-importation from our industrialized trading partners and allowing the federal government to negotiate for lower drug prices on behalf of Medicare's 41 million beneficiaries—something the bill before us today actually forbids the government to do.

The ultimate value of allowing the Center for Medicare and Medicaid Services (CMS) to negotiate drug prices on behalf of Medicare beneficiaries will still have to pay themselves. In my home state of Maryland, a program that our seniors and disabled know and love.

Mr. Speaker, we should defend this fatally flawed conference report, come together on a bipartisan basis and give seniors the meaningful prescription drug assistance they are asking for and need.

Mr. CUMMINGS. Mr. Speaker, I rise today to speak against the woefully inadequate Medicare prescription drug confidence bill being considered today.

Mr. Speaker, this report is an insult to our seniors. Instead of a bill that helps our seniors, we have a bill that makes an untenable trade-off. A meaningless prescription drug benefit and the dismantling of the Medicare "healthcare" program for 40 million seniors and disabled Americans as we know it today.

Quality healthcare coverage should come along with a prescription drug benefit, which Democrats have been fighting for over the past six years, not at the expense of it. But that is what we have to consider is a bill that will do more harm than good—one that represents a giant first step in privatizing and the emasculation of Medicare—a program that our seniors and disabled know and love.

Under this disastrous plan:

Gone are wrap-around services. Six million low-income beneficiaries will pay more for their prescription drugs. Those who are dually eligible to receive both Medicare and Medicaid—seniors who are so poor that they need what we call wrap-around services to have healthcare coverage—will pay more for their prescription drugs under this plan. To add insult to injury this bill does not allow states to use their federal Medicaid monies to supple-ment their prescription drug plans.

This includes 75,800 seniors in Maryland.

Gone is the traditional Medicare Program as we know it. They say fee-for-service stays intact. Well if you as a beneficiary want to be nicked and dined to almost 80 percent out of pocket for Medicare and prescription drug coverage up to $5,044, then it stays intact. Let me explain, that means that after a senior or disabled person has paid almost $4,000 out-of-pocket in premiums, deductibles and contributions, then the traditional Medicare coverage kicks back in.

Soon to be gone is traditional Medicare. Traditional Medicare is most threatened by what has been termed premium support. Beginning in 2010, about 7 million beneficiaries will be forced into a premium support dem-ocracy that will willfully break the back of Medicare if they don't give up their doctors and join an HMO. This also means that there will be tremendous premium variation from region to region even in the same state when this plan is fully rolled-out. While it may be just 7 million seniors in 2010, the wrong mis-take is the goal to end Medicare as a social compact, where eventually, Medicare will in deed "wither on the vine" and private insur-ance and pharmaceutical companies will rule the day. Unfortunately, passage of this legisla-tion means that many of our seniors will wither right along with the Medicare pro-gram—which will no longer be seen as a guaranteed benefit—a concept our nation em-braces.

Here to stay are vouchers for Medicare beneficiaries—to take to an HMO which will give these folks what they want them to have—there will be little real choice. Seniors want stability—knowing who their doctors will be, who will be able to fill their prescriptions, which drugs will be covered, and in which hos-pitals they can receive services. It has not ever been told by a single senior that they want to be able to choose between profit-driven pri-vate insurer providers which may or may not want to have them as clients.

Here to stay is assets testing. Who's going to pay? This bill is that those beneficiaries who are 15 percent below the poverty level are able to forego paying the monthly premiums of $35 and the yearly deductible of $275, and to escape the donut hole in coverage from $2,200 to $5,044. But again that compassion of conservative friends give with one hand while taking with the other.

In order to qualify as low-income, seniors have to go through the degradation of proving that they are poor enough to receive it—meaning all of their assets, not just incomes are tested. The one saving grace of this bill is that those seniors who are tested. This means that low income seniors will be kicked out of receiving the low-income benefits of the plan depending on their assets—simply because they have been able to squirrel away a few thousand dollars into a savings account.

This affects 53,000 seniors in Maryland, many in my district.

I ask, who is going to invade their privacy and check their assets— isn't it sufficient that
they’re already living off of meager means 150 percent below the poverty level, should they too have to pay $4,000 to receive both Medicare and prescription drug coverage? What a trade-off. How despicable. I think my colleagues can agree that this is a very troubling proposition and a great deal unfair to these beneficiaries. Mr. Speaker, our seniors do not need a hand-out, but a hand-up—use that $12 billion to give to our current providers and hospitals who already give outstanding care to our seniors, along with a meaningful prescription drug benefit.

Here to stay are HMOs that seniors will feel coerced into joining because they will not be able to pay for the traditional Medicare they enjoy today.

Additionally, with the establishment of the Voluntary Prescription Drug Benefit Plan, beneficiaries again lose because of the lack of negotiated prices for the prescription drugs. Why not leverage the power of the 40 million Medicare beneficiaries? Why not mandate containment of drug costs in this bill? Why give seniors and the disabled a prescription discount card use until we see if the drug companies still get to determine the cost? Why enact health savings accounts that the drug companies still get to determine the cost? Why enact health savings accounts that the drug companies still get to determine the cost? Why enact health savings accounts that the drug companies still get to determine the cost?

I know the answers. It’s because this bill is not a reform bill, but a rewards bill—and the pharmaceutical and the private insurance companies are the winners.

Mr. KIND. Mr. Speaker, I rise in reluctant opposition to the bill before us today. It was my hope that the conference committee would work in a bicameral, bipartisan manner and produce a bill focused on providing prescription drug coverage to seniors and improving Medicare. Instead, House Democrats were shut out of the discussion completely, and special interest groups were given more information than members of Congress. Even more troubling than the process, however, was the legislation that came out of this conference. This bill is a bad deal for American seniors. As I wrote the deal for seniors in my district, my children and grandchildren. Estimated at $400 billion, this bill is not paid for and, without basic cost containment measures, like price negotiation or drug reimportation from Canada, will leave a legacy of debt for our children and grandchildren to inherit. The easiest thing to do in politics is pass a bill and don’t pay for it.

Certainly, there are portions of this bill which do such important work throughout our country. This bill will at last begin to equalize the base inpatient payment rate, increase the cap for Medicare disproportionate share hospitals, and bring the hospital update to full market basket. Providers also benefit a great deal from provisions that instead of receiving a cut, Medicare providers would receive a 1.5% update for the next two years. Furthermore, the assistance to our providers is paid for with offsets in the budget, so it does not add to the historically large federal deficit. If these provisions were separate from the bill, I could support them in a heartbeat, and I am confident that such a bill would pass overwhelmingly in Congress. In fact, just today my colleagues and I have introduced a bill that is identical to the rural health care package included in the Medicare Conference Report. We could still pass such a bill if the Republican leadership wanted to, but they do not. Instead, they are holding the rural provisions hostage to all ill-advised and costly prescription drug program to be delivered to private insurance companies after we bribe them with billions to do so. If they do not have told us they do not want to do this.

As important as it is to sustain our hospitals and our doctors, aspects of the bill which will hurt our seniors, our pharmacists, and our states make it impossible to support this bill. Too many seniors in my district in western Wisconsin have told me stories of skipping meals in order to afford prescription drugs or cutting their pills in half to make their expensive prescriptions last longer. I came to Washington to work towards a real solution to this problem, and I have championed the New Democratic Coalition’s plan, which is simple, progressive, and affordable. I would be proud to stand on this floor today and support the Dooley prescription drug plan. I would have been able to compromise and support a bill that was close to the Senate’s bipartisan bill. But I am unable to support a bill that will do relatively little to provide seniors with drug coverage, that bribes insurance companies, that threatens to destabilize existing coverage for retirees, that undermines Medicaid, and that has no reasonable measures to contain costs.

Sadly, for all the excitement over a prescription drug benefit, this bill would bring little relief to struggling seniors. The drug benefit does no start until 2006, leaving struggling seniors a few more years before they receive any help in paying for their prescription drugs. Once 2006 rolls around, many seniors will find a drug benefit far less generous than the one they expected. In fact, a senior who spends slightly over $5,000 per year on prescription drugs right now, is right back where he or she was when he or she had his or her own money, meaning the consumer still pays 80 percent of drug costs. This is hardly the relief from expensive prescription drugs that seniors have been promised and that they deserve.

Also of concern is the effect this bill will have on seniors who currently have drug coverage. Astoundingly, an estimated 58,170 Medicare beneficiaries in Wisconsin will lose their retiree health benefits because of this bill. And they are not the only seniors who will suffer. Wisconsin’s Seniorcare program is a shining example of the great work that can be done to aid our nation’s seniors when federal and state governments cooperate. The bill before us would punish Wisconsin’s leadership on this issue; Wisconsin would most likely lose the matching funds it receives for Seniorcare and be forced to drastically scale back the program. Wisconsin’s Seniorcare participants currently pay a nominal enrollment fee, low drug co-payments, and a modest deductible, with those seniors below 160 percent of the poverty level paying nothing. However, the Wisconsin Medicaid program, as well as the 110,200 seniors who are dual eligibles, will see a significant risk in their drug costs as a result of this legislation. The bill purports to cover things for low-income, but in my state, it will have exactly the opposite effect. For the 99 percent of seniors in my state who already have health insurance, the introduction of a new prescription drug plan means a confusing new benefit with higher costs to the state and beneficiaries and less coverage than many Wisconsin seniors already enjoy.

All of this speculation over a prescription drug plan assumes, of course, that drug-only plans will be around to offer this less than substantial coverage. Currently, there are no drug-only insurance plans, and representatives in the industry have told me they do not want to start such plans. Because of this reluctance, the bill bribes private insurance companies, pouring billions into the industry in an attempt to entice the companies to create drug-only plans. Clearly, $400 billion is just a means to an end, and the insurance companies will return to Congress in the future to ask for more money or they will drop coverage of our seniors, just as many Medicare plus Choice plans are doing today.

The $400 billion price-tag is due in the beginning of the next Congress. The federal government; we have no idea what costs might be in the future for this benefit. Incredibly, even the original $400 billion is not paid for, and there are no attempts at cost control in this measure. The government, for both Medicaid and the Veterans Administration, negotiates drug prices. The 40 million Americans covered by Medicare constitute an immense and potentially powerful purchasing pool. Great savings could be realized by negotiation, yet this bill specifically prohibits the government from negotiating health drug costs; the potential for savings is reimportation from Canada; once again, this cost-cutting measure is prohibited, as the Secretary of Health and Human Services would have to approve reimportation, and the agency has already indicated no such approval will be granted.

Finally, Mr. Speaker, I would like to speak of a group that has received little attention in a debate focused on seniors—our children and grandchildren. While I fully support providing seniors with a prescription drug benefit, I do not want to see this bill cost the drug companies to create drug-only plans. We must devise a way to pay for these benefits now; we cannot and must not rely on future Congresses and future taxpayers to fix a problem of our creation. The party in power in Washington today wants tax cuts for the wealthy and pays no attention to fiscal responsibility. It is wrong to create a larger deficit than the one we already face. To protect seniors, to protect our children and grandchildren, I am opposing this bill, and I urge my colleagues to reject the flawed proposals contained in this bill. We can and must do better for our children and grandchildren.

Mrs. DAVIS of California. Mr. Speaker, I support providing our seniors with prescription drug benefits under Medicare. It is one of the
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November 21, 2003

most important efforts we have undertaken this session, and, I believe, one of the most attainable. This is why I rise, with regret, to oppose this Medicare Conference Report. The legislation before us fails our seniors and places them at the mercy of private plans and insurance companies.

There are some good items in this legislation. For example, the increased funding for hospitals and hard-working physicians is greatly needed in our communities. Unfortunately, the overall bill does not accomplish what our seniors deserve.

When I reviewed this legislation, I needed to answer the following questions: “What are the benefits for our seniors?” and “What do the changes mean in the long run?”

In both regards, as a proponent of reform I had time I had to review this legislation. I have concluded that, in reality, this Medicare bill will hurt seniors by making health care less reliable and more costly.

We needed a prescription drug bill. We received instead, legislation that has been called a “Medicare monstrosity.” It mandates huge changes to Medicare, but evades the underlying issue of providing seniors with a comprehensive prescription drug benefit.

This legislation ends Medicare’s guarantees to seniors for managed care, for tax shelters, and for many other special interests unrelated to prescription drugs. It significantly worsens current levels of coverage for millions of Medicare beneficiaries with increased Part B premiums and threats of dis-enrollment.

Are all of these changes worth a weak drug benefit that will disappoint millions of seniors? No.

Mr. Speaker, our seniors deserve better! At town hall meetings and in thousands of letters, phone calls and emails, seniors have told me that they want a prescription drug benefit that is affordable, comprehensive, and guaranteed, and they would like the coverage provided in the current Medicare system. The bill before us meets none of these standards.

Instead this bill will make our seniors anxious—anxious about substantial cost increases; anxious about having to switch doctors; and anxious about losing he security that hospitals and hard-working physicians is greatly needed in our communities. Unfortunately, the overall bill does not accomplish what our seniors deserve.

When I reviewed this legislation, I needed to answer the following questions: “What are the benefits for our seniors?” and “What do the changes mean in the long run?”

In both regards, as a proponent of reform I had time I had to review this legislation. I have concluded that, in reality, this Medicare bill will hurt seniors by making health care less reliable and more costly.

I am grateful for the many important provisions in this package from the bill I sponsored, the Medicare Innovation Responsiveness Act (H.R. 941), which will increase seniors’ access to lifesaving medical technology. These provisions provide long needed reforms that will bring the Medicare program into the 21st Century.

As founded and co-chair of the Medical Technology Caucus, I have witnessed firsthand the remarkable advances that lifesaving and life-enhancing medical technology has made to treat and cure debilitating conditions. The current Medicare system is antiquated because of its failure to incorporate modern day advances in technology.

Currently, seniors face unconscionable delays of up to 5 years before Medicare grants access to new technology. This delay can literally be a matter of life or death for many seniors.

The legislation before us incorporates many of the reforms I proposed that will vastly improve medicare’s coverage, coding and payment process. These reforms will remove barriers to FDA-approved technology for millions of seniors. The result will not only improve lives, but in many cases save lives as well.

Thanks to this legislation, we are finally eliminating the barriers that discourage innovation and access to medical technology they desperately need. Seniors have waited too long for access to the same treatment options that other Americans routinely enjoy.

I also pleased the bill includes legislation I introduced with Mr. Cardin to break down regulatory barriers facing specialized Medicare-Choice plans that serve the frail elderly.

I also worked diligently to ensure that seniors suffering from serious mental illness will have the necessary access, under the new drug benefit, to the psychotropic medication they desperately need. I am pleased that this legislation addresses this critical need.

Mr. Speaker, this package of reforms will improve the lives of today’s seniors and seniors for generations to come. I urge my colleagues to support this landmark legislation and deliver on our promise to preserve, protect and strengthen Medicare.

Mr. CANTOR. Mr. Speaker, tonight is a truly historic night. Tonight we will reform and modernize the Medicare system to reflect the needs of seniors. This legislation will save Medicare for our children while allowing seniors access to affordable prescription drugs starting next year.

One important feature of this legislation that allows seniors to have more control of their health care is the inclusion of new Health Savings Accounts (HSAs). These tax-preferred savings accounts work like IRAs and allow individuals, not the government, to make choices that best suit their needs. HSAs, will put individuals back in the driver’s seat when it comes to their own health care.

The success of 529 college-savings plans and Roth IRAs proves that HSAs will work. I am glad that we were able to add this conservative and common sense proposal to the bill.

Tonight for the first time in Medicare’s history, we will provide nearly 1-million Virginians with access to affordable prescription drug coverage. I am proud to deliver this much-needed and past-due assistance to my fellow Virginians.

Mr. Speaker, I support the Medicare legislation before us. It is a critical step in the right direction, and I encourage my colleagues on both sides of the aisle to support this bill.

Mr. TURNER of Texas. Mr. Speaker, I offer a motion to recommit. The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. TURNER of Texas. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

Mr. TURNER of Texas moves to recommit the conference report on the bill H.R. 1 to the committee of conference with the following instructions to the managers on the part of the House:

(1) Strike the provisions of section 1860D-11(i) of the Social Security Act, as added by section 102(a) of the conference substitute, relating to noninterference of the Secretary of Health and Human Services with the negotiations between drug manufacturers and pharmacies and PDP sponsors.

(2) Substitute the provisions of title l of the Senate amendment to the bill for title I of the conference substitute recommended by the committee of conference, but provide for Medicare as primary payer for prescription drug coverage for low-income individuals (as contemplated by the House bill), and permit State medical aid programs to provide wrap-around coverage (as contemplated by the Senate amendment).

(3) Substitute the provisions of title II of the Senate amendment to the bill for title II of the conference substitute recommended by the committee of conference with the following changes:

(A) Omit the provisions of section 231 of the Senate amendment relating to the establishment of alternative payment system for preferred provider organizations in highly competitive regions.

(B) Omit the provisions of subtitle E (relating to the establishment of a National Bipartisan Commission on Medicare Reform).

(4) Within the scope of conference and to the maximum extent possible, take up and reconsider title VIII of the conference substitute.

(5) Strike section 1123 of the conference substitute (relating to a study and report on trade and pharmaceuticals).

(6) Within the scope of conference and to the maximum extent possible, take up and reconsider the issue of importation of prescription drugs.

(7) Within the scope of conference and to the maximum extent possible, take up and reconsider the issue of special rules for employer-sponsored programs, including qualified retiree prescription drug plans.

Mr. TURNER of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD POINT OF ORDER

Mr. THOMAS. Mr. Speaker, I make a point of order.
The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. THOMAS. Mr. Speaker, do we have the motion to recommit in written form?

The SPEAKER pro tempore. The Clerk is reading the motion now.

Mr. THOMAS. Mr. Speaker, are we allowed to have the motion?

The SPEAKER pro tempore. The gentleman submitted his motion to the desk.

The Clerk will read.

The Clerk concluded the reading of the motion to recommence.

The SPEAKER pro tempore. The motion to recommit is not debatable.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommence.

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

RECORDED VOTE

Mr. TURNER of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—aye 211, noes 222, not voting 2, as follows:

[Roll No. 668]  

AYE—211

Bacchus
Baker
Bancroft
Banta
Barrett (SC)
Barrett (MD)
Bartlet (TX)
Bass
Bates
Bayless
Bayne
Beaumier
Bech Sandlin
Bello
Belcher
Berman
Berry
Bishop (GA)
Berry
Ballance
Baldwin
Baird
Baca
Andrews
Allen
Alexander
Aderholt
Akin
Bachus
Bak
Ballenger
Barrett (SC)
Barrett (MD)
Bartlet (TX)
Bass
Bates
Bayless
Bayne
Beaumier
Bech Sandlin
Bello
Belcher
Berman
Berry
Bishop (GA)
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Ballance
Baldwin
Baird
Baca
Andrews
Allen
Alexander
Aderholt
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Ballance
Baldwin
Baird
Baca
Andrews
Allen
Alexander
Aderholt
Akin
Bachus
Bak
Ballenger
Barrett (SC)
Barrett (MD)
The SPEAKER pro tempore. Is there objection to tabling the motion to reconsider?

Mr. FRANK of Massachusetts, Object. Mr. THOMAS, Mr. Speaker, I move to reconsider the vote just taken. Mr. DELAY, Mr. Speaker, I move to lay the motion on the table.

The SPEAKER pro tempore. The motion to reconsider is laid on the table. The motion to reconsider is laid on the table.

Mr. FRANK of Massachusetts, Mr. Speaker, I move reconsideration. I move reconsideration, thanks to your arm-twisting.

The SPEAKER pro tempore. The parliamentary inquiry. The question is on the motion to reconsider. The motion to reconsider may be entered only by someone who voted on the prevailing side.

Mr. FRANK of Massachusetts, Mr. Speaker, I move reconsideration. The motion to reconsider may be entered only by someone who voted on the prevailing side.

PARLIAMENTARY INQUIRY

The motion to reconsider may be entered only by someone who voted on the prevailing side.

Mr. FRANK of Massachusetts, Mr. Speaker, I move reconsideration. The motion to reconsider may be entered only by someone who voted on the prevailing side.

The previous vote has now been held open longer than any vote that I can remember. I have been here 23 years. Perhaps some of you have been here longer. The previous vote has now been held open longer than any vote that I can remember. I have been here 23 years. Perhaps some of you have been here longer.
Mr. FRANK of Massachusetts changed his vote from "nay" to "yea." So the motion to the table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.
So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1.

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

There was no objection.

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This Act may be cited as the “National Transportation Safety Board Reauthorization Act of 2003.”

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This Act may be cited as the “National Transportation Safety Board Reauthorization Act of 2003.”

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This Act may be cited as the “National Transportation Safety Board Reauthorization Act of 2003.”

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This Act may be cited as the “National Transportation Safety Board Reauthorization Act of 2003.”
To maintain its position as the world’s preeminent investigative agency, it is imperative that the NTSB has the resources necessary to handle increasingly complex accident investigations. The NTSB has recently broken ground for its new training academy that will serve as the foundation for the family affairs program, and the new training academy will be operated by the FBI. The NTSB has recently broken ground for its new training academy that will serve as the foundation for the family affairs program, and the new training academy will be operated by the FBI.

HOMETOWN HEROES SURVIVORS BENEFITS ACT OF 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent to take from the Speaker’s table the Senate bill (S. 459) to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits, and ask for its immediate consideration in the House. The Clerk read the title of the Senate bill.

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

Mr. ETHERIDGE. Mr. Speaker, reserving the right to object, I will not object, but let me thank the leader and his staff. I want to take this opportunity to thank the gentleman from Wisconsin (Mr. SENSENBERN) and his staff, the ranking member, the gentleman from Virginia (Mr. SCOTT), and the staff of the subcommittee chair, the gentleman from Michigan (Mr. CONYERS), and his staff; the subcommittee chair, the gentleman from North Carolina (Mr. COBLE); and the gentleman from Maryland (Mr. HOYER) and others because this bill is an important piece of legislation. It provides for our first responders and their families a bit of security. There is a gap in the law where currently if they die of a heart attack or stroke doing their duties, their families would not get benefits. This is a bipartisan piece of legislation. Over 283 Members of this body cosponsored this bill. Let me thank the leader. I appreciate his help and the help of others in getting this to the floor.

Mr. SENSENBERN. Mr. Speaker, current federal law authorizes approximately $267,494 for the survivors of public safety officers such as police officers, firefighters and rescue squad officers who die “as the direct and proximate result of a personal injury sustained in the line of duty.” S. 459, the “Hometown Heroes Survivor Benefits Act of 2003,” as introduced would provide that if a public safety officer dies as the direct and proximate result of a heart attack or stroke suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty for purposes of that officer’s survivors receiving a $267,494 death benefit.

The intent of the legislation was to cover officers who suffered a heart attack or stroke as a result of a nonroutine stressful or strenuous physical activity, however, the hearing indicated that the legislation as drafted would undermine the purpose of the Public Safety Officer Benefits program, which was intended to provide a benefit to heroes who gave their lives in the line of duty for their communities. As drafted, it would cover officers who did not engage in any physical activity but merely happened to suffer a heart attack at work. A substitute amendment was introduced to address these concerns. The substitute amendment would create a presumption that an officer who died as a direct and proximate result of a heart attack or stroke died as a direct and proximate result of a personal injury sustained in the line of duty if: (1) that officer participated in a training exercise that involved nonroutine stressful or strenuous physical activity or responded to a situation and such participation or response involved nonroutine stressful or strenuous physical law enforcement, hazardous material response, emergency medical services, prison security, fire emergency response, or other emergency response activity; (2) that officer suffered a heart attack or stroke while engaging or within 24 hours of engaging in that
The SPEAKER pro tempore (Mr. DELAY of Texas). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Strike all after the enacting clause and insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the “Hometown Heroes Survivors Benefits Act of 2003.”

SEC. 2. FATAL HEART ATTACK OR STROKETION OF DUTY PRESUMED TO BE DEATH IN LINE OF DUTY FOR PURPOSES OF PUBLIC SAFETY OFFICER SURVIVOR BENEFITS.

Section 1201 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by adding at the end the following:

(1) engaged in a situation, and such engagement involved nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or

(2) engaged in a situation, and such participation involved nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or

(3) such participation is not overcome by competent medical evidence to the contrary.

(1) For purposes of subsection (k), ‘‘nonroutine stressful or strenuous physical’’ action includes, but is not limited to, the following: involvement in a physical struggle with a suspected or convicted criminal; performing a search and rescue mission; performing or assisting with emergency medical treatment; performing or assisting with fire suppression; involvement in a situation that requires either a high speed response or pursuit on foot or in a vehicle; participation in hazardous material response; responding to a riot that broke out at a public event; and physically engaging in the arrest or apprehension of a suspected criminal.

The situation listed above the types of heart attack and stroke cases that are considered to be in the line of duty. The families of officers who died in such cases are eligible to receive Public Safety Officers Benefits.

Mr. ETHERIDGE. Mr. Speaker, I withdraw my reservation of objection.

Mr. DELAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill just passed.

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

There was no objection.

The SPEAKER pro tempore. A bill of the Senate of the following title was taken from the Speaker’s table and, under the rule, referred as follows:

S. 1561. An act to preserve existing judgeships on the Superior Court of the District of Columbia; to the Committee on Government Reform.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3182. An act to reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

H.J. Res. 78. Joint resolution making further continuing appropriations for the fiscal year 2004, and for other purposes.

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 117. An act to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes.


S. 650. An act to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients.

S. 1720. An act to extend and expand the basic pilot program for employment eligibility verification, and for other purposes.

S. 1270. An act to provide for Federal court proceedings in Plano, Texas.

S. 1824. An act to amend the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation, and for other purposes.

ADJOURNMENT

Mr. DELAY. Mr. Speaker, in honor of Scott Palmer’s birthday, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o’clock and 32 minutes a.m., Saturday, November 22, 2003), under its previous order, the House adjourned until Tuesday, November 25, 2003, at noon.
### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO KUWAIT AND IRAQ, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 6 AND OCT. 10, 2003

<table>
<thead>
<tr>
<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Per diem ¹</th>
<th>Transportation</th>
<th>Other purposes</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>Hon. Bud Cramer</td>
<td>10/6</td>
<td>10/10</td>
<td>Kuwait-Iraq</td>
<td>1,104.00</td>
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<tr>
<td>Hon. Greg Walden</td>
<td>10/6</td>
<td>10/10</td>
<td>Kuwait-Iraq</td>
<td>1,104.00</td>
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<tr>
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<td>10/6</td>
<td>10/10</td>
<td>Kuwait-Iraq</td>
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<td></td>
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<tr>
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<td>10/10</td>
<td>Kuwait-Iraq</td>
<td>1,104.00</td>
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<tr>
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<td>10/6</td>
<td>10/10</td>
<td>Kuwait-Iraq</td>
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<tr>
<td>John &quot;Jim&quot; Pittsfield</td>
<td>10/6</td>
<td>10/10</td>
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1 Per diem constitutes lodging and meals.

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY AND SEPT. 30, 2003

<table>
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<th>Name of Member or employee</th>
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<th>Per diem ¹</th>
<th>Transportation</th>
<th>Other purposes</th>
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</table>

1 Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent, if U.S. currency is used, enter amount expended.

### EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the third and fourth quarters of 2003, pursuant to Public Law 95-364 are as follows:

---

**November 21, 2003**

**CONGRESSIONAL RECORD — HOUSE**

**H12301**

**EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL**

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the third and fourth quarters of 2003, pursuant to Public Law 95-364 are as follows:

**REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO KUWAIT AND IRAQ, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 6 AND OCT. 10, 2003**

<table>
<thead>
<tr>
<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Per diem ¹</th>
<th>Transportation</th>
<th>Other purposes</th>
<th>Total</th>
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<tr>
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<tr>
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<tr>
<td>Hon. Gregory Meeks</td>
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<td>1,104.00</td>
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<tr>
<td>Bill Loeber</td>
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<tr>
<td>John &quot;Jim&quot; Pittsfield</td>
<td>10/6</td>
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</tbody>
</table>

1 Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent, if U.S. currency is used, enter amount expended.
<table>
<thead>
<tr>
<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Commercial airfare</th>
<th>U.S. dollar equivalent or U.S. currency(1)</th>
<th>Transportation</th>
<th>Other purposes</th>
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<th>U.S. dollar equivalent or U.S. currency(1)</th>
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### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND OCT. 31, 2003

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<th>Name of Member or employee</th>
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</table>

1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
3 Reflects credit for return of unused portion of ticket.
4 Military air transportation.

---

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND OCT. 31, 2003

<table>
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<th>Name of Member or employee</th>
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<th>Per diem 1</th>
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1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

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### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FINANCIAL SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND AUG. 30, 2003

<table>
<thead>
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<th>Name of Member or employee</th>
<th>Arrival</th>
<th>Departure</th>
<th>Country</th>
<th>Date</th>
<th>Per diem 1</th>
<th>Transportation</th>
<th>Other purposes</th>
<th>Total</th>
</tr>
</thead>
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<tr>
<td>John Boehner</td>
<td>10/6</td>
<td>10/12</td>
<td>Iraq</td>
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<td>3</td>
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<td>Committee total</td>
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<td>16,919.41</td>
</tr>
</tbody>
</table>

1 Per diem constitutes lodging and meals.
2 If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS
OFFICE OF COMPLIANCE

Hon. J. Dennis Hastert,
Speaker of the House of Representatives, Wash-
ington, DC.

Dear Mr. Speaker:

A Notice of Proposed Rulemaking (NPR) for amendments to the Procedural Rules of the Office of Compliance which was published in the Congressional Record dated September 4, 2003. Subsequent to the publication of that NPR, this Office announced a hearing for public comment on the proposed amendments in the Congressional Record on October 15, 2003.

The Board Directors of the Office of Compliance cancels the hearing regarding the proposed amendments to the Procedural Rules of the Office of Compliance which had been scheduled for December 2, 2003, at 10:00 a.m. in room SD–342 of the Dirksen Senate Office Building. We request that this notice of cancellation be published in the Congressional Record. Any inquiries regarding this notice should be addressed to the Office of Compliance at our address below, or by telephone 202–724–9250.

Sincerely,

Susan S. Rofogel, Chair.
EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

5556. A letter from the Acting Under Sec-
retary, Department of Defense, transmitting the Secretary’s certification that the surviv-
ability of the Coast Guard’s system at our
writered by section 2366 would be unre-
asonably expensive and impractical, pursuant
10 U.S.C. 2366(c)(1); to the Committee on
Armed Services.

5557. A letter from the Acting Under Sec-
retary, Department of Defense, transmitting a
status report on each research and develop-
ment program to the Committee on Interna-
tional Relations.

5561. A letter from the Principal Deputy,
Department of Defense, transmitting the An-
nual Report for the Armed Forces Reserve
Home (AFRH) for Fiscal Year 2002, pursuant
to 24 U.S.C. 411; to the Committee on
Armed Services.

5562. A letter from the Acting Under Sec-
retary, Department of Defense, transmitting a
state report on each research and develop-
ment program that is approved as a spiral
development program, pursuant to Public
Law 107–314, section 803; to the Com-
mittee on Energy and Commerce.

5563. A letter from the Administrator, En-
ergy Information Administration, transmis-
sing the Administration’s Short-Term En-
ergy Outlook for October 2003, together with
the special article entitled “Winter Fuels
790(a)(2); to the Committee on Energy and
Commerce.

5567. A letter from the Deputy Director,
Defense Security Cooperation Agency, trans-
mitting notification concerning the Depart-
ment of the Army’s Proposed Letter(s)
of Offer and Acceptance (LOA) to Saudi Ara-
bia for defense articles and services (Trans-
mittal No. DDTCT 119–03), pursuant to 22 U.S.C.
2776(c); to the Committee on International
Relations.

5568. A letter from the Assistant Secretary
for Legislative Affairs, Department of State,
transmitting certification of a proposed li-
cense for the export of major defense equip-
ment and defense articles to the United
Kingdom (Transmittal No. DDTCT 092–03),
pursuant to 22 U.S.C. 2776(c); to the Commit-
tee on International Relations.

5571. A letter from the Assistant Secretary
for Legislation, Department of State, transmis-
sing certification of a proposed li-
cense for the export of major defense equip-
ment and defense articles to Israel (Trans-
mittal No. DDTCT 119–03), pursuant to 22 U.S.C.
2776(c); to the Committee on Interna-
tional Relations.

5572. A letter from the Assistant Secretary
for Legislative Affairs, Department of State,
Mr. LINDER: Committee on Rules. House Resolution 464. Resolution providing for consideration of a joint resolution appointing the day for the Fourth of July in the One Hundred Eighth Congress. (Rept. 108-398). Referred to the House Calendar.

Mr. POMBO: Committee on Resources. H.R. 958. A bill to authorize certain hydrographic services programs, to name a cove in Alaska in honor of the late Able Bodied Seaman Eric Steiner Koss, and for other purposes; with an amendment (Rept. 108-400). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration. H.R. 2996 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 2996. Referral to the Committee on Agriculture extended for a period ending not later than November 21, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. RANGEI (for himself, Mr. CARDIN, and Mr. MCDERMOTT):

H.R. 3289. A bill to establish an extended unemployment benefits to displaced workers, and to make other improvements in the unemployment insurance system; to the Committee on Ways and Means.

By Mr. CONYERS (for himself and Mr. BERNMAN):

H.R. 3289. A bill to reauthorize and amend the National Film Preservation Act of 1996; to the Committee on the Judiciary, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KILDEE:

H.R. 3570. A bill to prohibit the closure or realignment of inpatient services at the Aleda E. Lutz Department of Veterans Affairs Medical Center in Saginaw, Michigan, as proposed under the Capital Asset Realignment for Enhanced Services initiative; to the Committee on Veterans Affairs.

By Mr. LARSEN of Washington:

H.R. 3571. A bill to modify the boundary of the San Juan Island National Historical Park; to the Committee on Natural Resources.

By Mr. MCDERMOTT (for himself, Mr. ROYCE, Mr. RANDEL, Mr. JEFFERSON, Mr. NEAL of Massachusetts, and Mr. PAYNE):

H.R. 3572. A bill to amend the African Growth and Opportunity Act to expand certain trade benefits to certain African countries, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on International Relations, Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEACH (for himself, Mr. FOLEY, Mr. SMITH of New Jersey, Mr. MCDERMOTT, Mr. CHRISTENSEN, Ms. CLAY, Mr. GRIJALVA, Mr. CUMMINGS, Mr. PAYNE, Ms. KILPATRICK, Mr. BALLANCE, Mr. OWENS, Mr. RUSH, Mr. DAVIS of Illinois, Mr. CONYER, and Mr. PAPPAS):

H.R. 3573. A bill to promote human rights, democracy, and development in North Korea, to provide additional economic sanctions against the government of the Democratic People’s Republic of Korea, and for other purposes; to the Committee on International Relations, and in addition to the Committee on the Judiciary, if the measure has been subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER (for himself, Ms. ESHOOG, Mr. DREIER, Mr. KENNEDY of Massachusetts, Mr. HUNDA, Mrs. TAUSCHER, Ms. LOFGREN, Mr. MCLOUGHLIN of New York, Mr. ROYCE, Mr. RANGEL, Mr. JEFFERSON, Mr. NEAL of Massachusetts, and Mr. PAYNE):

H.R. 3574. A bill to require the mandatory expending of stock options granted to executive officers, and for other purposes; to the Committee on Financial Services.

By Ms. JACKSON-LEE of Texas (for herself, Mr. LEWIS of Georgia, Mrs. CHRISTENSEN, Mr. CLAY, Mr. GRIJALVA, Mr. CUMMINGS, Mr. PAYNE, Ms. KILPATRICK, Mr. BALLANCE, Mr. OWENS, Mr. RUSH, Mr. DAVIS of Illinois, Mr. CONYER, and Mr. PAPPAS):

H.R. 3575. A bill to amend title 18, United States Code, to provide an alternate release date for certain nonviolent offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. NUSSELL:

H.R. 3576. A bill to amend the Harmonized Tariff Schedule of the United States to provide for a new subheading for certain log for- warders used as motor vehicles for the transport of goods for duty-free treatment consistent with other agricultural trade handling equipment; to the Committee on Ways and Means.

By Mr. EHLERS:

H.R. 3577. A bill to authorize appropriation to the Department of Transportation for surface transportation research and development, and for other purposes; to the Committee on Science.

By Mr. HONDA (for himself, Mr. TAUSCHER, Mr. CASE, Mr. ACEVEDO-VILA, Ms. LOFGREN, Mrs. JONES of Ohio, Mr. GEORGE MILLER of California, Mr. MEKES of New York, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEWIS of Georgia, Mr. BLUMENAUER, and Mr. ABERCROMBIE):

H.R. 3578. A bill to amend title 49, United States Code, to ensure the continuation of the transportation and traffic safety grant programs under the National Highway System Act, and for other purposes; to the Committee on Transportation and Infrastructure.
By Mr. ROYCE (for himself, Mr. KANJORSKI, Mr. LATOURETTE, and Mrs. MALONEY):
H.R. 1579. A bill to ease credit union regulatory burdens, advance credit union efforts to promote economic growth, and modernize credit union capital standards; to the Committee on Financial Services.

H.R. 3850. A bill to amend the Internal Revenue Code of 1986 to provide for the income tax treatment of fees awarded or received in connection with nonphysical personal injury cases; to the Committee on Ways and Means.

By Mr. BAKER:
H.R. 3851. A bill to amend title 28 of the United States Code with respect to venue in personal injury cases; to the Committee on the Judiciary.

By Ms. BALDWIN (for herself, Mr. SCOTT of Virginia, Ms. CARSON of Indiana, Mr. VAN HOLLLEN, Mr. HOFFEL, Mr. MCGOVERN, Mr. FROST, Mr. NORTON, Mr. MCDERMOTT, Mr. SERRANO, Mr. HUNTSMAN, Mr. PAYNE, Ms. LEE, Mr. MEEKS of New York, Mrs. JONES of Ohio, Ms. MCCULLOM, Mrs. MCDONNELL of New York, Ms. WOOLSEY, Mr. BACHUS, Ms. MAJETTE, Mr. HINOJOSA, and Mr. GRIJALVA):
H.R. 3852. A bill to amend the Elementary and Secondary Education Act of 1965 to prohibit federally subsidized credits, work-study, and supplemental educational services, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BARTLETT of Maryland (for himself, Mr. WYN, Mr. GILCHREST, Mr. CARDIN, Mr. HOYER, Mr. VAN HOOYDONK, Mr. PAYNE, Mr. ANN DAVIS of Virginia, Ms. NORTON, Mr. GOODE, Mr. RUPPERSBERGER, and Mr. MCGOVERN):
H.R. 3853. A bill to direct the Secretary of Homeland Security to establish an independent panel to assess the homeland security needs of the National Capital Region; to the Committee on Homeland Security (Select).

By Ms. BERKLEY:
H.R. 3854. A bill to amend title XVIII of the Social Security Act to increase the amount of payments to physicians for services under the Medicare Program and to provide regulatory relief and contracting flexibility under the Medicare Program; to the Committee on Energy and Commerce.

H.R. 3855. A bill to amend the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURGESS (for himself, Mr. PATTON of Texas, and Mr. SESSIONS):
H.R. 3856. A bill to require the Secretary of Transportation to develop and implement an environmental review process for safety emerging transportation projects; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CANTOR (for himself, Mr. WILSON of South Carolina, Mr. ROGERS of Michigan, Mr. SESSIONS, Ms. PRYCE of Ohio, Ms. DUNN, Mr. WICKER, Mr. HENEGHAN, Mr. EHLERS, Mr. CAMP, and Mr. POMEROY):
H.R. 3856. A bill to amend the Internal Revenue Code of 1986 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund by providing additional sources of revenue to the Fund, and for other purposes; to the Committee on Ways and Means.

By Mr. CASE (for himself and Ms. BORDOVA):
H.R. 3857. A bill to amend the Immigration and Nationality Act to give priority in the issuance of immigrant visas to the sons and daughters of retired or disabled uniformed services veterans who are or were naturalized citizens of the United States, and for other purposes; to the Committee on Homeland Security.

By Mrs. CHRISTENSEN (for herself, Mr. LEWIS of Georgia, Mr. MCGOVERN, Ms. JACKSON-LEE of Texas, Mr. WATT, Mr. WATSON, Ms. LEE, Mr. HASTINGS of Florida, Mr. GRAMM of Mississippi, Ms. MAJETTE, Ms. KILPATRICK, Mr. CLEBY, Mr. MEK of Florida, Ms. WATERS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WYN, Ms. CORRINE BROWN of Florida, Mr. JEFFERSON, Mr. PAYNE, Ms. CARSON of Indiana, and Mr. SCOTT of Virginia):
H.R. 3858. A bill to direct the Secretary of Health and Human Services to establish health empowerment zone programs in communities that disproportionately experience disparities in health status and health care, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. CHRISTENSEN:
H.R. 3859. A bill to create the Office of Chief Financial Officer of the Government of the Virgin Islands; to the Committee on Resources.

By Mr. CRAMER:
H.R. 3860. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax to encourage them to have their employees provide volunteer services that aid science, mathematics, and engineering education in grades K-12, to the Committee on Ways and Means.

By Mrs. CUBIN (for herself, Mr. JOHN, Mr. PICKERING, Mr. SIMPSON, Mr. ROGERS of Michigan, and Mr. MCGOVERN):
H.R. 3861. A bill to amend the Public Health Service Act with respect to health services for communities that disproportionately experience disparities in health status and health care, and for other purposes; to the Committee on Education and the Workforce.

By Mr. DAVIS of Florida:
H.R. 3862. A bill to amend the Higher Education Act of 1965 to provide funds for campus mental and behavioral health services centers to the Committee on Education and the Workforce.

By Mr. DAVIS of Illinois (for himself and Mr. OSBORNE):
H.R. 3863. A bill to amend the Higher Education Act of 1965 to provide funds for campus mental and behavioral health services centers to the Committee on Education and the Workforce.

By Ms. DEGETTE:
H.R. 3854. A bill to amend the Public Health Service Act with respect to the protection of human subjects in research; to the Committee on Energy and Commerce.

By Ms. DE LAURO (for herself, Mrs. HARRIS of Ohio, Mr. SANDERS, Mr. DELAHUNT, Ms. ROYBAL-ALLARD, and Ms. LEE):
H.R. 3864. A bill to amend the Child Care and Development Block Grant Act of 1990 to authorize financial assistance to permit infants to be cared for at home by parents; to the Committee on Education and the Workforce.

By Mr. DEMINT (for himself and Ms. SLAUGHTER):
H.R. 3856. A bill to amend the Internal Revenue Code of 1986 to repeal the medicine and drugs limitation on the deduction for medical care; to the Committee on Ways and Means.

By Mr. DOOLITTLE:
H.R. 3859. A bill to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct an feasibility study on the Alder Creek water storage and conservation project in El Dorado County, California, and for other purposes; to the Committee on Resources.

By Mr. EHLERS (for himself and Mr. UDALL of Colorado):
H.R. 3898. A bill to establish an interagency committee to coordinate Federal research and development resources and efforts in manufacturing, strengthen existing programs to assist manufacturing innovation and education, and expand outreach programs for small and medium-sized manufacturers, and for other purposes; to the Committee on Science.

By Mr. EMANUEL (for himself, Mr. FOLEY, Mr. STUPAK, Mr. CAMP, and Mr. LANTOS):
H.R. 3899. A bill to prevent corporate auditors from providing tax shelter services to their audit clients; to the Committee on Financial Services.

By Mr. ENGLE:
H.R. 3900. A bill to amend the Public Health Service Act to require health insurers to establish a Federal level deductible in case of subsequent issuance of similar health insurance policy by the same issuer to the same person; to the Committee on Energy and Commerce.

By Mr. ENGLISH (for himself and Mr. CARDIN):
H.R. 3901. A bill to amend the Internal Revenue Code of 1986 to require the health benefits of steel industry retirees by expanding the availability of the refundable tax credit to the health insurance costs paid by former workers; to the Committee on Ways and Means.

By Mr. FOSSELLA (for himself and Mrs. KELLY):
H.R. 3902. A bill to establish a grant program to provide comprehensive eye examinations to children, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GERLACH (for himself, Mr. MCGOVERN, Ms. BERKLEY, Ms. ROSELEHTINE, and Mr. GALLEGGY):
H.R. 3903. A bill to provide for the adjudication of claims of nationals of the United States against the Government of Iraq arising during the period beginning on May 16, 1987, and ending on May 1, 2003; to the Committee on International Relations.

By Mr. GOODLATTE (for himself, Mr. STEINHOLM, Mr. LUCAS of Oklahoma, Mr. GUTKNECHT, Mr. BLUNT, Mr. GALLEGGY, Mr. OSBORNE, Mr. BURNS, Mr. CHOCOLA, Mr. NICHOLS, Mr. NETHERCUTT, Mr. SMITH of Michigan, Mr. KINGSTON, Mr. BARTLETT of Maryland, Mr. BROWN of South Carolina, Mr. UPDEGROVE, Mr. CAMP, Mr. YOUNG of Alaska, Mr. COLLINS, Mr. BAKER, Mrs. JO ANN DAVIS of Virginia, Mr. DUNCAN, Mr. FORBES, Mr. GARRETT of New Jersey, Mr. HERGER, Mr. HOEKSTRA, Mr. JANKLOW, Mr. JONES of North Carolina, Mr. KELLER, Mrs. MILLER of Michigan, Mr. OXLEY, Mr. SOUDIER, Mr. TIBERI, and Mr. WICKER):
H.R. 3904. A bill to simplify the process for admitting temporary alien agricultural workers under section 1(a) of the Immigration and Nationality Act, to increase access to such workers, and for other
H.R. 3606. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty; to the Committee on Ways and Means.

H.R. 3614. A bill to ensure that the national instant criminal history check system provides the Federal Bureau of Investigation with information on approved firearms transfers to persons named in the Violent Gang Threat Focus File; to the Committee on the Judiciary.

H.R. 3615. A bill to authorize the Secretary of Defense to provide for family members of the Armed Forces for the cost of protective body armor purchased by or on behalf of the member; to the Committee on Armed Services.

H.R. 3616. A bill to establish the Commission on Preemptive Foreign Policy and Military Planning; to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HEFLY:

H.R. 3606. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty provision rules for Roth IRAs; to the Committee on Ways and Means.

H.R. 3607. A bill to amend the Internal Revenue Code of 1986 to provide a refundable tax credit to small businesses for the costs of qualified health insurance; to the Committee on Ways and Means.

H.R. 3608. A bill to amend the Internal Revenue Code of 1986 to provide a credit for employers for hiring newly employed, to the Committee on Ways and Means.

H.R. 3609. A bill to amend the Revised Statutes of the United States to eliminate the chilling effect on the constitutionally protected expression of religion by State and local government employers with regard to the establishment or maintenance of employee benefit plans; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 3610. A bill to amend the Internal Revenue Code of 1986 to replace the recapture bond with a trigger on the sale of the low income housing tax credit program; to the Committee on Ways and Means.

H.R. 3611. A bill to amend title 23, United States Code, to allocate transportation funds to metropolitan areas and increase planning funds to relieve metropolitan congestion, and for other purposes; to the Committee on Transportation and Infrastructure.

H.R. 3612. A bill to amend the Internal Revenue Code of 1986 to provide the disclosure of return information for student financial assistance purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 3613. A bill to amend the Internal Revenue Code of 1986 to provide for the disclosure of return information for student financial assistance purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York:

H.R. 3614. A bill to ensure that the national instant criminal history check system provides the Federal Bureau of Investigation with information on approved firearms transfers to persons named in the Violent Gang Threat Focus File; to the Committee on the Judiciary.

By Mr. LARSON of Connecticut:

H.R. 3615. A bill to authorize the Secretary of Defense to provide for family members of the Armed Forces for the cost of protective body armor purchased by or on behalf of the member; to the Committee on Armed Services.

H.R. 3616. A bill to establish the Commission on Preemptive Foreign Policy and Military Planning; to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MEEHAN (for himself and Mr. SHAW of Florida):

H.R. 3617. A bill to amend the Internal Revenue Code of 1986 to reform the system of public financing for presidential elections, and for other purposes; to the Committee on House Administration, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MENENDEZ (for himself, Mr. PAYNE of New Jersey, Ms. OWENS of Georgia, Mr. CLYBURN, and Mr. FATTAH):

H.R. 3618. A bill to ensure that all college students and their families have the tools and resources to adequately save for, finance, and repay their postsecondary and post-baccalaureate expenses; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California (for himself, Mr. GEPHARDT, Mr. BISHOP of Hawaii, Mr. KILDEE, Mr. KUCINICH, Mr. OWENS, Mr. GRIJALVA, Mr. DAVIS of Illinois, Ms. WOOLSEY, Mr. PAYNE, Ms. MCCOLLUM, Mr. TIENEN of New York, Mr. ANDREWS, Mr. RYAN of Ohio, Mr. VAN HOLLEN, Mr. HOLT, Mr. WU, Mr. HINOJOSA, Mr. KIND, Ms. PELOSI, Mr. MATSU, Ms. KILPATRICK, Mr. HOLTEN, Ms. CARSON of Indiana, Ms. SCHAKOWSKY, Mr. SABO, Mr. MICHAUD, Mr. DELAHUNT, Mr. PETITTS, Mr. CASERTA, Mr. PETTENSHY, Mr. HOEFFEL, Mr. MCNULTY, Ms. LINDSAY of New York, Mr. MOODY, Ms. MALONEY, Mr. SCHULER, Mr. MILLER of Texas, Mr. AREVALO, Mr. MOJAVE, Mr. KLUG, Mr. HERNANDEZ of California, Mr. HINEY, Mr. BAIRD, Mr. RUSH, Mr. KING of New York, Mr. LYNCH, Ms. MILLER-DONALDSON, Mr. LANTOS, Mr. ALLEN, Mr. RODRIGUEZ, Mr. DE LAURO, Mr. MANZullo, Mr. CLYBURN, Mr. FATTAH, Mr. MOONEY of Florida, Mr. LANDENBERGER, Mr. STEFFEN, Mr. REILLY, Mr. DAVIES, Mr. LENTZ, Mr. KILDER, Mr. KOCH, Mr. WEXLER, Mr. LEVIN, Mr. WEBER, Mr. CONYERS, Mr. JACKSON of Illinois, Mr. MCGOVERN, Mr. STARK, Mr. EVANS, Mr. NYE, Mr. RAZA, Mr. DEUTCH, Ms. LEE, Ms. CORRIE, Brown of Florida, Mr. CARDOZA, Mr. MEEHAN, Mr. SIMMONS, Mr. HASTINGS of Florida, Mr. LANGEVIN, Mr. WAXMAN, Mr. CHRISTENSEN, Mr. PASCARELLI, Mrs. JONES of Ohio, Mr. SMITH of New Jersey, Mr. HONDA, and Mr. PASTOR):

H.R. 3619. A bill to amend the National Labor Relations Act to establish an efficient and better enabling employees, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices that are directly and for other purposes; to the Committee on Education and the Workforce.

By Mr. NEAL of Massachusetts:

H.R. 3620. A bill to provide for a REMF treatment for certain tuna; to the Committee on Ways and Means.

By Mr. NETHERCUTT:

H.R. 3621. A bill to extend the grace period for personal watercraft use in Lake Roosevelt National Recreation Area; to the Committee on Resources.

By Ms. NORTON (for herself, Mr. HOYER, Mr. WYNN, Mr. MORAN of Virginia, and Mr. VAN HOLLEN):

H.R. 3622. A bill to enable the Federal Water Pollution Control Act and the Water Resources Development Act of 1992 to provide for the restoration, protection, and enhancement of the environmental integrity and social and economic benefits of the Anacostia Watershed in the State of Maryland and the District of Columbia; to the Committee on Transportation and Infrastructure.

By Mr. RODRIGUEZ (for himself, Mr. PAYNE of New York, Mr. DELAY, Mr. RH迈科, Mr. BELL, and Mr. OWENS):

H.R. 3623. A bill to amend the Internal Revenue Code of 1986 to facilitate the procurement of safe food by hospitals, nursing homes, schools, and child care facilities; to the Committee on Energy and Commerce.

By Ms. SCHAKOWSKY (for herself, Ms. SOLIS, Ms. CARSON of Indiana, Mr. MEEHAN, Mr. SIMMONS, Mr. HASTINGS of Florida, Mr. LANGEVIN, Mr. WAXMAN, Mr. CHRISTENSEN, Mr. PASCARELLI, Mrs. JONES of Ohio, Mr. SMITH of New Jersey, Mr. HONDA, and Mr. PASTOR):

H.R. 3624. A bill to amend the Employee Retirement Income Security Act of 1974 to increase the maximum levels of guaranteed single-employer plan benefits, and for other purposes; to the Committee on Education and the Workforce.

By Mr. DEGETTE:

By Mr. RODRIGUEZ (for himself, Mr. PAYNE of New York, Mr. DELAY, Mr. RH迈科, Mr. BELL, and Mr. OWENS):

H.R. 3625. A bill to amend the Internal Revenue Code of 1986 to establish the El Camino Real de los Tejas as a National Historic Trail; to the Committee on Resources.

By Mr. SAXTON:

H.R. 3626. A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail; to the Committee on Resources.

By Ms. SCHAKOWSKY:

H.R. 3627. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the procurement of safe food by hospitals, nursing homes, schools, and child care facilities; to the Committee on Energy and Commerce.
November 21, 2003

CONGRESSIONAL RECORD—HOUSE

H12309

NADLER, Ms. NORTON, Mrs. JONES of Ohio, Ms. DELAURO, and Mr. HINCHENY: H.R. 3629. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Solid Waste Disposal Act to establish prohibitions and requirements relating to armor, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself, Mr. INSLEE, Mr. PRICE of North Carolina, and Mr. GREEN of Wisconsin).

H.R. 3630. A bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site, to the Committee on House Administration.

By Mr. SHERMAN:

H.R. 3631. A bill to prohibit the collection, by interactive video-related service providers, of personally identifiable information regarding the viewing choices of subscribers to such services; to the Committee on Energy and Commerce.

By Mr. SMITH of Texas (for himself, Mr. KELLER, Mr. WEEXLER, Mr. GOODLATTE, Mr. GALLEGLY, and Mr. PORTMAN): H.R. 3632. A bill to prevent and punish counterfeiting of copyrighted copies and phonorecords, and for other purposes; to the Committee on the Judiciary.

By Mr. SOUDER (for himself, Mr. HASTERT, Mr. DELAY, Mr. BLUNT, Mr. CANTOR, Mr. COX, Mr. DREIER, Mrs. MILLER of New York, Mr. DEMIENT, Mr. KING of New York, Ms. DUNN, Mr. BURTON of Indiana, Mr. CRANE, Mr. WILSON of South Carolina, Mr. J. O ANN of Davis of Virginia, Mr. CARTER, Mr. GOODE, Mr. LINDER, Mr. ROHRABACHER, Mr. GALLEGLY, Mr. DOOLITTLE, Mr. COMBO, Mr. HUNTER, Mr. FRANKS of Arizona, Mr. AKIN, Mr. FEEENEY, Mr. BUYER, Mr. TIHART, Mr. BRADY of Texas, Mr. CHOCOLA, Mr. CULBERSON, Mr. BURGESS, Mr. CUNNINGHAM, Mr. PARKER, Mr. DEFIANT, Mr. KING of New Jersey, Mr. WELLER, Mr. GIBBONS, Mr. LINCOLN-DIAZ-BALART of Florida, Mr. KENNEDY, Mr. DUNGAN, Mr. PEREIRA, Mr. HERGER, Mr. THORNberry, Mr. HOSTETTLE, Mr. TOOMEY, Mr. GARRETT of New Jersey, Mr. KINGSTON, Mr. NORWOOD, Mr. TERRY, Mr. BISHOP of Utah, Mr. MCKEON, Mr. OSE, Mr. MANZULLO, Mr. OSBORNE, Mr. BOOZMAN, Mr. SHADEEG, Mr. WAMP, Mr. NOLAN, Mr. RADANOVICH, Mr. PEARCE, Mr. WELDON of Florida, Mr. LAHOOD, Mr. MARIO-DIAZ-BALART of Florida, Ms. GINNY BROWN-WAITE of Florida, Mr. TERRIL, Mr. THOM, Mr. HOEKSTRA, Mr. FORBES, Mr. TAUZIN, Mr. PAUL, Mr. ISSA, Mr. RAMSTAD, Mrs. MUSGRAVE, Mr. SESSIONS, Mr. OTTER, Mr. CRENshaw, Mr. WALDEN of Oregon, and Mr. SHMUKS): H.R. 3633. A bill to provide for die coin to bear the likeness of President Ronald Reagan, the Freedom President, in honor of President, in keeping with his work in restoring American greatness and bringing freedom to captive nations around the world; to the Committee on Financial Services.

By Mr. SOUDER (for himself, Mr. CUMMINGS, Mr. TOM DAVIS of Virginia, Mr. SCOTT of Virginia, Mr. BUTLER, Mr. TERRY, Mr. ACEVEDO-VILA, Mr. SESSIONS, Mr. PORTMAN, and Mr. BOOZMAN):

H.R. 3634. A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TIERNEY (for himself, Mr. MCDERMOTT, Mr. KENNEDY of Rhode Island, Mr. FROST, Mrs. CHRISTENSEN, Mr. JEFFERSON, and Mr. MCNULTY):

H.R. 3635. A bill to amend the Social Security Act to provide for coverage under the Medicare Program of chronic kidney disease patients who are not end-stage renal disease patients; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 3636. A bill to amend the Public Health Service Act to prohibit health discrimination against individuals and their spouses, by the Department of Defense, for other purposes; to the Committee on Energy and Commerce.

By Mr. STEAUX (for himself, Mr. SKELETON, Mr. COOPER, and Mr. GEORGE MILLER of California):

H.R. 3637. A bill to amend title 10, United States Code, to increase the risk of illness and the minimum end strength level for active duty personnel for the Army, and for other purposes; to the Committee on Armed Services.

By Mr. THOMPSON of California:

H.R. 3638. A bill to adjust the boundary of Redwood National Park, State of California, and for other purposes; to the Committee on Resources.

By Mr. TIJARTE: H.R. 3639. A bill to extend the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes; to the Committee on Ways and Means.

By Mr. TIERNEY (for himself, Mr. MEEKS of New York, Mr. GEORGE MILLER of California, Mr. ACEVEDO-VILA, Mr. ORTIZ-CORDERO-MCDONALD, Mr. DELAHUNT, Mr. MCCGOVERN, Mr. OWENS, Mr. FRANK of Massachusetts, and Ms. WOOLSEY):

H.R. 3640. A bill to provide for the Commissioner of Labor Statistics to develop a methodology for measuring the cost of living in each State, and to require the Comptroller General to determine if the Federal benefits would be increased if the determination of those benefits were based on that methodology; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURTON of Utah, Mr. MCKEON, Mr. OSE, Mr. MANZULLO, Mr. OSBORNE, Mr. BOOZMAN, Mr. SHADEEG, Mr. WAMP, Mr. NOLAN, Mr. RADANOVICH, Mr. PEARCE, Mr. WELDON of Florida, Mr. LAHOOD, Mr. MARIO-DIAZ-BALART of Florida, Ms. GINNY BROWN-WAITE of Florida, Mr. TERRIL, Mr. THOM, Mr. HOEKSTRA, Mr. FORBES, Mr. TAUZIN, Mr. PAUL, Mr. ISSA, Mr. RAMSTAD, Mrs. MUSGRAVE, Mr. SESSIONS, Mr. OTTER, Mr. CRENshaw, Mr. WALDEN of Oregon, and Mr. SHMUKS):

H.R. 3641. A bill to require the Secretary of State to prepare an annual report on progress made to eradicate poppy cultivation in Afghanistan; to the Committee on International Relations.

By Ms. WATERS (for himself, Mr. CROWLEY, Mr. ISRAEL, Mr. NADLER, Mr. BERKLEY, Mr. FOLEY, Mrs. McCARTHY of New York, Mrs. MALONEY, Mr. HILL, Mr. MCNULTY, Mr. FRANK of Massachusetts, Mr. WAXMAN, Mr. SANDLIN, Mr. STRICKLAND, Mrs. TAUSCHER, Mr. EMANUEL, Mr. BISHOP of Georgia, Mr. MATSUI, Mr. CARDOZA, Mr. RUSH, Mr. DEUTSCH, Mr. MARKEY, Mr. GARRETT of New Jersey, Mx. ANDREWS, and Mr. FERGUSON):

H.R. 3642. A bill to halt Saudi support for terrorists that fund Governance and encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents; to the Committee on International Relations.

By Mr. WELDON of Pennsylvania (for himself and Mr. ANDREWS):

H.R. 3643. A bill to establish a technology, equipment, and information transfer program within the Department of Homeland Security; to the Committee on Science, and for other purposes; to the Committees on the Judiciary, Energy and Commerce, Transportation and Infrastructure, and Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska: H.R. 3645. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to clarify the definition of 'essential fish habitat', and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Florida: H.J. Res. 79. A joint resolution making further continuing appropriations for the fiscal year 2004, and for other purposes; to the Committee on Appropriations, considered and passed.

By Mr. DELAY: H.J. Res. 80. A joint resolution appointing the day for the convening of the second session of the One Hundred Eighth Congress; considered and passed.

By Mr. OWENS:

H.J. Res. 81. A joint resolution proposing an amendment to the Constitution of the United States limiting the number of consecutive terms that a Senator or Representative may serve, and for other purposes; terms for Representatives; to the Committee on the Judiciary.

By Mr. LANTOS (for himself and Mr. KOCH):

H. Con. Res. 336. Concurrent resolution expressing the sense of Congress that the continued participation of Russia in the Group of 8 nations should be conditioned on the Russian Government voluntarily accepting and adhering to the norms and standards of democracy as determined by the Committee on International Relations.

By Mrs. KELLY: H. Con. Res. 337. Concurrent resolution expressing the sense of the Congress that raising awareness and working to prevent suicide in the United States are worthy goals,
and supporting the goals and ideals of National Survivors of Suicide Day, observed annually on the Saturday before Thanksgiving, to the Committee on Energy and Commerce.  

H. Con. Res. 338. Concurrent resolution commemorating the 15th anniversary of Rebuilding Together, encouraging people to come together for its service, and encouraging Americans to volunteer with Rebuilding Together and similar community organizations, to the Committee on Financial Services.  

By Mr. DELAY:  

H. Con. Res. 339. A concurrent resolution providing for the date of adjournment of the first session of the One Hundred Eighth Congress; considered and agreed to.  

By Mr. ANDREWS:  

H. Con. Res. 340. Concurrent resolution expressing the sense of Congress that the people of Taiwan should be able to conduct referendums in freedom without the threat of force; to the Committee on International Relations.  

By Ms. HOOLEY of Oregon (for herself, Mr. WALDEN of Oregon, Mr. BLUMENAUER, Mr. Wu, and Mr. DEFAZIO):  


By Mrs. MALONEY (for herself, Mrs. BIGGERT, and Ms. HOOLEY of Oregon):  

H. Con. Res. 342. Concurrent resolution condemning the Iraqi women for their participation in Iraqi government and civil society, encouraging the inclusion of Iraqi women in the political and economic life of Iraq, and advocating the protection of Iraqi women's human rights in the Iraqi Constitution; to the Committee on International Relations.  

By Mr. MCGOVERN (for himself, Mr. Sweeney, Mr. Capuano, Mr. McDermott, Ms. Slaughter, Mr. Sanders, Mr. Grijalva, Mr. Kucinich, Mr. Evans, Mr. Israel, Ms. Kaptur, Mr. Etheridge, Mr. Hinchey, Mr. Blumenauer, Mr. Oberstar, Mr. Ford, Mr. Lantos, Mr. Abercrombie, Mr. Moore, Mr. Reyes, Mrs. J. Jones of Ohio, Mr. Michaud, Mr. Conyers, Mr. Strickland, Mr. Lipinski, Mr. G. H. E. C. Guel, Mr. Brady of Pennsylvania, Mr. Skelton, Mrs. Maloney, Mr. Bishop of New York, Mr. Obey, Mr. Towns, Mr. Meeks, Mr. Bordallo, Mr. Delauro, Mr. Levin, Mr. Payne, Mr. Hastings of Florida, Mr. Obey, Ms. Kilpatrick, Mr. Markey, Mr. Pascrell, Mr. Kennedy of Rhode Island, Mr. Engel, Mr. Kildee, Mr. Walden, Mr. Dicks, Mr. Stark, Ms. Lee, Ms. Linda T. Sanchez of California, and Ms. Carson of Indiana):  

H. Con. Res. 343. Concurrent resolution affirming the support of Congress for preserving President Franklin D. Roosevelt's profile on the dime because of its innumerable contributions to and lasting impact on the Nation; to the Committee on Financial Services.  

By Mr. MEEKS of New York (for himself and Mr. Conyers):  

H. Con. Res. 344. Concurrent resolution expressing the sense of the Congress that American Prisoners of War (POWs) and Former Servicemen and Women (FOSs) of the 1991 Gulf War and their immediate family members should be adequately compensated, without delay, for their suffering and injury, as determined by United States District Court for the District of Columbia; to the Committee on International Relations.  

By Mr. ISSA (for himself, Mr. Filner, Mr. Lewis of California, Mr. Ballenger, Mr. Boni, Mr. Emanuel, Mr. Houghton, Mr. Terry, Mr. Smith of Michigan, Mr. Moran of Virginia, Mr. Pitts, Mr. Bartlett of Maryland, Mr. Gillmor, Mr. Cunningham, Mr. Young of Alaska, Mr. Reyes, Mr. Conyers of California, Mr. Rahall, and Mr. Blumenauer):  

H. Res. 462. A resolution supporting the vision of Israelis and Palestinians who are working toward a pragmatic, historic, and just solution for achieving peace, and for other purposes; to the Committee on International Relations.  

By Mrs. SOLIS (for herself, Mr. Reyes, Mr. Ramstad, Ms. Slaughter, Mrs. Capito, and Mr. Rodriguez):  

H. Res. 463. A resolution conveying the sympathy of the House of Representatives to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes; to the Committee on International Relations.  

By Mr. GONZALEZ (for himself, Mr. Smith of Florida, Mr. Rodriguez, Mr. Lampson, and Mr. Bell):  

H. Res. 467. A resolution commending the astounding work of the Southwest Research Institute in discovering the cause of the Columbia space shuttle disaster; to the Committee on Science.  

By Mr. GRAVES:  

H. Res. 468. A resolution expressing disapproval of the consideration by the Supreme Court of the United States of foreign laws and public opinion in their decision of the Golan Heights case, and of this practice immediately to avoid setting a dangerous precedent, and urging all Justices to base their opinions solely on the merits under the Constitution of the United States, to the Committee on the Judiciary.  

By Mr. JONES of North Carolina:  

H. Res. 469. A resolution to authorize and direct the Committee on Appropriations to create a new Subcommittee on Veterans' Affairs; to the Committee on Rules.  

By Ms. ROS-LEHTINEN:  

H. Res. 470. A resolution expressing gratitude to Israeli law enforcement officers for their service in the counterterrorism and control of illegal immigration; and in addition to the Committee on the Judiciary.  

By Ms. KOOPMAN (for herself, Mr. Gonzalez of Texas, Mr. Rodriguez of Texas, Mr. Ose of California, and Ms. Slaughter):  

H. Res. 471. A resolution congratulating residents of Simeon Stoyanova, to the Committee on the Judiciary.  

By Mr. DAVIS of Illinois:  

H. Res. 472. A resolution providing for the consideration of the bill H.R. 3495 to the Committee on Rules.  

MEMORIALS  

Under clause 3 of rule XII, memorials were presented and referred as follows:  

By Ms. CARSON of Indiana:  

H. R. 546. A bill for the relief of Adela and Darryl Bailor; to the Committee on the Judiciary.  

By Mr. DAVIS of Illinois:  

H. R. 547. A bill for the relief of Roger Paul Kozik; to the Committee on the Judiciary.  

By Mr. DAVIS of Illinois:  

H. R. 548. A bill for the relief of Alzoubi Muhammad; to the Committee on the Judiciary.  

By Mr. DAVIS of Illinois:  

H. R. 549. A bill for the relief of Stryon Simeonov Stoyanov; to the Committee on the Judiciary.  

ADDITIONAL SPONSORS  

Under clause 7 of rule XII, sponsored bills and resolutions were added to public bills and resolutions as follows:  

H. R. 211. Mr. Evans, Mrs. Maloney, Ms. Velazquez, Mr. Serrano, Mr. Clay, Mr. Ballance, Ms. Corrine Brown of Florida, Mr. Scott of Virginia, Mr. Hastings of Florida, Mr. Rush, and Mr. Nadler.  

H. R. 303. Mr. Jackson of Illinois.  

H. R. 433. Mr. Gerlach.  

H. R. 434. Mr. Ferguson and Mr. Ryan of Wisconsin.  

H. R. 476. Mr. Lowydo.  

H. R. 488. Mr. Lewis of Kentucky.  

H. R. 498. Mr. Garrett of New Jersey.  

H. R. 527. Mr. Schiff and Mr. Van Hollen.  

H. R. 548. Mr. Delahunt.  

H. R. 571. Mr. Hensarling.  

H. R. 713. Mr. McCollum and Mr. Baird.  

H. R. 728. Mr. Hensarling, Mr. Tiberi, and Mr. Burgess.  

H. R. 742. Mr. Delahunt.  


H. R. 785. Mr. Snyder and Mr. Jackson of Illinois.  

H. R. 813. Mr. Delahunt.  


H. R. 819. Mr. Doggett.  

H. R. 822. Mr. Neal of Massachusetts.  

H. R. 839. Mr. Edwards.  

H. R. 857. Mr. Emanuel, Mr. Matsui, Mr. Payne, Ms. Corrine Brown of Florida, Ms. Killick, Ms. Waters, Mr. Lewis of Kentucky, Mr. Ferguson, Mr. Becerra, Mr. Meehan, Ms. McCollum, and Mr. Green of Texas.  

H. R. 861. Mr. Corrine Brown of Florida, Mr. Kildee, Mr. Sabo, Mr. Thompson of Mississippi, Mr. Nadler, and Mr. Ryan of Ohio.
H. R. 918: Mr. Ryan of Wisconsin, Mr. Ross, Mr. Costello, Mr. Walsh, Mr. Rodgers of Kentucky, Mr. Smith of New Jersey, Mr. Camp, Mrs. Jones of Ohio, Mr. Boswell, Mr. Barton of Texas, and Mr. Gillmor.

H. R. 926: Mr. Goode.

H. R. 933: Mr. Gutiérrez.

H. R. 962: Mr. Frost and Mr. Thompson of Mississippi.

H. R. 990: Mr. Cantor.

H. R. 1029: Mr. Towns.

H. R. 1034: Mr. Serrano, Mr. Gonzalez, Mr. Bermudez, Mr. Nadler, and Ms. Corrine Brown of Florida.

H. R. 1083: Mr. Walden of Oregon and Mr. Bishop of Georgia.

H. R. 1117: Mr. Van Hollen.

H. R. 1125: Mr. Manzullo.

H. R. 1154: Mr. Everett.

H. R. 1157: Ms. Loretta Sanchez of California.

H. R. 1227: Mrs. Blackburn, Mr. Kline, and Mr. Garrett of New Jersey.

H. R. 1258: Mr. Abercrombie.

H. R. 1267: Mr. Meeks of New York and Mr. Ortega of Florida.

H. R. 1279: Mr. Jackson of Illinois.

H. R. 1287: Mr. Peterson of Pennsylvania.

H. R. 1316: F. Cost.

H. R. 1336: Mr. Jackson of Illinois, Mr. Israel, and Mr. Turner of Texas.

H. R. 1345: Mr. Hernandez.

H. R. 1363: Mr. Jackson of Illinois, Mr. Deal of Georgia, and Mr. Johnson of Illinois.

H. R. 1398: Mr. Gonzalez.

H. R. 1403: Mr. Neugebauer, Mrs. Blackburn, and Mr. Crane.

H. R. 1405: Ms. Carson of Florida, Mr. Carper, and Mr. Johnson of North Carolina.

H. R. 1423: Mr. Rice.

H. R. 1428: Mr. Sanford.

H. R. 1460: Mr. Cunningham.

H. R. 1469: Mr. Mukasey.

H. R. 1472: Mr. Langevin.

H. R. 1477: Mr. Jackson of Illinois.

H. R. 1501: Mr. Miller of Florida, Mr. Putnam, and Mr. Leach.

H. R. 1504: Mr. Cardin.

H. R. 1509: Mr. Rodriguez and Mr. Brady of Texas.

H. R. 1511: Mr. Delahunt.

H. R. 1527: Mr. Solis.

H. R. 1539: Mr. Owens.

H. R. 1573: Mr. Corrine Brown of Florida, Ms. Hart, and Mr. Simpson.

H. R. 1580: Ms. Israel and Ms. LoFGren.

H. R. 1689: Mr. Lewis of Georgia.

H. R. 1702: Mr. Shuster and Mr. Hall.

H. R. 1703: Mr. Oliver.

H. R. 1704: Mr. Burgess.

H. R. 1705: Mr. Capps.

H. R. 1702: Mr. Ballance, Bishop of Georgia, Mr. Edwards, Mr.icks, Mr. Taylor of North Carolina, Mr. Cramer, Mr. Doyle, Mr. Clyburn, Mr. Boswell, and Mrs. Lowey.

H. R. 1706: Mr. Tierney.

H. R. 1707: Mr. Isakson.

H. R. 1710: Mr. Everett.

H. R. 1715: Mr. Abercrombie and Mr. Issa.

H. R. 1716: Mr. Hyde.

H. R. 1717: Mr. Stupak, Mr. Acevedo-Vila, Mr. Brady of Pennsylvania, and Mr. Turner of Texas.

H. R. 1721: Mr. Delahunt, Mr. Neal of Massachusetts, and Mr. Slager.

H. R. 1729: Mr. Schiff, Mr. Michaud, Ms. McGovern, Mr. Udall of Colorado, Mr. Tierney, and Ms. Slager.

H. R. 2096: Mr. Watson, Mr. Stupak, and Mr. Bishop of New York.

H. R. 2435: Mr. Gutiérrez.

H. R. 2437: Ms. Carson of Indiana.

H. R. 2448: Mr. Miller of Florida, Mr. Putnam, and Mr. Leach.

H. R. 2454: Mr. Cardin.

H. R. 2459: Mr. Rodriguez and Mr. Brady of Texas.

H. R. 2451: Mr. Delahunt.

H. R. 2457: Mr. Solis.

H. R. 2459: Mr. Owens.

H. R. 2467: Mr. Goodlatte.

H. R. 2469: Mr. Rush.

H. R. 2479: Mr. Case.

H. R. 2473: Mr. Otter.

H. R. 2480: Mr. Wexler.

H. R. 2481: Mr. Wexler.

H. R. 2482: Mr. Bilirakis and Mr. Delahunt.

H. R. 2483: Mr. Wexler.

H. R. 2484: Mr. Wexler.

H. R. 2485: Mr. Bilirakis and Mr. Delahunt.

H. R. 2486: Mr. Wexler.

H. R. 2487: Mr. Bilirakis and Mr. Delahunt.

H. R. 2488: Mr. Walsh.

H. R. 2489: Mr. Gutiérrez.

H. R. 2489: Mr. Owens.

H. R. 2506: Ms. Berkley.

H. R. 2509: Mr. Goodlatte.

H. R. 2512: Mr. Goodlatte.

H. R. 2513: Mr. Issa.

H. R. 2514: Ms. Lee and Mr. Gonzalez.

H. R. 2519: Mr. Ackerman.

H. R. 2521: Mr. Wamp.

H. R. 2525: Mr. Dreier.

H. R. 2528: Ms. Roybal-Allard, Ms. Slaughter, and Mr. Kucinich.

H. R. 2529: Mr. Frost, Mr. Filner, Mr. Rangel, and Mr. Ose.

H. R. 2559: Mr. Langevin, Ms. Carson of Indiana, and Mr. Walsh.

H. R. 2560: Mr. Capehart, Mr. Capps, Ms. Carole M.expr, and Mr. Ortiz.

H. R. 2566: Mr. Delahunt, Mr. Neal of Massachusetts, and Mr. Slager.

H. R. 2577: Mr. Capps and Mr. Schiff.

H. R. 2578: Mr. Lantos and Ms. Schakowsky.

H. R. 2579: Mr. Johnson of Illinois.

H. R. 2580: Mr. Ryan of Wisconsin, Mr. Hoeffel, Ms. Carole M.expr, and Mr. Ortiz.

H. R. 2589: Ms. Delaur, Mr. Meeks of New York, Mr. Allen, Mr. Owens, and Ms. Linda T. Sanchez of California.

H. R. 2590: Mr. Patrick, Mr. Kirk, Mr. Bishop of New York, and Mr. Ortiz.

H. R. 2591: Mr. Pastor.
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.

Creator of all life, Who satisfies the longings of our souls, thank You for Your faithfulness, which is as enduring as the Heavens. Your peace radiates in our hearts on wings of faith, hope, and love.

Bless our Senators. Strengthen them for today’s challenges. Energize them so that they are more than a match for these momentous times. May they soar on eagle’s wings. May they run and not be weary. May they walk and not faint. When they are lost, provide them with direction. Show them duties left undone. Remind them of promises yet to keep, and reveal to them tasks unattended.

Enrich us all with Your loving presence. We pray this in Your hallowed 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. Mr. President, this morning the Senate will resume consideration of the Energy conference report. There will be 60 minutes of debate prior to the vote on the motion to invoke cloture. Therefore, the first vote of today’s session is expected to occur shortly after 10:30.

At this point, I ask unanimous consent that the live quorum that is required under rule XXII be waived.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.
Mr. FRIST. Mr. President, I urge my colleagues this morning to vote for closure. I will say more just before the vote. But I do encourage Members to weigh very carefully the vote that will be taken in about an hour.

This bill is a balanced approach to ensuring this country's energy security through this national energy policy.

If cloture is invoked, we will work with Members to establish a time certain for the vote on passage of this conference report.

In addition, throughout the afternoon we will attempt to clear any additional conference reports that may arise from the House.

I will update everyone on the schedule later today as we watch the progress on the remaining legislative items.

MODIFICATION OF AMENDMENT NO. 2208

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding passage of H.J. Res. 78, the previous agreed to amendment No. 2208 be modified with changes that are at the desk.

Mr. REID. Mr. President, we have no objection.

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

The amendment (No. 2208), as modified, is as follows:

On page 2, line 7, strike "23" and insert "24".

On page 2, line 1, strike "24" and insert "24".

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, while the majority leader is on the Senate floor, before we begin the final hour of debate on this important issue, I think the last 2 days have been some of the finest hours of the Senate this year. The debate has been constructive on both sides. I think it has been issue-oriented. I have been very impressed with the manner in which the debate has proceeded. The two managers of the bill are, of course, both experienced, and I am confident that the debate for the next hour will be just as constructive.

We have our time lined up. Everyone is here to make their speeches.

I look forward to a vigorous debate and a vote in about an hour.

RESERVATION OF LEADER TIME

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

ENERGY POLICY ACT OF 2003—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 6, which the clerk will report.

The legislative clerk read as follows:

Conference report to accompany H.R. 6, an act to enhance energy conservation and restructure and refine the existing energy sector of our economy, and to restructure and reframe the Energy Policy Act of 2003, to increase energy security and diversity and the energy for the American people, and for other purposes.

The PRESIDENT pro tempore. Under the previous order, there will now be 60 minutes equally divided between the chairman and ranking member of the Energy Committee, and the final 10 minutes will be divided with the first 5 minutes under the control of Senator BINGAMAN and the final 5 minutes under the control of the Senator from New Mexico, Mr. DOMENICI.

Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, we are in the final hour of debate on probably one of the most important policy issues to come before this Senate in a good number of years. The Senator from Nevada has talked about the quality of the debate and the detail of the debate. Certainly, that is true.

I yield to the chairman of the committee, Senator Domenici.

Mr. Domenici. Mr. President, I want to make sure that we understand the timing. I asked Senator CRAIG if he would come to the Senate floor so I could give him some time. I wonder if 5 minutes would be enough.

I yield 5 minutes to the Senator.

The PRESIDENT pro tempore. The Senator from Idaho is recognized for 5 minutes.

Mr. Domenici. I thank the Chair.

Mr. CRAIG. Mr. President, what we are attempting to do for the American people is allow them, their country, and the energy sector of our economy to get back into the business of producing energy. We may well be faced with some of the highest natural gas prices that any consumer will have paid in the United States this winter. If we have a cold winter, it will be time for those who are paying exorbitant energy bills to ask a fundamental question: Why? Why is the public policy of this country unable to come up with our energy needs.

Today we have changed that. Today we have said all areas of the country can have high-quality, low-cost energy in all kinds of forms.

The Energy Policy Act of 2003 continues that most important economic legacy for this country—to assure that we continue our traditional energy sources but, with new technologies and cleaner approaches, that we invest money in new technologies so that the next generation of Americans can have the same abundance of energy that I have had and that my father had before me.

It would be an absolute tragedy if in the fine ticking of all of the issues within this very large bill someone collectively decides to vote against it because they do, they ought to go home and try to explain why in February or March of this year their constituents are continuing to pay ever increasing higher rates, or why there was a blackout in the Northeast this year, or why the brownouts in California have picked a very small piece of this bill, less than one-half of 1 percent of the whole bill.

This bill is a balanced approach to ensuring this country's energy security through this national energy policy.

If cloture is invoked, we will work with Members to establish a time certain for the vote on passage of this conference report.

In addition, throughout the afternoon we will attempt to clear any additional conference reports that may arise from the House.

I will update everyone on the schedule later today as we watch the progress on the remaining legislative items.

MODIFICATION OF AMENDMENT NO. 2208

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding passage of H.J. Res. 78, the previous agreed to amendment No. 2208 be modified with changes that are at the desk.

Mr. REID. Mr. President, we have no objection.

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

The amendment (No. 2208), as modified, is as follows:

On page 2, line 1, strike "23" and insert "24".

On page 2, line 1, strike "24" and insert "24".

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, while the majority leader is on the Senate floor, before we begin the final hour of debate on this important issue, I think the last 2 days have been some of the finest hours of the Senate this year. The debate has been constructive on both sides. I think it has been issue-oriented. I have been very impressed with the manner in which the debate has proceeded. The two managers of the bill are, of course, both experienced, and I am confident that the debate for the next hour will be just as constructive.

We have our time lined up. Everyone is here to make their speeches.

I look forward to a vigorous debate and a vote in about an hour.

RESERVATION OF LEADER TIME

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

ENERGY POLICY ACT OF 2003—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 6, which the clerk will report.

The legislative clerk read as follows:

Conference report to accompany H.R. 6, an act to enhance energy conservation and restructure and reframe the Energy Policy Act of 2003, to increase energy security and diversity and the energy for the American people, and for other purposes.

The PRESIDENT pro tempore. Under the previous order, there will now be 60 minutes equally divided between the chairman and ranking member of the Energy Committee, and the final 10 minutes will be divided with the first 5 minutes under the control of Senator BINGAMAN and the final 5 minutes under the control of the Senator from New Mexico, Mr. DOMENICI.

Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, we are in the final hour of debate on probably one of the most important policy issues to come before this Senate in a good number of years. The Senator from Nevada has talked about the quality of the debate and the detail of the debate. Certainly, that is true.

I yield to the chairman of the committee, Senator Domenici.

Mr. Domenici. Mr. President, I want to make sure that we understand the timing. I asked Senator CRAIG if he would come to the Senate floor so I could give him some time. I wonder if 5 minutes would be enough.

I yield 5 minutes to the Senator.

The PRESIDENT pro tempore. The Senator from Idaho is recognized for 5 minutes.

Mr. Domenici. I thank the Chair.

Mr. CRAIG. Mr. President, what we are attempting to do for the American people is allow them, their country, and the energy sector of our economy to get back into the business of producing energy. We may well be faced with some of the highest natural gas prices that any consumer will have paid in the United States this winter. If we have a cold winter, it will be time for those who are paying exorbitant energy bills to ask a fundamental question: Why? Why is the public policy of this country unable to come up with our energy needs.

Today we have changed that. Today we have said all areas of the country can have high-quality, low-cost energy in all kinds of forms.

The Energy Policy Act of 2003 continues that most important economic legacy for this country—to assure that we continue our traditional energy sources but, with new technologies and cleaner approaches, that we invest money in new technologies so that the next generation of Americans can have the same abundance of energy that I have had and that my father had before me.

It would be an absolute tragedy if in the fine ticking of all of the issues within this very large bill someone collectively decides to vote against it because they do, they ought to go home and try to explain why in February or March of this year their constituents are continuing to pay ever increasing higher rates, or why there was a blackout in the Northeast this year, or why the brownouts in California have picked a very small piece of this bill, less than one-half of 1 percent of the whole bill.

This bill is a balanced approach to ensuring this country's energy security through this national energy policy.

If cloture is invoked, we will work with Members to establish a time certain for the vote on passage of this conference report.

In addition, throughout the afternoon we will attempt to clear any additional conference reports that may arise from the House.

I will update everyone on the schedule later today as we watch the progress on the remaining legislative items.
Mr. THOMAS. Mr. President, I am proud to come to the Senate and urge my colleagues to vote for cloture and allow the Senate to move toward final passage for this important bill.

The PRESIDENT pro tempore. The Chairman from New Mexico is recognized for 5 minutes.

Mr. BINGAMAN. Mr. President, as a member of the energy committee who has worked very hard with both the distinguished Senators from New Mexico, Mr. BINGAMAN and Mr. DOMENICI, as well as the former chair from Alaska, Senator Murkowski, trying to fashion a bill that balances the great interests of every region of this country, I am proud to come to the Senate and urge my colleagues to vote for this Energy bill.

There are provisions that should be in this bill that are not. There are many aspects of this bill that I would have written differently. However, the fact is, as any member on the Energy and Natural Resources Committee can state, we have had hours and hours, maybe hundreds of hours, of hearings on how we create a more realistic, sustainable energy plan for America—beyond what is being said on the floor. It does not roll back the economy despite what is being said on the floor. It does conserve. We have conservation methods included. What is most important in terms of the environment is a good deal of renewable development so we can have energy from our largest fossil fuel, coal, and do it in a way that is clean for the air. We will hear that it amounts to politics regarding MTBE, which is a very small aspect of this.

We need to have an energy policy for our country. We must have an energy policy. Now is our opportunity to have an energy policy. Certainly we ought to at least be able to vote to have an up-or-down vote on this issue.

The PRESIDENT pro tempore. Who yields time?

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum and time be charged equally.

The PRESIDENT pro tempore. The time yields back to the Senator from Wyoming.

Mr. BINGAMAN. I yield the remainder of my time.

The PRESIDENT pro tempore. The Senator from New Mexico is recognized for 3 minutes.

Mr. THOMAS. Mr. President, I am excited about the opportunity we have today to finally, after a number of years, come forward with a broad, comprehensive energy policy.

We ought to give a little thought to where we will be in the future as individuals, as families, think about the energy we use, the energy we need, where it will come from. Our demands go up, yet we do not really have a policy.

Nothing is more important to the economy than having accessible energy and jobs. This bill creates a great number of jobs. It is a policy on conservation. It includes the types of equipment we use. It includes renewables, with a good many dollars spent for renewables. We talk of alternative fuels. We talk about domestic production. It does not roll back the economy despite what is being said on the floor. It does conserve. We have conservation methods included. What is most important in terms of the environment is a good deal of renewable development so we can have energy from our largest fossil fuel, coal, and do it in a way that is clean for the air. We will hear that it amounts to politics regarding MTBE, which is a very small aspect of this.

We need to have an energy policy for our country. We must have an energy policy. Now is our opportunity to have an energy policy. Certainly we ought to at least be able to vote to have an up-or-down vote on this issue.

The PRESIDENT pro tempore. Who yields time?

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum and the time be charged equally.

Ms. LANDRIEU. Mr. President, as a member of the energy committee who has worked very hard with both the distinguished Senators from New Mexico, Mr. BINGAMAN and Mr. DOMENICI, as well as the former chair from Alaska, Senator Murkowski, trying to fashion a bill that balances the great interests of every region of this country, I am proud to come to the Senate and urge my colleagues to vote for this Energy bill.

There are provisions that should be in this bill that are not. There are many aspects of this bill that I would have written differently. However, the fact is, as any member on the Energy and Natural Resources Committee can state, we have had hours and hours, maybe hundreds of hours, of hearings on how we create a more reliable electricity structure in this Nation, how we try to use our great natural resources in a better fashion to help create the energy this country needs to be more independent and more economically competitive.

I come from the State of Louisiana, which is a net exporter of energy. We do a lot of energy production in Louisiana, not just in oil and gas but cogeneration. We have municipal as well as private companies, public companies, municipal generators of electricity. We drill for a lot of oil and gas. We are not a mining State in that sense, like the West, but we mine our resources and we do a much better job than we did 10 years ago and a heck of a lot better job than people think.

Why? Because the United States has some of the toughest, most stringent environmental laws in the world when we take our coal out of the ground or when we drill off our shore. The Shell spill cost billions of dollars. If they put all the oil they spilled off the coast of Louisiana in a container, it would not fill up the bottom fourth of a barrel.

There are people in the Senate who think we cannot mine our resources in a way that protects our environment. Do we have a perfect system? No. It is one of the best in the world. Absolutely. So this Senator and this Democrat is for using our natural resources in a way that helps meet the energy demands of this Nation.

This country consumes more energy per capita than any nation in the world. As far as I am concerned, we have an obligation to produce it. Some people think we must con-sume, consume, consume and not produce anything. One of the most extraordinary aspects about this bill is streamlining of regulations, trying to untie people’s lands so we can appropriately extract natural resources, clean coal, have good technology off our shores, and use that money to invest in our environment.

People say the Senator from Louisiana is on the floor because Louisiana gets money out of this bill. The State gets some help. We deserve some help because for 50 years we have sent over $140 billion of this Nation’s treasury off the shores of Louisiana. That is not pocket change.

We have saved the redwood forests, and we have funded the whole land and water conservation funding for the Nation. Now we have an opportunity to take a portion of that money and save the wetlands of America. It is not Louisiana’s wetlands. This is the largest delta in the continental United States, and it is in crisis. It is washing away. The chairman from New Mexico came to see it. He does not need to read a book or anything about it; he has seen it.

So, yes, we have some resources, a tiny percentage of the money that comes out of the great natural resources of the Gulf of Mexico, not to give this Senator any special project, because I sure do not have any special sweet deal. The deal I have cut for my State, which the Senator knows, is to save these wetlands, where migratory birds for the whole Nation go, and fisheries off the coast of the Gulf of Mexico, from the east coast to the west coast.

So there are lots of good things in this bill. I know we have problems with MTBE. I know we have problems. I am
very disappointed in the hydrogen section that would have helped us move to hydrogen cars. I am very disappointed. The ranking member fought very hard for renewable portfolio standards, and I am disappointed that his language was stripped out.

But I can tell you, the chairman from New Mexico has fought like a tiger to get a balanced bill. The fact is, we are not divided Democrat against Republican; we are divided regionally.

Mr. President, I ask unanimous consent for 60 more minutes.

The President pro tempore. Senator's time has expired.

Ms. LANDRIEU. Thank you. I urge Democrats and Republicans to support Senator's time has expired.

The President pro tempore. Is there objection? Without objection, it is so ordered. Ms. LANDRIEU. Mr. President, I know people have come down here and complained about standard market design. I realize the Senators from the Northeast are concerned about the language that has been put in this bill. But I will tell you, the reason the language has been put in the bill like this is that there are Southerners who are generating a lot of electricity. Why? Because we are drilling, and we are producing, and we are building plants in the South. And I will be darned if our ratepayers have to pick up the tab to send your electricity to the Northeast. They need to be doing a better job of building plants and laying down pipelines.

I have more pipelines in Louisiana per capita than any State in the Union. If you took an x-ray of the country, you would be shocked. Like a little skeleton, you could see the pipelines under Louisiana. We cannot build any more. And do not believe we are taking the gas from those pipelines. We are sending it all over the country. We are happy to. But we cannot pay for all of it. We have to share the costs in an appropriate way.

So I say to my Democratic colleagues, when they say there is nothing in the bill for Democrats, may I please remind them there is no drilling—30 more seconds—there is no drilling in the bill in ANWR. Mr. McCAIN. Mr. President, I had an opportunity earlier this week to speak about this bill, but I think so much is objectionable in this legislation that I am compelled to expend a little more energy on it.

I have listened to my colleagues' statements, and I have yet to hear any plausible, substantiated argument in support of ethanol. Even my colleagues from corn-producing States who have indicated that this bill has not been able to identify one benefit ethanol provides the American taxpayers, who pay dearly for it—includ-ethanol with this bill, the way it was developed. A secretive, exclusive process has led to a 1,200-page monstrosity that is a complete conservative and support the pro- the taxpayers in those corn-producing States. The President pro tempore. Who yields time?

Mr. DOMENICI. The President pro tempore. Mr. President, I yield the Senator from Arizona 6 minutes.

Mr. McCAIN. Mr. President, I yield the Senator from Arizona.

Ms. LANDRIEU. Thank you. Mr. President, I urge unanimous consent for 60 more minutes—there is no drilling in this bill in ANWR.

Mr. McCAIN. Mr. President, I had an opportunity earlier this week to speak about this bill, but I think so much is objectionable in this legislation that I am compelled to expend a little more energy on it.

I have listened to my colleagues' statements, and I have yet to hear any plausible, substantiated argument in support of ethanol. Even my colleagues from corn-producing States who have indicated that this bill has not been able to identify one benefit ethanol provides the American taxpayers, who pay dearly for it—"taxpayer interests, predominantly one big corpora-

Mr. DOMENICI. Mr. President, I say to the distinguished Senator from Louisiana, I am very pleased I got to know you in the past year and a half. I do not think we would have had a chance to meet each other but for the energy crisis, I visited your State. And everything is on the floor time after time, about what is going to happen in your State because of what is happening to the water line is true. We can kill this bill and kill that. You know how long you have been waiting for it. Ms. LANDRIEU. Fifty years.

Mr. DOMENICI. And you are going to wait 60 more because there is nobody going to pass another bill like this with these kinds of things in it for a long time. Why do I know that? Because I have been through it. And every time we just about get there, somebody has some objection, and we have a big hole, it all falls in, and nothing gets done.

The President pro tempore. The Senator's time has expired.

Mr. DOMENICI. I say to the Senator, thank you for your effort. I appreciate it.

The President pro tempore. Who yields time?

Mr. BINGAMAN. Mr. President, I yield the Senator from Arizona 6 minutes.

Mr. DOMENICI. Mr. President, I say to the distinguished Senator from Louisiana, I am very pleased I got to know you in the past year and a half. I do not think we would have had a chance to meet each other but for the energy crisis, I visited your State. And everything is on the floor time after time, about what is going to happen in your State because of what is happening to the water line is true. We can kill this bill and kill that. You know how long you have been waiting for it.

Ms. LANDRIEU. Fifty years.

Mr. DOMENICI. And you are going to wait 60 more because there is nobody going to pass another bill like this with these kinds of things in it for a long time. Why do I know that? Because I have been through it. And every time we just about get there, somebody has some objection, and we have a big hole, it all falls in, and nothing gets done.

The President pro tempore. The Senator's time has expired.

Mr. DOMENICI. I say to the Senator, thank you for your effort. I appreciate it.

The President pro tempore. Who yields time?

Mr. McCAIN. Mr. President, I yield the Senator from Arizona 6 minutes.

Mr. BINGAMAN. Mr. President, I yield the Senator from Arizona 6 minutes.

The President pro tempore. Who yields time?

Mr. DOMENICI. The President pro tempore. Mr. President, I yield the Senator from Arizona 6 minutes.

Mr. BINGAMAN. Mr. President, I yield the Senator from Arizona 6 minutes.

The President pro tempore. Who yields time?

Mr. DOMENICI. The President pro tempore. Mr. President, I yield the Senator from Arizona 6 minutes.

Mr. BINGAMAN. Mr. President, I yield the Senator from Arizona 6 minutes.

The President pro tempore. Who yields time?

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Mr. DOMENICI. The President pro tempore. Mr. President, I yield the Senator from Arizona 6 minutes.

Mr. BINGAMAN. Mr. President, I yield the Senator from Arizona 6 minutes.

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Mr. BINGAMAN. Mr. President, I yield the Senator from Arizona 6 minutes.

The President pro tempore. Who yields time?

Mr. DOMENICI. The President pro tempore. Mr. President, I yield the Senator from Arizona 6 minutes.

Mr. BINGAMAN. Mr. President, I yield the Senator from Arizona 6 minutes.

The President pro tempore. Who yields time?

Mr. DOMENICI. The President pro tempore. Mr. President, I yield the Senator from Arizona 6 minutes.

Mr. BINGAMAN. Mr. President, I yield the Senator from Arizona 6 minutes.

The President pro tempore. Who yields time?
Ms. CANTWELL. Mr. President, I know we have had a healthy debate on this issue and in a few minutes we will probably have one of the closest votes this body has seen in a while. But I want to make one point clear this morning. That is, whatever side you are on: Whether you are on the side of ratepayers and consumers in making sure we have a national energy policy that works or whether you are going to give in to the special interests and big companies who are here to make sure the last minute deals on the table, ripping other bills with projects that will convince Members to switch over at the last minute instead of standing up for the public.

When the Vice President started this effort, he said, “We are going to have a national energy policy,” quoting from his report that a lot of people took pride in, thinking that somehow this was going to play a leadership role in an energy policy for the 21st century.

In that report, the Vice President said:

- It envisions a comprehensive long-term strategy that uses leading edge technology to produce an integrated energy, environmental, and economic policy to achieve a 21st century economy-enhanced by renewable energy and a clean environment. We must modernize conservation, modernize our infrastructure, increase energy supply, including renewable fuels, accelerate the protection and improvement of our environment, and increase greater energy security.

That is what the Vice President’s goal and objectives were. Unfortunately, this bill cannot defy gravity. It is so weighted down with special interest pork subsidies and things that Americans are going to be shocked to see that this bill needs to fail.

We have all heard about the subsidies in the energy bill, the incentives, mostly going to the fossil fuel industry. We have heard about the exemptions for Texas. Here it is that we are trying to come up with an electricity title that somehow makes everything else accountable and accountable with electricity, but we are going to exempt Texas.

Also, the overturning of various environmental laws—why is it that every other business in America, whether a high-tech firm or a farmer, has to comply with environmental laws, but somehow we are going to let new construction of oil, gas, and coal out of the mandates of the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and some of our rules on public lands?

As I said yesterday, one of the biggest tragedies of this bill is the missed opportunity for jobs. We could have had an energy bill that would have provided for a natural gas pipeline out of Alaska that would have benefited many in this country as far as job creation is concerned. It would have benefited many of us in the Northwest in getting off our overreliance on hydro energy.

We missed an opportunity in planning for the hydrogen economy; 750,000 jobs could have been created in the next 10 years by having a vision. Not just one line in a State of the Union speech about a hydrogen car, but instead a plan with specifics and incentives so the United States could be a world leader in the hydrogen fuel economy. That is not what is in this bill.

I woke up this morning to read in the Seattle Post-Intelligencer online an article that was entitled “The Energy Bill, It Would Be A Hoot, If It Wasn’t So Sad.”

In that article it says:

- Vice President Dick Cheney, whose secretive energy task force crafted much of the energy bill in consultation with industry executives, is coming to our Washington next month for a GOP fundraiser. I would advise the Vice President not to come and talk about his energy policy in the Northwest.

The PRESIDENT. The Senate has used 4 minutes. Ms. CANTWELL. I ask for an additional 30 seconds.

Ms. CANTWELL. This bill hasn’t gotten the attention it deserves. But one thing is clear: Members are going to be held accountable for whose side they are on. The energy policy of this administration has fleeced Northwest ratepayers from essential dollars and now this bill promotes that policy further by giving in to special interests. This bill should fail.

The PRESIDENT. The minority leader.

Mr. DASCHLE. Mr. President, I will use my leader time so as not to take away from the time allotted to those who wish to speak.

America needs a comprehensive national energy plan that increases our energy independence, that creates jobs, that lowers energy prices for consumers, and that is environmentally and fiscally responsible.

We have been trying in the Senate for 3 years to pass such a plan. Regrettably, this is not that plan. This plan will move America forward in some ways, but it falls far short of a comprehensive approach to America’s energy needs. In fact, it does not even attempt to address some of our most pressing problems. And it is extremely generous to a variety of special interests.

I am greatly disappointed by the number of opportunities we are missing here.

This bill fails to significantly reduce America’s growing dependence on foreign oil.

Today, our Nation imports 60 percent of our oil, much of it from some of the most volatile and dangerous areas on Earth. Over the next 10 years, the United States is expected to consume roughly 1.5 trillion gallons of gasoline.

The Republicans in the House and Senate who wrote this conference report actually rejected measures that...
would have reduced our dependence on foreign oil.

They rejected efforts to mandate oil savings.

The authors of this conference report also rejected a common-sense plan to address America’s projected natural gas shortage.

They killed tax incentives needed for construction of a pipeline to bring natural gas from Alaska to the lower 48 States.

The provision, which was contained in the Senate passed bill, was dropped in conference. And, when Senator Bingaman offered a motion in conference to restore it—in the one meeting of Conferrees to discuss substantive issues—that motion was defeated on a straight party line vote, with the seven Republican Senate conferees voting against it.

The Alaska Natural Gas Pipeline would have been the largest construction project ever in this country. It would have been about 850 miles long, divided into 53 Senators who said this provision should be in the final bill.

Last year, and again this year, the Senate passed energy bills that reduced our dependence on foreign oil by bringing Alaska gas directly to the Midwest.

The pipeline would also have created hundreds of millions of dollars. In fact, this conference report also fails to address the problems that led to the catastrophic energy crisis California experienced, and the blackout that left nearly one-third of the country without electricity this past summer.

In addition, this bill actually repeals existing consumer protections—and does nothing to prevent a repeat of the Enron schemes that cost consumers hundreds of millions of dollars. In fact, this bill could make such schemes more likely by tying the hands of regulators.

This bill fails to include a renewable portfolio standard that would diversify America’s sources of electricity. The Senate-passed energy bill includes a requirement that 10 percent of America’s electricity come from renewable sources, such as wind and solar. This would increase our energy security and create new jobs and opportunities in America’s rural communities.

The people who wrote this bill ignored 53 Senators who said this provision should be in the final bill.

Last year, and again this year, the Senate passed energy bills that reflected the growing scientific and bipartisan consensus that the threat of global climate change is real and, unless we act, will have devastating consequences for our children and grandchildren.

This bill simply ignores that fact.

Many important provisions that the Senate passed with strong bipartisan support are nowhere to be found in this bill.

But there are many provisions that are in this conference report that were not even debated in either the House or the Senate. They were simply added in a back room.

One of the most egregious is the retroactive liability protections for MTBE manufacturers.

Forty-three states have problems with contaminated groundwater as a result of MTBE.

The National Conference of Mayors estimated clean-up costs at $29 billion. This bill dumps those costs on local taxpayers, by granting immunity from liability to the polluters.

In fact, this bill provides retroactive liability protection to MTBE producers dating back to September 5 of this year.

It is no coincidence that this is one day before the State of New Hampshire filed its lawsuit against companies responsible for the contamination of groundwater by MTBE.

The authors of this conference report know that provisions like this could not survive open debate. That is why they chose to write this bill in secret.

This process began in secrecy—with Vice President Cheney’s energy task force, and it has been conducted in secrecy.

Democrats in Congress were shut out. The American people were shut out. That is not the way to debate a matter that is so critical to our Nation’s security.

Even as we faced these obstacles, we were able to make some important improvements over the bill we were originally given.

Against great odds, we succeeded in protecting the Arctic National Wildlife Refuge from oil drilling.

We increased efficiency standards for appliances and machinery, and increased investments in research and development of new energy-saving technologies.

This bill also makes an historic commitment to expanding the use of renewable energy sources by nearly tripling the use of ethanol.

This is important to the people of South Dakota and many other farm States. And it is important to our national energy security.

A year and a half ago, President Bush came to South Dakota. We visited an ethanol plant in Wentworth. The President said: “[ethanol is] important for the agricultural sector of our economy; it’s an important part of making sure we become less reliant on foreign sources of energy.”

I agree. I’ve been fighting for ethanol and other renewable fuels for over 20 years.

Nearly tripling America’s use of ethanol will create 214,000 new jobs and produce $5.3 billion in new investments in America.

It will significantly reduce greenhouse gas emissions. And it will save $4 billion in imported oil each year.

Ethanol comes from American farmers and producers, passes through American refineries, and fuels American energy needs. No soldier will have to fight overseas to protect them. And no international cartel can turn off the spigot on us.

I understand and respect my colleagues who oppose this bill. There is much in this conference report that is objectionable.

Despite secrecy, the partisanship and the shortcomings in this bill, I will vote to invoke cloture—reluctantly—because America needs to improve its energy situation, and I think this provision takes a few steps forward.

However, the people who wrote this bill must understand that a vote for this bill is not a vote of support for their radical energy agenda that some of it includes.

We can—and indeed must—revisit the shortcomings in this bill. We must re-examine the MTBE liability waiver, the effects of this legislation on environmental laws and consumer protections.

I intend to press these issues in the next session of this Congress and for as long as it takes to get it right.

So I will vote for this bill. But I tell my colleagues—especially those who were involved in its drafting—that this bill could have been much better, and the American people deserve better from us in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. Craig. Mr. President, I commend to my colleagues the 9th Report on Carcinogens 2000, as it relates to MTBE. This report is a product of the U.S. Department of Health and Human Services, Public Health Service, which says that it is not carcinogenic. It is a true ground water pollutant, but there is no indication of a carcinogenic effect.

Mr. Domenici. How much time remains on each side?

The PRESIDING OFFICER. There are 14 minutes for the Senator from New Mexico, and 15 minutes for the other side.

Mr. Bingaman. Mr. President, I yield 4 minutes to the Senator from New York, Mr. Schumer.

Mr. Schumer. Mr. President, I rise in strong opposition to this legislation, and I have fervent hopes that we will not invoke cloture.

Mr. President, this bill is bad for what is in it and bad for what is not in it. I don’t know which is worse. It is bad for what is in it because there are so many provisions that don’t make much sense that are done to help one State or another but don’t really add up to a national policy.

It is particularly bad for what is in it because the MTBE provision is one of the worst provisions that has come down the legislative pike in decades. To tell homeowners who have lost their homes that they cannot take a shower, to tell homeowners who have lost their homes that they cannot take a shower, and I have fervent hopes that we will not invoke cloture.

Mr. President, this bill is bad for what is in it because there are so many provisions that don’t make much sense that are done to help one State or another but don’t really add up to a national policy.

And I have fervent hopes that we will not invoke cloture.
even though the MTBE producers knew the stuff was bad and didn’t inform anybody—is an outrage.

Some say the Government authorized MTBE. Then let the Government help the homeowners who don’t have Enron, we have had the blackout. And we do virtually nothing to deal with the aftermath of all three of those.

There is no conservation in the bill. There is no real dealing with the Enron excesses. The committee reverses the blackout, we take a baby step that utilities okayed but not what we have to do. Great nations have failed when faced with a crisis and they refused to grapple with it. That is what is happening here.

This bill, whether it passes or fails, will be deeply regretted 5 years from now for what it does and what it does not do.

Mr. President, when pork is used to grease a policy along, well, that is not good. But when pork is used as a substitute for policy, that can be disastrous. I argue that in this case that is what has happened. I had wished that we had a real energy policy in this bill.

My colleagues are all people of good faith. Both Senators from New Mexico, the Senator from Iowa, and the Senator from Montana have all tried their best. Unfortunately, at a time when America demands a thoughtful and far-reaching energy policy, this proposal, as now amended, delivers little bags of goodies instead, and is a proposal that strikes a very good balance between conventional energy, alternative renewable energies, and conservation.

I thank Senator Baucus for working with me and every member of this committee on its priorities. I also thank the Democratic staff for its hard work in helping us put together a bipartisan bill that may now be destroyed because of a Democratic filibuster.

First and foremost, we have an expansion of credit for wind energy. Back in 1992, I was the first to offer this proposal. Now we have an important expansion of this production credit to cover, in addition to wind, biomass, geothermal, and solar energy. The energy crisis prices are a matter of national security, we need to reduce our dependence on foreign oil. That means all domestic energy sources—green or otherwise—are fair game.

Along those lines, we have a new tax credit for biodiesel fuel that is included in this bill. The conference report contains several provisions that enhance tax incentives for ethanol production because it is a clean-burning fuel that will continue to be a key element in our transportation fuels needs.

We also remove in this bill the prejudice against ethanol for highway trust fund purposes by providing a tax credit for ethanol production. When we complete those provisions, we have a new tax credit for bio diesel fuels that will be included in this bill.

This bill also provides an effective small producer tax credit.

With this bill, ethanol will be treated as all other energy incentives. It will be derived from the general fund. Ultimately, all communities, rural and urban, will get more highway money if this bill passes. If you care about highway money for your local roads, you should vote for this.

There are a number of other good provisions in this bill that benefit agriculture, clean coal, and new technologies for gas production. The bill, in other words, is balanced with new energy conservation measures, as well as alternative renewable fuels.

We have an opportunity—almost the last opportunity—to do what it takes to get this bill passed. We are responding to national priorities. There is no going back to the House for another chance.

I ask all Senators to think long and hard about what this vote today represents. This is an historical moment. It is as if we are on the last steps of a trail to the top of a big mountain that we have climbed. We can either take the next few steps and enjoy the view or we can jump off the side of the mountain. There is no going back down the trail.

For Senators from my part of the world, the grain growing regions of the Midwest, the choice is easy. This bill contains production incentives for ethanol, biodiesel and other renewable energy sources—the best ever for Senators from other energy-producing regions, such as the Gulf States, the Southwest, the Rocky Mountains, and the Appalachians. The bill moves the ball forward on energy production.

The Finance Committee has a history in the area of energy-related tax policy. Almost one decade ago, my committee put its imprint on a comprehensive energy-related tax policy. Back in 1992, I was the first to offer this proposal. Now we have an important expansion of this production credit to cover, in addition to wind, biomass, geothermal, and solar energy. That is what is happening here.

Mr. President, when pork is used to grease a policy along, well, that is not good. But when pork is used as a substitute for policy, that can be disastrous. I argue that in this case that is what has happened. I had wished that we had a real energy policy in this bill.

Mr. President, when pork is used to grease a policy along, well, that is not good. But when pork is used as a substitute for policy, that can be disastrous. I argue that in this case that is what has happened. I had wished that we had a real energy policy in this bill.

The Finance Committee has a distinctly different history in the area of energy-related tax policy. Almost one decade ago, this committee put its imprint on a comprehensive energy-related tax policy. Back in 1992, this committee put its imprint on a comprehensive energy-related tax policy.

As the President has wisely said, as a matter of national security, we need to reduce our dependence on foreign oil. That means all domestic energy sources, green and otherwise, are fair game.

Along those lines, we have a new tax credit for biodiesel fuel that is included in this bill. The conference report contains several provisions that enhance tax incentives for ethanol production because it is a clean-burning fuel that will continue to be a key element in our transportation fuels needs.

We also remove in this bill the prejudice against ethanol for highway trust fund purposes by providing a tax credit for ethanol production. When we complete those provisions, we have a new tax credit for bio diesel fuels that will be included in this bill.

The conference report contains several provisions that enhance the tax incentives for ethanol production. Ethanol is a clean burning fuel that will continue to be a key element in our transportation fuels policy.

We remove the prejudice against ethanol for highway trust fund purposes by providing a tax credit for ethanol production. This bill, for the most part, is very good for the green growing regions of the Midwest. The choice is easy. This bill contains those production incentives for ethanol, biodiesel, and other renewable energy sources—the best ever for Senators from other energy-producing regions, such as the Gulf States, the Southwest, the Rocky Mountains, and the Appalachians. The bill moves the ball forward on energy production.
coal, and new technologies for gas production. The bill is balanced with new energy conservation measures as well.

So, to sum up, we have an opportunity to do what we should do. We are responding to a national priority, energy security, in a balanced and comprehensive way. We are leveraging the energy-producing States had on this bill. As the lead negotiator on the Senate side for the tax provisions, let me tell you it was not easy. The Ways and Means Committee likes oil—they don't like clean-burning ethanol. It was a difficult conference. We will not get this chance again.

So, for my friends on both sides of the aisle, especially those from the Midwest, this is the time to show your cards. Let us know whether you are with farmers or with other interests.

As I said, at the start, we are on the last steps of the trail to the mountain top. There is no looking back now. A vote for cloture completes the journey.

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

Mr. GRASSLEY. We either pass this bill or the good provisions in it for ethanol are lost forever.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, I yield 5 minutes to the Senator from Illinois, Mr. DURBIN.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the ranking member for yielding. I spoke on 2 successive days on this bill, and I feel strongly about it. I spent 20 years in Congress supporting ethanol and I believe in it. I think it is important to help our farmers, to improve our economy, reduce our dependence on foreign oil, and, possibly, to build a trading coal mine in some States. We are going to build all sorts of shopping centers. It goes on and on. I am no babe in the woods. I have served in Congress and on the Appropriations Committee long enough to have an eye for pork like every Member of the Senate and the House, but I have to agree with the Senator from New York. If giveaways turn out to be a substitute for energy policy, then we have devalued the American public. We need to have leadership on this issue, and we do not.

The single worst part of this bill, as far as I am concerned, the most shameless aspect of this bill is found in section 1502. It is the most egregious giveaway I have ever seen in my time on Capitol Hill because in a dark room, the people who wrote this conference report said to the major oil companies and some major chemical companies that they would protect them from liability to the public with which they sold, which has contaminated water supplies across America. They have said that for families and individuals whose health and homes have been damaged by MTBE as a contaminant, they are going to close the courthouse doors. They are going to lock the doors and say to those families: You are going to have to bear these losses and these medical bills on your own. What is shameless is that it is included in here should be enough for every Senator to vote against this bill.

To add insult to this injury, there is a $2 billion Federal subsidy for the MTBE producers and industry, not just protecting them in court for their wrongdoing but giving them a lavish Federal subsidy. What does it come down to? Who are the big winners in this bill? It is obvious: Big oil companies, big energy companies, the chemical producers, K Street, and the muscle men on Capitol Hill.

Who are the big losers in this bill? Families with kids who have asthma, who will find more air pollution, which will mean that their kids have to stay home from school; families with water supplies contaminated by MTBE, which make their homes uninhabitable and they have no recourse to go to court to have these oil companies held accountable. Basically, the biggest loser in this bill is Americans who expected more from this Congress, who expected leadership and vision and instead have a very sorry work product which should be defeated.

Mr. BINGAMAN. Mr. President, how much time remains on the two sides?

The PRESIDING OFFICER. The junior Senator from New Mexico has 6½ minutes. The senior Senator from New Mexico has 9 minutes 45 seconds.

Mr. BINGAMAN. I suggest the assistant legislative clerk proceed to call the roll.

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

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

Mr. BINGAMAN. Mr. President, we have come to the point of deciding whether to vote to send this bill to the President for his signature or to effectively shut this Congress down, regroup, and pursue another strategy.

Those of us who are about to vote against cloture do so not because we are against having an Energy bill but because we are against having this Energy bill. A view has been stated over the last few days that this particular conference report, even with its problematic provisions and its excess spending, is the only option available if we wish to deal with energy problems in the 21st century.

It is argued that if we do not pass this bill today, then energy is dead as an issue for this Congress. In my view, that is not a logical conclusion to reach. We are not at the end of this Congress. We are reaching the midpoint in this Congress. There is nothing magical about having to pass energy legislation in odd-numbered years.

The Energy Policy Act of 1992, which was the last fairly comprehensive bill passed through this Congress, was put to final passage a few weeks before the Presidential election in that year. There is a broad consensus in the Senate for enacting actual energy legislation. We know this is true. Three and a half months ago, we passed an Energy bill by a margin of 84 to 34. That bill would have made 35 trillion cubic feet of Alaskan natural gas available to the country, which was not the consensus. That bill would have saved twice as much energy as this conference report is projected to save. That bill gave a real
boost to renewable energy in the production of electricity. It took a modest first step toward dealing with the reality of global warming. It did not undercut the National Environmental Policy Act. It did not roll back the Clean Air Act. It did not exempt any one from the Clean Water Act. It was $10 billion lighter on the tax side than this legislation before us. It was another $3 billion lighter on the direct spending portion of the bill. It did not undo the effects of buying new electric transmission to consumers who do not get the full benefit of that transmission. It did not contain embarrassing tax giveaways such as a proposal to build a mall for a Hooters restaurant. It was a reasonably good bill.

I have served on the Committee on Energy and Natural Resources for 19 years. That is longer than any Member of my party in the Senate. I did not get on that committee to filibuster Energy bills. I went on the committee to pass good energy legislation. The reason so many of us believe we should pass this Energy bill is that many of the provisions that caused the earlier bill I referred to to pass with 84 votes 3½ months ago have been deleted in conference and an array of irrelevant and objectionable provisions have been added. It is almost as if a calculation had been made that as long as we stuck ethanol provisions into the bill and kept provisions out that would open the Arctic National Wildlife Refuge to drilling, then there would be 80 votes for passage of the bill and no one would look too much at the other details and no one would be concerned about the other effects of the legislation.

Well, we are about to test that proposition. It turns out to be wrong. If it turns out to be a miscalculation and cloture cannot be invoked on this bill, this morning, then our job on energy will not be done in this Congress.

If it turns out to be a miscalculation, then our job on energy will not be done in this Congress. Energy policy is a big hole, both Democrats and Republicans, not the Democrats; for the farmers, the Republicans; for the farmers who are looking to see who is for the farmers, once and for all. The farmers who are looking to see who is for the farmers, once and for all. The farmers who are looking to see who is for the farmers, once and for all.

Mr. DOMENICI. How much time do I have remaining?

The PRESIDING OFFICER. Nine minutes.

Mr. DOMENICI. I yield 1 minute to Senator BURNS.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my good friend from New Mexico for yielding.

I want to say one thing, and that is that the general premise of this bill is in the right direction. The emphasis is on renewables and things we can do that are good for the environment and still produce energy. All this other chaff and dust that has been kicked up around it that some opponents such as myself move in the right direction can be dealt with later, but the general premise of the bill is good because a balance is there in the areas in which most of us really believe.

Let us not take our eye off the ball. Let us move it on down the field under a premise of developing a policy and a way to not only deal with the environment but also produce energy.

I tell my colleagues, we can deal with those things that are objectionable at a later time, but we must move in this kind of a direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Has Senator Burn’s minute expired?

The PRESIDING OFFICER. Yes. Mr. DOMENICI. Mr. President, first of all, there are a lot of people to thank for getting us where we are. We are a long way from where we started. I want to thank them. In particular, on the Democratic side I thank the distinguished Senator from Louisiana—from the very beginning; thank you very much for all your help and all the others who put a lot of work into this.

I regret very much the statements that this bill was done in privacy and secrecy, in some way different in terms of a conference than most conferences around here. But I would like to tell the Senate, energy is a big hole in the Congress. Energy policy is a big hole, and we keep dropping problems in it but we never solve them.

Everyone talks about conservation and renewables, but we happen to be talking about those and production. As somebody produces and they are somebody produces and they are, they are certainly nonprofit corporations. So as soon as you say “produce and we’ll give you an incentive,” you are “giving money to big companies.” You are giving it to companies who will do the job and wouldn’t otherwise do it.

I want to repeat, for everybody, the history. Last year we could not write a bill in committee. My good friend, Senator BINGAMAN, talks about how poorly we conducted ourselves. They couldn’t write a bill in committee. So we wrote it on the Senate floor. Do you all remember that? We all wrote it down here, that we had to write an Energy bill on the Senate floor because we couldn’t write it in committee.

Then what happened? We went to conference with the House. And, boy, if it was ever a storybook conference, it was wide open. And it took month after month, and guess what happened, Senator BURNS—zero. Nothing was done. So there is another one, the big hole succumbed to the House of America. We had a conference. We had it open.

This Senator decided that to do it that way would yield nothing. For the first time I decided that we should write the bill differently and we should conference it differently. This bill was put on the Internet. In fact, that is the first time in history that a conference report was on the Internet. Anybody who wanted to read this bill had weeks and weeks to read all but the last 25 percent. It was on the Internet. It was delivered to every single office. If you didn’t read it, that is not my fault. Then for the last part we gave the opposition 48 hours’ notice on the Internet to every office.

Do you know, this bill was more discussed by the press, piece by piece, than any conference report in the history of America? You will never find a conference report that is reported piecemeal in the media of America. You will never find a conference report that is reported piecemeal in the media of America. Where was the most important provision ever thought up for the farmers? Everybody knew about it. The problem is, just as before, the Democrats didn’t like it. Yet they offered amendments. For not knowing anything about it, the Democrats offered 21 amendments, or at least he had them ready. We discussed them. The fact they didn’t win them, does that mean the bill is no good? What would you expect when you go to conference? I heard somebody say we should have passed the 15 or 20 percent mandates for renewables. Yes, we should have. We did in our committee. But what do you know about it, the House said no. Not only “no,” but “absolutely no.” So what do we do, throw the bill out? Of course not.

We have the most powerful renewable provisions in history.

I want to tell everybody the true facts. I think we worked harder for the farmers of America than anybody in history. The farmers who are looking to see who is for the farmers, once and for all, you can look to the Republicans, not the Democrats; for the Democrats are leading a parade to kill the most important provision ever thought up for the farmers. The Republicans are here, trying to get it done.
Senator Grassley stood in a corner with his arms out, put on the armor and said, “It will be this way or we don’t have a bill.” We got it. And guess what. We are just about to throw it away.

If I were the farmers of America, I would ask: Who threw it away? And they are going to all know, the people who killed this bill threw it away. And guess what. Over the last 3 or 4 days, an array of people who build wind energy and MTBE energy in America walked up to our office. Incidentally, Senator Grassley, before they opened their mouths about the bill, they thanked you because they said all significant wind energy will stop if this bill is not adopted. They didn’t say “tone down; we will come down at half mast.” They say it stops, because wind energy is predicated upon the credits in this bill, the most significant credits in history; solar energy, the most significant credits in history. Renewables will go faster and further with this bill than they ever have.

But I don’t believe you can leave here today having voted, especially if you vote to kill this bill, and walk out and tell people who you are, we can’t take care of the farmers next week. Next week is not going to come because I am aware of what it is. You will not get this ethanol bill through the House again. So it is gone and there are some people walking around liking that. Some people have a smile on their face. But I tell you there is no way to get this ethanol bill through the House. I can’t imagine another format where Senator Grassley can do what he did and we get this issue out of conference and here.

Then we have all the other things in this bill that we thought were interesting and good for America. They are all falling by the wayside because, for the first time, people have brought an issue called MTBE to the floor and talked about it. The United States House said we ought to hold harmless the product called MTBE—just the product, not people who spill it, not people who cheat with it, not people who, instead of putting it in cars pour it on somebody’s lawn—we didn’t protect those. We just said the product is OKed by the Environmental Protection Agency, approved by the U.S. Government, and whether I liked it or not, the House fathered and made them harmless for the product itself.

Frankly, I am just beginning to read some stories about the lawsuits on MTBE. In fact, if we had another day at it, I would give you some that would shock you as to what is going on in the United States with these MTBE lawsuits. I can tell you there is one in one State—we got a message on it. Somebody is walking around trying to drum up the lawsuits. It happens to be the chairperson of the bar association of the State who came to one of our offices the other day and wrote us a letter and said: We told her we are not interested. As far as we know there is no problem in our city with MTBE. Go someplace else and look for your lawsuits. Precisely what I said yesterday—precisely.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. In addition, if you like blackouts, then you vote to kill this bill because this bill provides a clear, absolute remedy for blackouts.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I thank the Chair. I think the majority leader is here. I yield at this time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. Leader, on leader time I just have very brief closing comments.

I thank the chairman and the ranking member. They have done a superb job.

Several issues have come up. I want to make it clear that this vote is the first vote on the Energy and on the energy provisions. People have envisioned that there will be other votes, other opportunities; that if this bill has not passed, we can address some of these issues later in some other form.

Here's the Flum. We have made a procedural argument that if cloture is not invoked this morning, we can simply recommit the bill to conference and strip out a provision or two provisions and then bring it back to the Senate.

Everybody needs to understand that is not a good option. The other body, the House, has already approved the conference report and therefore the conference committee has been dissolved. It has been dissolved. There is no motion to recommit available. So this is the vote. If you are for a comprehensive Energy bill, you need to vote for cloture. This is the vote.

Second, there has been some speculation, people have mentioned on the floor, if we do not pass this conference report, we will pull out this provision or that provision and enact them separately. I wanted to dispel that idea as well. We are not going to pull apart pieces of this conference report and pass them separately. We are not going to do it. We are either going to pass this Energy bill now or the individual provisions that many Senators favor are not going to become law. It is as simple as that. I just use the example of ethanol because, as everybody knows, it is the Democratic leader in offering the ethanol amendment on the Senate floor earlier this summer.

I have to say it very clearly that this Energy conference report is the vehicle for ethanol. We are not going to enact that as a stand-alone. We are not going to attach ethanol to another vehicle. To the Senators who favor this strong ethanol provision that we have in this conference report—this is the vote. You vote for cloture if you want to see it actually enacted into law. It is important for people to understand.

In closing, this is a good bill. It is a balanced bill. It will make America more secure. It will make America more energy independent, and, as we have all talked about, it will create jobs. We should pass it now. We should send it to the President. The first step right now with this vote is to invoke cloture.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The 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 P. Bennett, Trent Lott, Pat Roberts, Jim Bunning, Mitch McConnell, Richard G. Lugar, Norm Coleman, Con-
The PRESIDING OFFICER (Mr. Enzi). On this vote, the yeas are 57, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. FRIST. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked.

The PRESIDING OFFICER. Mr. FRIST. The motion is entered.

Mr. FRIST. Mr. President, the vote, prior to switching my vote for procedural reasons, was 58 to 39; thus, two votes short for invoking cloture. As I said just prior to the vote, America needs a comprehensive national energy policy, and we need it now. Congress has been debating this energy issue for a long time, far longer than 3 years. It is now time for us to stop talking and to deliver to the American people.

I truly believe the bill before us, that the chairman and the other members on the Energy Committee have worked so hard to produce, is a fair bill. It is a balanced bill. It addresses everything from future blackouts to the whole discussion on development of a wide range of reliable energy resources. Now is the time for us to act.

I am very disappointed that we are, at this point, two votes short; that we are facing another filibuster on a very important policy for the American people. I do want to let colleagues know that this will not be the last vote that we hold. We are going to keep voting until we pass it so we get it to the President’s desk. We will have at least one more vote before we leave the early part of next week on stopping this filibuster. I don’t know when that vote will be, but we will have at least one more vote. I hope we will respond at that time by giving the American people the energy security, the economic security, and the job security that they deserve.

INTelligence AUTHORIZATION ACT FOR FISCAL YEAR 2004—CONFERENCE REPORT

Mr. FRIST. Mr. President, I now move to proceed to the consideration of H.R. 2417, the Intelligence authorization conference report. Before the Chair puts the question, this conference report has been cleared on both sides, and I hope that we can finish action on it very quickly.

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

The Senator from Nevada.

Mr. LEVIN. Mr. President, in response to the leader’s statement, we also believe in energy independence and the security of the Nation.

The PRESIDING OFFICER. It is not a debatable motion.

Mr. REID. Fine. I will withhold.

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

The motion was agreed to.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the energy bill (H.R. 2417) to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, agree to the same, signed by a majority of the conferees on the part of both Houses.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the Record of November 19, 2003.)

The PRESIDING OFFICER. Mr. President, I am happy to yield to the distinguished assistant Democratic leader for a question.

ENERGY POLICY ACT

Mr. REID. Mr. President, I say through the Chair to my colleagues, we also believe in the security of this Nation. This was a bipartisan vote that just took place. I think we would all be well advised, this late in the session, to recognize that we should take this bill back to the committee, conference, if necessary, but I suspect it would be better off going back to committee and coming up with a different piece of legislation. People over here want badly to have a bill. The 58 votes we have are firm votes. It would not be advisable to give a vote on a Friday or Sunday. Cloture is not going to be invoked.

But let’s assume it were for purposes of this argument. Then we have the situation where there are hours following that debate, and I just think we should recognize where we are. The reality is, it is late in the session. We need to go to some other matters. With this vote, we did the Senate a favor, as everyone knows. There are points of order, rule XXVIII. This bill was going nowhere. What we did was to prolong the just rather than prolong it. It doesn’t help the Senate to prolong the inevitable. The inevitable is this bill is history. It is not going to go anyplace.

We really did the Senate a favor. Cloture was not involved. There are points of order against this bill, as we all know. There would be bipartisan votes on those matters. I think we should go on to something else. This was a very good debate. I think we should look back at this as something that is good for the Senate. I think that the tone was good, and look forward to the very important issues we have facing us, difficult issues. We have the omnibus bill. We have the important Medicare bill. I hope that we would not prolong things on this much longer because this bill, in its present form, is just not going anywhere.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Again, to clarify for our colleagues, two votes short, as I implied in my statement. This policy is too important to the American people for us to desert. So we are going to come back. We are going to come back with another opportunity, after I talk to the Democratic leadership. And we will do that at the appropriate time.

Now if the information of our colleagues, we will be going to other issues—right now, the Intelligence authorization conference report. It is likely today we will be doing Healthy Forests shortly. We have a lot of business today. Medicare will be addressed shortly. The two Houses will be addressing that today.

It may well be that we will begin to address issues such as Medicare later today and continue debate on energy today and look at both issues over the course of tomorrow.

Again, in the intervening time, we will be addressing issues such as Intelligence, Healthy Forests, and other conference reports as they come to the floor.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I, too, wish to have an opportunity to comment briefly on the vote we have just taken.

Mr. President, for Senators like me, who support enactment of a comprehensive energy bill, the Senate’s failure this morning to break this filibuster was as unnecessary as it is unfortunate.

It is a classic example of insisting on provisions that are simply too much for the traffic to bear.

The Senate’s lead negotiator, Senator DOMENICI, was, I believe, prepared to work in good faith with his House counterparts to develop a comprehensive energy bill that could attract broad bipartisan support in this body.

Regrettably, his best intentions were undercut by the cynical manipulations of the House Republican leadership during the conference proceedings, which cut Senator BINGAMAN out of the conference process and produced a product that was a far cry from the bipartisan energy bill that passed the Senate in July.

I am convinced that a true conference would have produced a much more balanced energy bill than that before us today.

Make no mistake, however, the overriding reason for the failure of this bill today was not what I consider to be its disturbing lack of balance between production and conservation or between promotion of fossil fuels and renewable energy sources. It was the House Republican leadership’s insistence on inclusion of retroactive liability protections for MTBE shielded MTBE producers from legal exposure.
The provision was not contained in either the House or Senate-passed energy bills. In an effort to aid a major special interest, the House Republicans wrote the provision so that it would specifically invalidate the State of New Hampshire’s lawsuit against the MTBE industry. So it is no surprise that New Hampshire’s two Republican Senators chose to filibuster this bill.

The drive to placate a narrow special interest not only came at the expense of the complex web of Republican Party’s own legislative strategy. I personally—on numerous occasions—warned Chairman DOMENICI, Chairman TAUZIN, and others responsible for the closely held Republican energy bill conference deliberations that inclusion of this provision threatened enactment of this legislation.

This scenario has, unfortunately, come to pass, ironically because the inclusion of MTBE liability waiver was the same provision that we have calmed the camel’s back for many Republicans.

While the drumbeat of recriminations about who bears responsibility for this setback had begun even before the vote, the question I am concerned about is whether we can do to enact a comprehensive energy bill quickly.

My first preference would be to adopt something close to the bipartisan energy bill that passed the Senate by overwhelming bipartisan votes in the current and past Congresses under the leadership of both parties. But experience tells us that won’t happen.

While I fully appreciate that the current bill without MTBE liability relief would still be objectionable to many Senators, there should be no doubt that if this provision was not included, the bill would pass the Senate today and be enacted into law.

Therefore, Mr. President, I call on the White House, and the House and Senate leadership in particular, to work with me to immediately strip out the offending safe harbor language now in the bill.

Further, as a demonstration of good will, I propose that safe harbor language be eliminated for ethanol as well as MTBE.

Once these changes are made, the comprehensive energy bill could be brought back to the Senate and the House, either as a new conference report or as part of the Omnibus Appropriations bill being readied for final passage in both Chambers.

This simple action would have this energy bill, as imperfect as it is, ready for the President’s signature yet this session.

I yield the floor.

Mr. INOUYE. Mr. President, after much deliberation, I have decided to oppose the conference report to H.R. 6, the Energy Policy Act.

The conference report before us today is a serious departure from the balanced approach to energy policy passed by the U.S. Senate earlier this year by an overwhelming bipartisan vote of 84 to 14. The Senate bill carefully weighed many competing interests and struck a fair and even-handed balance that would have strengthened our national security, safeguarded consumers, and protected our environment.

The conference report tips the studied balance of the Senate bill drastically in favor of short-term business interests. Regrettably, I am not surprised by the sweeping changes made to the Senate conference report was prepared by the Republican leadership behind closed doors, without the participation of their Democratic counterparts. Under these circumstances, one cannot be surprised that balance was lost, and a flawed conference report emerged.

Upon review of the bill, I was initially pleased to note its positive aspects. My completed review of the conference report, however, revealed that these few beneficial provisions were far outweighed by provisions injurious to the American people as a whole. The conference report erodes the careful web of environmental protections that safeguard the public health and our natural resources. It promotes a policy for a country by failing both to encourage the development of alternate fuel sources and energy efficient technologies, and does nothing to police the energy industry to prevent a recurrence of the Enron debacle.

The conference report does not include the broad, effective prohibitions against price gouging schemes used by Enron and other energy trading firms, included in the Senate version of the Energy bill.

As science has helped to illuminate the negative impacts of environmental pollutants on public health, Congress has responded by enacting a series of statutory protections designed to safeguard the American people by restricting the pollutants that enter our environment. The conference report substantially undermines these protections.

For example, the report would exempt three major metropolitan areas from meeting the Clean Air Act’s ozone-smog standard. While industry in these areas may enjoy a respite as a result of the conference report, people with asthma and other respiratory diseases will not. Moreover, it should be noted that this conference report does not include the broad, effective prohibitions against price gouging schemes used by Enron and other energy trading firms, included in the Senate version of the Energy bill.

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the time within which states can appeal state consistency review determinations made by the Secretary of Commerce, thus limiting the rights of states under the CZMA.

The conference report also jeopardizes reservation lands by allowing the Secretary of Energy to determine the siting of transmission lines through certain national forests and national monuments—even over the objections of the Federal agency charged with maintaining and preserving these resources.

Mr. President, I must also express my serious concern with regard to the provisions of H.R. 6 as they relate to the development of energy resources on Indian lands and the impact of these provisions on the United States trust responsibility for Indian lands and resources. To allow this bill to be passed without amendment, would, in my view, alter the bedrock principles upon which relations between the United States and the Indian nations are founded.

The United States trust responsibility is perhaps the most fundamental principle of Federal Indian law. It was first enunciated in 1832 by United States Supreme Court Chief Justice John Marshall. It is the polestar which has guided the course of dealings between the Indian tribes and the United States over the last two centuries.

The United States trust responsibility for Indian lands and resources is derived from treaties and agreements between the Indian nations and the United States, statutes, executive orders, court rulings, and regulations. The Congress has legislated on this basis. The Federal courts have ruled on that basis, and the Executive branch has premised policy on this basis and promulgated regulations based upon this fundamental principle of Federal Indian law.

The Federal Government’s trust responsibility for Indian lands and resources is based on the fact that the United States holds legal title to lands that are held in trust for Indian tribal governments. As the principal agent of the United States as trustee for Indian lands and resources, under current law, the Secretary of the Interior must authorize and approve any activities affecting tribal lands and resources caused by other parties, the tribes will have the full force of the United States government to assist them in securing redress for such harm.

With this end in mind, I respectfully suggested that those standards applicable under the Indian Self-Determination Act be incorporated into this bill, such as the annual trust asset evaluation that is authorized in that act to be conducted by the Secretary of the Interior as a condition of the Secretary’s approval of a tribal government’s right to enter into leases, business agreements, and rights-of-way without the Secretary’s approval.

Unfortunately, this language was not adopted, and instead the bill provides that the Secretary will have the discretion to determine the manner in which trust resources will be managed, and what, if any, ongoing oversight there will be as tribal governments move into an arena that is associated with serious financial and environmental risks.

In addition, in the wake of the Supreme Court’s ruling in the Navajo Nation case that tribal governments may not hold the Secretary of the Interior accountable for mismanaging trust assets except if there is a specific authorization contained in a Federal statute. As a result of this ruling, tribal governments are looking to the Congress to protect longstanding principles of established trust law and to clarify with certainty the meaning of the trust responsibility after the Court’s pronouncement in the Navajo Nation case.

The Indian provisions of H.R. 6 unfortunately fail to provide a means for tribal governments to call upon the United States, as trustee for Indian lands and resources, to assist them in remedying any damages incurred to tribal lands, nor do they establish express statutory standards for the administration of the U.S. trust responsibility.

The bill requires that any tribe attempting to avail itself of the powers to regulate and develop its own energy resources must waive its rights to seek any recourse against the Secretary of the Interior. This requirement signals that, as a condition of the Secretary’s approval, tribal governments across the country have expressed serious concern that this bill will erode the United States’ trust responsibility, especially in the aftermath of the Supreme Court’s ruling in the Navajo Nation case.

As tribal governments seek to further their rights to self-determination in new areas, such as the leases, agreements, and rights-of-way affecting tribal lands and resources, there must also be an evolution of the duties that the trustee for Indian lands and resources—the United States—undertakes on behalf of tribes desiring to develop energy resources.

My view is that there is a well-founded and long-established partnership between Indian tribal governments and their trustee—and that it is this relationship which assures that if there is any harm or damage done to tribal lands and resources caused by other parties, the tribes will have the full force of the United States government to assist them in securing redress for such harm.

Mr. President, I introduced a bill that transferred revenue from the general fund to the Trust Fund so it could be the general fund that would bear the responsibility rather than the Trust Fund. This Congress, Senator GRASSLEY and I introduced a bill, S. 1548, that placed the ethanol exemption with a credit and that transferred the 2.5 cents, currently retained by the general fund to the Highway Trust Fund. Although other provisions in S. 1548 are contained in the energy bill conference agreement, the new ethanol credit, the provisions most important to me did not make it in.

I appreciate your commitment and that of Speaker HASTERT and Ways and Means Chairman THOMAS to ensure that the provisions in S. 1548, regarding the Highway Trust Fund will be enacted no later than February 29, 2004 which is the day that the TEA 21 extension expires. In fact, Speaker HASTERT sent out a press release today that confirms his support for the process of bringing this conference report to the floor for a vote—Senator PETE DOMENICI and Senator TED STEVENS—are very dear to me and I have the honor of working with them on a daily basis. I hope they will understand that, as much as I would like to support them and their interests, I must oppose this conference report.

ETHANOL SUBSIDY

Mr. BAUCUS. Mr. President, for several years now I have worked with the high community to make sure the Highway Trust Fund harmless with respect to the ethanol subsidy. While it is good agriculture and energy policy to encourage alternative fuels, it should not be the Highway Trust Fund, and therefore the Nation’s transportation system, that bears the burden of the ethanol subsidy.

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In fact, Speaker HASTERT sent out a press release today that confirms his support for the process of bringing these important provisions from S. 1548.

I thank Senator FRIST for working with me to ensure that the Highway Trust Fund will receive all the taxes due to it and that our Nation’s transportation program will thrive.

Mr. FRIST. Mr. President, I extend my gratitude to Senator BAUCUS for working together with the Vice President, the Speaker of the House and myself to reach a compromise on the ethanol issue in the energy bill conference
agreement. We understand this is a very important issue to him and to the country and his efforts on this matter have been crucial to developing a strong energy policy.

As per the agreement, I would like to reiterate our commitment regarding the portions of the ethanol issue which are not currently in the conference agreement. In the next highway bill, we will make certain that the 2.5 cents that go into the General Fund, as well as the proceeds from repealing the 5.2 cents from the ethanol tax exemption, are credited to the Highway Trust Fund. Moreover, it would be my desire to hold the Highway Trust Fund harmless with respect to this late date of enactment.

Once again, I thank Mr. BAUCUS for working closely with us to resolve this very important issue. We look forward to enacting these provisions.

Mr. COCHRAN. Mr. President, there are several provisions in this conference report that amend the Commodity Exchange Act, which is administered by the Commodity Futures Trading Commission.

I appreciate the Energy Committee’s consultation with the Agriculture Committee with respect to the amendments to the Commodity Exchange Act.

The most important change to the act is to the CFTC’s antifraud authority in section 4b, which is found in section 33 of the conference report. Section 4b is the CFTC’s main antifraud weapon. In 2000, the U.S. Court of Appeals for the Seventh Circuit ruled in Commodity Trend Service, Inc. v. CFTC, 233 F.3d 981, 992 (7th Cir. 2000) that the CFTC could only use section 4b in intermeditated transactions, thus prompting this clarification. We are amending section 4b to provide the CFTC with clear antifraud authority over non-intermediated futures transactions. Newly revised subsection 4b(a)(2) prohibits fraud in transactions with a person that are within the CFTC’s jurisdiction. This new language will make it clear that the CFTC has the authority to bring antifraud actions in off-exchange principal-to-principal futures transactions, including retail foreign currency transactions and commodity futures transactions in energy and metals. In addition, the new section 4b also clarifies that this fraud authority applies to transactions conducted on derivatives trading facilities as well.

The amendments to section 4b(a) of the CEA regarding transactions currently prohibited under subparagraph (iv) are not intended to affect in any way the CFTC’s historic ability to prosecute cases of indirect bucketing of orders executed on designated contract markets. See, e.g., Reddy v. CFTC, 191 F.3d 100 (2nd Cir. 1999); In re DeFrancisco, et al., CFTC Docket No. 02–09 (CFTC May 22, 2003) (Order Making Findings and Imposing Sanctions as to Respondent Brian Thornton).

The next important changes, or clarifications, come in section 9 of the Commodity Exchange Act that deals with the CFTC’s false reporting authority. These clarifications are also found in section 332 of the conference report.

In the last 12 months the CFTC has received approximately $100 million in settlements from energy trading firms. One of these firms, accused of filing knowingly inaccurate reports. Despite these successes, the amendment to section 9(a)(2) has been included in the legislation in response to a recent U.S. Federal District Court decision in the case U.S. v. Valencia, No. H–03–023 (S.D. Tex.). In this case, the U.S. attorney brought a criminal case against an energy trader for filing false reports regarding fictitious natural gas transactions in an attempt to manipulate natural gas price indexes. The Court, recognizing that the U.S. attorney had to show intent for knowingly inaccurate reports, dismissed some of the false reporting counts because there arguably was no intent requirement for false or misleading reports. The CFTC, in turn, has maintained that an intent to file a false report is necessary for there to be a violation of section 9(a)(2). Accordingly, to address the concerns of the Court in Valencia, section 9(a)(2) will be revised by inserting the word knowingly in front of both false and misleading so it is clear that the CFTC and the U.S. attorneys must show intent.

The legislation also includes an amendment clarifying Congress’ intent that section 9, and hence the CFTC’s civil enforcement authority, be revised by inserting the word knowingly in front of both false and misleading so it is clear that the CFTC and the U.S. attorneys must show intent. The legislation also includes an amendment clarifying Congress’ intent that section 9, and hence the CFTC’s civil enforcement authority, be revised by inserting the word knowingly in front of both false and misleading so it is clear that the CFTC and the U.S. attorneys must show intent.

The amendment merely clarifies and confirms the CFTC’s longstanding use of section 9, as the CFTC has brought over 60 enforcement actions charging violations of its provisions, including but not limited to false reporting charges under subsection (a)(2).

These amendments will permit the CFTC and U.S. Attorneys to continue to bring actions in the energy arena for acts or omissions that occurred prior to enactment. The bill expressly provides that these amendments simply restate, without substantive change, existing burden of proof provisions and existing CFTC civil enforcement authority, and do not alter any existing burden of proof or grant any new statutory authority.

The last amendment I will mention is a set of savings clauses for the Natural Gas Act and the Federal Power Act. These savings clauses are intended to help clarify the dividing line between the jurisdiction of the CFTC and the Federal Energy Regulatory Commission. The two savings clauses, which are virtually identical, can be found in sections 332 and section 1281 of the conference report.

The savings clauses have two purposes. The first purpose is to make it clear that nothing in the Natural Gas Act or the Federal Power Act affects the market power of the CFTC with respect to accounts, agreements and transactions involving commodity futures and options. The CFTC, not
Second, critics have criticized this bill for shielding MTBE producers from product liability lawsuits. Many of those Senators represent States that have sued MTBE producers for contaminating groundwater. On one hand, I appreciate why they object to that provision. My State of Colorado too is searching for ways to meet funding shortfalls, and groundwater out West is always a premium. However, MTBE isn’t in groundwater because someone put it there. MTBE is in groundwater because someone made it to hold gasoline with MTBE leaked.

Another fact: Congress mandated MTBE’s use, requiring the oxygenate be added to gasoline to meet Clean Air Act requirements. My friends on the other side should focus on fairness, and not just the deep pockets their trial lawyer friends are after. Fairness is the special interest opponents of the bill are so adamant on viliifying.

Opponents of the energy bill conference report have made outlandish claims that this bill does nothing for renewable energy. Again, such statements beg the question: have they bothered to read the bill? The fact is that the matter is that this bill includes significant financial incentives for wind, biomass, and solar energy, and has the full support of the Solar Energy Industries Association. Further, the bill requires that 7.5 percent of the electricity purchased by the Federal Government come from renewable energy.

Opponents have criticized the Indian energy title of the bill as offensive to the environment. They claim that if Indians opt-in to the voluntary provisions, then those tribes can skirt NEPA. Without touching the prejudicial nature of that statement—the assumption that Indians would violate the environment—I seriously doubt that opponents know why NEPA might apply at all. Under current law, if a tribe wanted to build an energy production facility on their own land with their own money, NEPA would not apply. NEPA only applies on Federal land or when there is some Federal action. Although some critics may like to think otherwise, Indian land is treated as their own land. In the example above, there is no Federal action.

However, Nation’s most disenfranchised and poverty stricken group seeks third-party funding to develop their own resources, then the Secretary of Interior must review the proposed project. This paternalistic Secretarial review, a historical construction, is tantamount to Federal action triggering NEPA. Indians believe that their lands should be treated like other private land under the law.

Opponents of this bill are playing a cruel joke on Indians. On one hand, they argue that Indians should be free to exercise their right to self-determination. Yet, on the other hand they tell the poorest of the poor that they must do so without any third-party financing. It seems that opponents of this bill believe that, for Indians, self-determination may only be exercised through posing for tourist photos and making handcrafts.

The energy title in the bill under discussion provides Indians with a completely voluntary tool that could help them to develop their own resources. This title could be a significant empowerment vehicle providing much needed jobs and economic development.

Last, my friends on the other side have made several statements criticizing this bill’s process. In part, I have to agree with them. Similar to the failed energy bill of the democratically controlled 107th Congress that never benefited from being drafted in the Energy and Natural Resources Committee, the current energy bill has reached the floor in an imperfect way. It is true that the matter is that the energy bill of the 108th Congress is a far reaching piece of legislation that is good for the country, good for my State of Colorado, which still relies heavily on the agricultural industry. Just so. It is important to note that all manner of farm groups support this bill, including the American Farm Bureau, the American Corn Growers, the National Farmers Union, and the National Cattlemen’s Association. Furthermore, this bill is supported by a host of labor organizations; the Brotherhood of Locomotive Engineers, the United Mine Workers, and the United Transporatution Union, to name just a few.

Mr. President, the comprehensive energy bill before the Senate is a critical piece of legislation for the country. Its writers had the unenviable task to ask the questions that most in the Nation are never required to consider—where does energy come from and how can we meet future demand? This bill provides important answers and plans for the future. I urge its passage.

Mr. NELSON of Florida. Mr. President, I rise to oppose the energy bill. I wanted to support this bill, but the many environmentally questionable provisions and the large price tag prevent me from doing so.

This bill is not an energy policy bill. It is a special interest bill. We are at war and receive more than 50 percent of our oil from sources beyond our shores. But this bill does not provide a way for us to break free from the security threat that poses. It lacks clear vision for how this country moves away from our dependence on foreign oil and dirty fuel and towards new, cleaner sources of energy.

There are no oil saving provisions or climate change provisions. I do support the incentives for nuclear energy, wind energy, solar energy, and other renewable energy sources. I also support the provisions for tax credits for the sale of hybrid and alternative fuel vehicles. The repeal of the Public Utility Hold-ing Company Act and reform of the Public Utility Regulatory Act’s mandatory purchase obligation are positive changes. But I can’t get past the MTBE liability waiver, the coastal zone management changes, and the huge tax credits for the oil and gas industry. Half the tax benefit—approximately $11.9 billion of the $22.9 billion—in tax provisions will go to the oil and gas industries, some $72 billion in authorized spending, a 50 percent increase over the price tag going into conference. And the price tag is not offset anywhere in this budget.

With regard to MTBE, my State of Florida has more MTBE spills than any other State in the country—more than 25,000—and those communities in Flor-ida may be held responsible for the cleanup of those sites if the liability waiver in this bill passes. And the ratepayer in these communities, instead of the producers of MTBE, will have to pay the price for the cleanup.

Another fact: a lawsuit filed by Escambia County Utilities Authority would be nullified by this bill. And at least 11 other water systems serving 629,000 people will be prevented from seeking redress from the refiners of MTBE who caused the contamination.

My staff talked to the Executive Director of the Escambia County Utilities Authority, Steve Sorrell, and he told my staff that if Escambia’s suit cannot go forward the County will be, in effect, a defendant with no funds to pay a cleanup and the ratepayer will have to pay the price. So if this energy bill passes, the main cause of action in Escambia County FL’s suit will be taken away and the ratepayers, the citizens of Escambia County, not the producers or oil refiners, who knew this substance was a health and environmental hazard when it was introduced, will pay the price.

Some have said that we shouldn’t hold the producers responsible for the contamination, they just produced the MTBE. They didn’t know it was a health and environmental risk and why not let the courts decide whether they are at fault instead of the U.S. Congress. In a document dated April 3, 1984 an MTBE producer employee said:

The fact that we could not foresee these outcomes is no excuse for the companies that made the hook for an expensive cleanup and the ratepayer will have to pay the price.

But the successful lawsuits have uncovered that the refiners did know it was a health and environmental risk and why not let the courts decide whether they are at fault instead of the U.S. Congress. In a document dated April 3, 1984 an MTBE producer employee said:

The ethical and environmental concerns that are not too well defined at this point; e.g., 1. possible leakage of (storage) tanks into underground water systems of a gasoline component that is soluble in water to much greater extent (Chemicals), 2. potential necessity of treating water bottoms as a “hazardous waste,” [and 3. de- livery of a fuel to our customers that poten-tially provides poorer service and price.

Another memo by an energy company engineer in 1984 is even more egregious.

This memo says:

Based on higher mobility and taste/odor characteristics of MTBE, Escambia County experienced with contaminations in Maryland and our knowledge of Shell’s experience with
MTBE contamination incidents are estimated to increase three times following the widespread introduction of MTBE into Exxon gasoline.

Later the memo notes:

Any increase in potential groundwater contamination will also increase risk exposure to major incidents.

These memos were written more than 5 years before the Clean Air Act amendments passed that ushered in the widespread use of MTBE in gasoline. These documents were uncovered in lawsuits in California in which manufacturers and distributors of MTBE, the very entities immunized from product liability suits in this bill, were found guilty of irresponsibly manufacturing and distributing a product they knew would contaminate water. The jury found by “clear and convincing evidence” that these companies acted with “malice” by failing to warn customers of the almost certain environmental dangers of MTBE water contamination.

The coastal provisions of this bill are also troubling. Under section 321, of the Oil and Gas title, the Secretary of the Interior will be given broad new authorities to issue permits, ease access to right-of-ways on the Outer Continental Shelf in moratorium areas. Interestingly, this provision left the Senate prohibiting these oil and gas activities in the moratorium areas, but came back allowing those projects to go forward after an input from the Department of Commerce as required under the Outer Continental Shelf Lands Act. Section 325 restricts the appeals process for coastal states appealing an oil or gas exploration or development plan to the Department of Commerce. The timeline put in place by this provision is even shorter than that requested by the Bush administration. Section 330 circumvents the Coastal Zone Management Act and deems the Federal Energy Regulatory Commission record input into the process. For these reasons, I cannot support the bill.

Mr. ENZI. Mr. President, there is an old adage we have heard many times that says that the journey of a thousand miles begins with a single step. Today we are taking another one of those steps in a long journey that will hopefully lead us without input from the Department of Commerce as required under the Outer Continental Shelf Lands Act. Section 325 restricts the appeals process for coastal states appealing an oil or gas exploration or development plan to the Department of Commerce. The timeline put in place by this provision is even shorter than that requested by the Bush administration. Section 330 circumvents the Coastal Zone Management Act and deems the Federal Energy Regulatory Commission record input into the process. For these reasons, I cannot support the bill.

If you use a computer, you have to tie it to some source of electricity to get the power you need to access the Internet or the information stored on your hard drive. If you live in a mobile home, or in a cabin in the woods, you have to get your power from an open fire, you are still an energy consumer who is using a resource to make your dinner. Every lifestyle has its own energy needs and we have been increasingly blessed to have access to an abundance of energy for many, many years. In fact, we had such relatively easy access to energy we started to take it for granted. That led to calls for conservation and more wise use of our resources when energy costs first started to rise. That was the start of our journey to create an energy policy—one that has seen us through these past years. Unfortunately, it has taken quite a long time to agree on an update to our policy, one that takes into consideration the dangers we see in our society and in the availability of energy both here and abroad.

Our dependence on foreign sources of energy continues to be a national concern, one that had me and many others calling for creation of a national energy policy, which we have done since 1973 when OPEC and the Saudi Americans first pulled the plug on our supply of crude oil.

The irony was the fact that we had an abundance of oil here in the United States at the time. In fact, we still have a huge supply of oil in the country today, but that oil has not been made available for exploration. Because we hadn’t taken the steps to develop it, we allowed a foreign government to disrupt and control part of our daily lives. We became vulnerable to their manipulations and it took us months to recover. In some ways, we are continuing to recover from those days on the long gas lines, high prices and short supplies that we saw in the 1970s.

Things were bad enough back then when we didn’t have an energy policy. Still, they could have been much worse. I shudder to think what might have happened if we’d had a situation like 9/11 occur at the heart of that crisis. If the terrorists had struck when we were economically crippled and energy supplies were low, what effect could they have had on our national security?

That kind of scenario is exactly the kind of thing that a national energy policy like the one we are taking up today is supposed to avoid.

It has taken us quite a while to get where we are, but we finally have something before us that will provide us with a plan, a blueprint for the future that will also address our needs in the present. It is time now for us to take it off the planning board and put it into action. If this provision was enough to be time enough to put the basics of a plan together, and that is how long we have had since the energy crisis of the 1970s to work out a plan like this. Now we have before us the beginning of what will be a long and continuing effort to stabilize our energy markets and protect our national security.

This bill isn’t perfect, but it is a good start. There is more to be done, but it is not the final answer. It is a temporary remedy that will start producing results immediately while it lets us continue working on a more permanent solution. In other words, it is a chance to grab the brass ring and get another ride on the energy merry-go-round, while providing for the ride we are currently on.

I am pleased that this bill includes a number of important provisions that support and promote clean coal development. Coal is an important product of Wyoming, and one of the most important ways we can reduce our dependence on foreign energy is to find ways to diversify our energy supplies and better utilize our Nation’s abundant coal resources. Coal is the clean burning coal like what we mine in Wyoming.

In addition to our coal supplies, in recent years our new energy development has focused on the increased use of natural gas. I support natural gas development and I hope that our gas industry continues to grow and flourish. I am also keenly aware of the fact that there isn’t enough natural gas or infrastructure available to support a policy that if we cripple our economy and prohibit new development.

That does not mean we have to continue doing business as usual and continue to push our aging coal-fired power plants well beyond their originally designed lifetimes. We have the technology and the ability to design and build cleaner and more efficient power plants that utilize new clean coal technology, but we won’t be able to do that if we cripple our economy and prohibit new development.

This won’t surprise anyone, but none of us are going to be enthusiastic about everything in this bill. Again, it is not a perfect bill, but it is a good start on a policy. It does not have everything I want in it, but it does have more than enough to make it worth our support. There is a provision that would have greatly helped Wyoming get the more than $400 million that it is owed by the Federal Government’s Abandoned Mine Lands Trust Fund, but that provision was not included in this bill. We have received assurances from the Finance and Energy Committees that they would take up this matter early next year, and we are grateful for their promises. However, I would have preferred that the provision had been included in this bill and we didn’t have to take up any of the committee’s time next year. Still, again, on balance, and taking the whole bill into consideration, it is a good bill and it deserves our support.

I know I am not the only one who feels that one provision or another
could have been added or left out and it would have made for a better bill. Like me, almost every State can point at something that they wish could have been included but was not. It is a reason to be disappointed, but it’s not a reason to ignore the task at hand, which is to continue the process and develop a national energy policy.

There are just too many positive things that the bill would do for the country in the long and short term. To begin with, the bill would create nearly 1 million jobs, implement mandatory electricity reliability standards that we believe may prevent future massive blackouts as was experienced in August by the Northeast.

It would encourage the Federal Government to increase energy efficiency in Federal installations.

It would increase assistance for lower income families by raising the base authorization of LIHEAP to $3.4 billion. The bill also includes incentives to increase solar, wind, geothermal and other biomass technologies.

It encourages modernizing and streamlining our Nation’s hydropower laws.

It provides incentives for responsible oil and gas development and royalty relief for marginal wells. In other words, it helps keep wells that are slow, but long-term energy suppliers going so we don’t always have to rely on short-term, get-rich-quick wells for all of our needs.

It provides incentives to encourage consumers to purchase more hybrid and alternative fuel vehicles and authorizes two new programs that would improve the efficiency and quality of our Nation’s fleet of school buses.

There are a number of other provisions included in this bill that will contribute to our Nation’s energy security and I hope my colleagues will take the time to look at what is in this bill for what it is: a desperately needed and all-important first step toward a policy that will increase our energy independence, ensure we have a more reliable supply of energy available, and a more stable energy market for consumers to purchase from with prices that are not so subject to as much fluctuation and change.

Mr. BURNS. Mr. President, I would like to commend the chairman of the Energy Committee for his leadership on this bill both on the Senate floor and through the conference. This is the first comprehensive energy legislation this country has seen in more than a decade, and it is a huge step forward for America. This energy bill is about looking forward to our future, and creating the energy and the jobs that will keep this country best in the world.

This is a large and complicated bill. It addresses everything from energy efficiency and conservation, to research and development for new technologies, and policies to encourage a wide variety of energy sources nationwide. People will always find something to criticize in a sweeping piece of legislation, but we need to focus on the huge accomplishments this bill will achieve.

We will advance cutting-edge technologies such as hydrogen fuel cells and improve clean technologies already in our hydro, wind, and solar energy. At the same time we will shore up our own domestic production of the resources we use most, including clean coal, oil, and natural gas. We will begin to use 5 billion gallons of ethanol and biodiesel annually as a result of this bill, and that is a very good thing for farmers and consumers across America. Real reforms in the electricity title will result in more reliable service and more investment in the backbone of our electricity infrastructure.

I would especially like to acknowledge Senator Domenici’s wise counsel in regard to an amendment I had intended to propose to enhance the economic growth of western States. My amendment would have provided for the study and creation of National Interest Electric Transmission Corridors by the Secretary of Energy, based on national security and energy policy grounds. Pursuant to those designations, that provision for funding of needed electric transmission lines would be provided for. While most of this additional capacity would probably be achieved by broadening existing rights-of-way, there would no doubt be some additional need for new lines. Upon the advice of the chairman and his assurance that he would pursue these concepts, I declined to offer that amendment on the Senate floor.

I am very encouraged that the chairman has been successful in having the concept of National Interest Electric Transmission Corridors included in the bill, for any area experiencing electric transmission constraints or congestion. Transmission capacity in these areas will help meet the significant issues regarding their future economic expansion. Furthermore, if we could unlock the tremendous coal, wind and other resources of these States through mine-mouth electric generation and provide for the transmission of that electricity to load centers it would take significant pressure off our increasing reliance on natural gas as a power source. This is one of the keys to a balanced energy portfolio and lessened reliance on foreign energy sources.

My home State of Montana can make a significant contribution to our Nation’s energy independence, provided we can develop the needed transmission infrastructure to move electricity to market if we generate it from our coal and wind resources. This is very important for both the generating States and the end-user markets and is simply good national energy policy and good national security policy.

This energy bill isn’t perfect but it helps us transition into tomorrow’s economy without sacrificing our quality of life today. It is a good balance, and a good compromise between the countless demands that have been made by those with opposing viewpoints. No one can win every battle, but without this energy legislation the entire country loses. I am disappointed that the Members of both parties who would rather complain about this bill than enact it. We shouldn’t let partisanship get in the way of progress, and this bill is progress. No one got all they wanted, but every State in the Union will benefit, and every American family will benefit from this country’s energy security by passing this legislation.

Mr. HATCH. Mr. President, I rise today to express my strong support for H.R. 6, the Energy Policy Act. It has been a long, long time since we could claim to have a national energy policy, and I am very proud to say that we are about to deliver an energy plan to the American people that is comprehensive and forward looking. It is a balanced bill that promotes greater energy independence and cleaner air.

It is no simple task to construct complex legislation of such a broad scope. A good deal of the credit for the fact that we have a conference report owes to the heroic leadership of Chairman Domenici and Chairman Grassley, and the respective Democratic ranking members Senator Bingaman and Senator Baucus. I congratulate our colleagues for their leadership.

And when it comes to leadership, we all know that it was President George W. Bush who first put us on the path to a national energy plan. One of the President’s earliest acts was to establish the National Energy Policy Development Group, which produced the National Energy Policy Report, an early template for the legislation we have before us today.

We don’t have to convince the American people that we need the energy bill. They already know. They are the ones who paid more than $2 per gallon to fill their cars this summer. They are the ones who sat in blackouts for days. And, they are the ones who have watched their natural gas bills go through the roof.

I am pleased to report to the American people that the Energy Policy Act addresses each of those problems—and more.

My home State of Utah is an energy resource State. Utah has long helped to fuel our Nation’s growth, whether it be by supplying the uranium that fueled our early nuclear industry, the oil and natural gas for our vehicles and homes, or the clean coal which powers our coal-fired electricity plants. Utah has also been a leader in producing renewable electricity with our large hydro-power facilities and our significant geothermal plants. Thanks to environmental protections, labor laws, and sound safety regulations, our Nation is cleaner and stronger than ever before. And I am glad these protections are in place. However, the many layers
of these rules and regulations do make energy production more expensive. In Utah, where we have many millions of acres of beautiful public lands, we have the extra difficulty of developing energy while trying to preserve significant portions of those areas. In my State, we want all the protections our laws provide, but we recognize the need for assistance from the Federal Government to keep this activity going in this country. And in doing so, this legislation leaves almost no stone unturned.

The act will help us to leap forward in creating more efficient buildings and homes in this Nation, and it starts at home by addressing congressional and other Federal buildings. The act takes large strides forward in promoting the use of renewable energy in the United States. The bill also covers solar energy, wind energy, hydro power, and geothermal energy, the latter being particularly important in my State where much hydro power comes from.

I am pleased that the Energy Policy Act includes important provisions to increase the reliability of our electricity system. We have seen what happens when we lack a reliable affordable electricity supply: our modern society comes to a near standstill. Reliable electricity is one of the most important services we can provide our Nation. Most of the electricity produced in the United States comes from coal-fired power plants. The newer coal plants which are prevalent in the West are very clean and very efficient. This legislation promotes the most advanced technologies in this industry which will lead to further improvements in the reliability of our electricity system and in the quality of our air. The bill also provides programs to improve electricity service to our Native Americans.

Importantly, the Energy Policy Act addresses our need for a more reliable fossil fuel supply. This includes home heating oil, natural gas, and our other basic transportation fuels, petroleum, and gasoline.

The transportation sector in the U.S. accounts for nearly two-thirds of all oil consumption, and we are almost entirely dependent on petroleum for our transportation needs. Is it any wonder, that 50 percent of our urban smog is caused by cars? If we can learn to clean our air and address our Nation's energy dependency, we must focus on the transportation sector. And we must focus first on those technologies and alternative fuels that are already available and abundant domestically.

To that end, 14 cosponsors and I introduced S. 505, the Clean Efficient Automobiles Resulting from Advanced Car Technologies Act of 2003, or the CLEAR Act. The CLEAR Act is the most comprehensive and effective plan we have seen in this country to accelerate the transformation of the automotive marketplace toward the widespread use of fuel cell vehicles. And it would do so without any new Federal mandates. Rather, it would offer powerful market incentives to promote the advances in technology, in our infrastructure, and in the alternative fuels that are necessary if fuel cells are to ever reach the mass market. As a result our Nation benefits from cleaner air and greater energy independence.

I am very pleased to report that a large portion of the CLEAR Act was included in the Energy Policy Act. And for that I give my heartfelt thanks to Finance Committee Chairman Grassley and Senator Baucus.

First, the bill offers CLEAR Act credits to consumers who purchase alternative fuel and advanced technology vehicles, such as hybrid-electric vehicles. These credits would lower the price gap between these cleaner and more efficient vehicles and conventionally fueled vehicles of the same type. This is a direct attack on our Nation's huge appetite for petroleum as a transportation fuel, and I am confident that the CLEAR Act credits will accelerate our shift toward a more efficient and cleaner transportation future.

When I introduced the CLEAR Act, it contained a significant tax credit for the installation costs of retail and residential refueling stations. I was disappointed this provision was weakened in conference and replaced with a provision that extends and expands an existing tax deduction for infrastructure. However, I am pleased that an infrastructure incentive did survive in the Energy Policy Act.

As originally introduced, the CLEAR Act also provided a very important tax credit of 50 cents per gasoline-gallon equivalent for the purchase of alternative fuel at retail. This would have brought the price of these cleaner fuels much closer in line with conventional automotive fuels and contributed significantly to the diversity of our fuel supply.

This was a very important component of the CLEAR Act that did not survive the conference process. It was important because of the combination of this incentive, the infrastructure incentive, and the alternative fuel vehicle credit working together was meant to have a larger effect on the market than could have been accomplished by providing these incentives alone at different times. For instance, the fuel credit would have combined with the vehicle credit to make it attractive to consumers to buy cleaner cars. The fuel credit also would have combined with the infrastructure credit for a very powerful incentive to install new fueling stations. The presence of more refueling stations then the way for the purchase of more clean vehicles, and so on. Because all three incentives are not in the final bill, we will not achieve the synergy that would otherwise have been possible, and the potential benefits of the CLEAR Act may not be fully realized.

In spite of this disappointment, I am very pleased that such a large portion of the CLEAR Act was included in the energy bill. I can see the day when alternative vehicle fuels, fuel cells, and other advanced car technologies will be common. And considering the environmental and security costs associated with our petroleum-based transportation system, that day cannot come too soon.

As I have outlined in my statement, the Energy Policy Act will go a long way to bringing our nation into the future. It will increase our energy security, help clean our air, and help our colleagues to support these goals and throw their support behind it.

Mr. CONRAD. Mr. President, I come to the floor today to support the energy bill conference report.

I have long believed we need a comprehensive national energy policy. The reality is that our economy depends on affordable energy. We often take it for granted, but just imagine how different our daily lives would be if we did not have plentiful, affordable oil, natural gas, and electricity. We depend on energy in almost everything we do in our lives, from turning on the light in the morning, to driving our cars to work, to cooking our dinner, to watching TV at the end of the day.

And energy is absolutely critical to the functioning of our economy. Our manufacturing sector uses vast amounts of energy to produce the wide range of products we take for granted in stores all across the country. We have under-invested in our electricity infrastructure and in the alternative fuels that are necessary if fuel cells are to ever reach the mass market. As a result our Nation benefits from cleaner air and greater energy independence.

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OPEC or supply disruptions in foreign trouble spots. And it creates national security challenges. We currently rely on the vast oil reserves in the Middle East to meet our import demands, and that makes ensuring the free flow of oil from that part of the world a vital national security interest. So we need an energy policy that will reduce our reliance on imported oil.

For these reasons, I have long believed we need to update our national energy policy. The bill we have before us begins to address these challenges. It will improve the reliability of our electric grid. It provides positive incentives for renewable energy. And it promotes conservation.

Let me be clear, though. This is not a perfect bill. It does not go nearly as far as I would like in addressing the issues I have outlined and other critical elements of a comprehensive national energy policy. It contains several provisions that I do not think should be in an energy bill. But on balance, it is a positive step for North Dakota and the national economy, and it will help secure jobs in my state.

Let me first talk about the provisions I support that will help ensure our national energy security and benefit North Dakota.

First, the bill strongly promotes the use of ethanol and other bio-fuels. The bill will require 5 billion gallons of ethanol by 2012. And it will create a biodiesel tax credit of $1 per gallon for feedstocks such as canola and 50 cents a gallon for recycled feedstock such as restaurant grease. These are clean and renewable fuels, and these provisions are good for the environment, good for our energy independence, and good for North Dakota farmers.

Second, I am very pleased that the bill contains a provision I fought for to extend the production tax credit for wind for 3 years. North Dakota has the highest potential for wind energy of any State in the Nation. This provision will add to North Dakota's wind energy facilities and equipment in North Dakota. That is good for electricity consumers, good for the environment, good for wind energy equipment manufacturing workers, and good for farmers and others who will benefit from having wind turbines on their land.

Third, the bill contains a 15 percent investment tax credit to support the development of clean coal technology that will help North Dakota's lignite coal industry. We have a thriving lignite coal industry in North Dakota, with seven lignite plants that use 30 million tons of lignite each year. And jobs in the lignite industry are among the highest paying jobs in my State.

Fourth, the bill contains incentives for adding pollution control equipment on older coal plants and incentives for building new, more environmentally friendly coal plants. This could be a big help in getting a new lignite plant in western North Dakota while maintaining our pristine environment, something I have been working on for years.

Fifth, the bill contains modest steps to promote energy conservation, including a tax credit of up to $2000 to encourage people to better insulate their homes, and provisions to encourage the purchase and use of more energy efficient appliances.

Sixth, there are provisions to encourage small producers of oil and gas. Many people do not think of North Dakota as an oil and State, but we have significant reserves that can be tapped to help reduce our dependence on foreign oil and address the shortage of domestic natural gas production. The bill includes a tax credit for marginal wells, provisions to speed up permitting on Federal lands, and a section to encourage a particularly important process for natural gas extraction.

Seventh, the bill includes a set of provisions to improve the reliability of the national electric transmission grid, reducing the chances of a massive failure like the one that affected the northeast last summer.

Eighth, the electricity title also ensures that small cooperatives will not be subject to burdensome FERC jurisdiction. It contains protections for co-operatives, which are a major source of electricity in North Dakota. These provisions ensure that North Dakota rural electric co-ops can continue to provide low-cost power to their consumers.

Finally, the bill expands and extends assistance to low income families in meeting their home heating needs. The Low Income Home Energy Assistance Program has provided valuable assistance to thousands of North Dakota families in paying their winter heating bills.

Because of all these important provisions, a number of North Dakota groups support the bill. These include the North Dakota Farmers Union, the North Dakota Farm Bureau, the North Dakota Rural Electric Cooperative Association, the Lignite Energy Council, and the Greater North Dakota Association.

As I said earlier, however, this bill is far from perfect. There are a number of areas where it could and should have been much better.

For example, the conference report does not contain a Renewable Portfolio Standard. The bill that passed the Senate required that 10 percent of electricity be produced from renewable energy sources by 2020. This modest RPS would have protected the environment and spurred wind energy development. I supported this provision and wish it had been included in the conference report.

More generally, the conference report fails to continue promoting the use of renewable fuels and emphasizing conservation. If we are ever to overcome our dependence on foreign oil imports, we will need to be more aggressive on these fronts. The conference report could and should have done more in this area.

I am also disappointed that the bill does not contain tradeable tax credits to encourage cooperatives and municipal utilities to further invest in renewable energy sources. Tradeable credits would have leveled the playing field for these electricity suppliers as we build wind farms and other renewable energy facilities. The conference report could and should have included this provision.

And I do not believe the conference report goes nearly far enough in creating new incentives for expanding transmission capacity to reduce the risk of blackouts. I had hoped the conference report would contain provisions to eliminate the transmission bottleneck that is preventing my state from expanding lignite and wind energy plants to export more electricity to regional markets. Here again, the conference report could and should have done more.

Finally, the bill contains a number of unnecessary provisions that I do not support. The liability waiver for the discovery of fuels known as MTBE—or methyl tertiary butyl ether—is troubling. Clean Air Act changes that will allow certain cities to postpone compliance with reductions in ozone damaging pollutants are nothing to do with promoting sound energy policy and should not be in the bill.

I believe we have more work to do to produce a truly comprehensive energy policy that addresses our energy, economic, and national security challenges. In particular, I will continue to push for an expansion of transmission capacity to protect against the failure of our electricity grid and allow North Dakota to increase its exports of electricity. It is my hope that we will be able to work on these issues in a bipartisan manner.

Despite its shortcomings, on balance the bill before us takes positive steps to address our Nation's energy needs. It will encourage domestic production, promote renewable fuels, and modestly encourage conservation to help reduce our reliance on foreign oil. It will help to reduce the likelihood of major transmission breakdowns.

And it will provide significant benefits to my State of North Dakota. Energy is the second largest sector of the North Dakota economy, and it will benefit very directly from a number of provisions in the bill. And agriculture, the largest sector of the North Dakota economy, will also see important benefits from the various renewable fuel incentives.

For those reasons, I support the conference report. 

Mrs. LINCOLN. Mr. President, I rise today to announce my support for the Energy Policy Act of 2003. I want to thank Chairmen GRASSLEY and Dumenici and Senators BAUCUS and Bingaman for working with me to include renewable energy and energy efficiency provisions important to my home State of Arkansas. While some may say this bill is not perfect, it is a step toward reducing our dependence on foreign oil and
increasing the use of renewable resources in this country.

Nine months ago, I stood before this body and spoke on the dangers of continued reliance on foreign sources of energy. Today, I am pleased to stand here in support of a bill that I believe may come with several provisions I believe will take our country's energy policy in the right direction. I know this bill is not perfect, and I am disappointed that some of my colleagues who have been leaders in this issue for many, many years were excluded from the drafting of this bill.

But I am pleased that those who did draft this bill made an effort to address energy concerns in every sector of this industry. In Arkansas, we have investor owned utilities and co-operatives. This bill will help both of these providers serve their customers in a more efficient and reliable manner. And while this bill may not go as far as some would like in the direction of renewable energy, there are many provisions in this package which will help the United States begin the long process of eliminating our dependence on foreign oil. I believe the renewable fuel standard, requiring our government to purchase percent of its energy from renewable sources, represents a positive step toward this goal. I personally fought to include provisions that will encourage greater use of available resources, increased production of efficiency appliances, and greater investment in delivering fuels to rural America.

In Arkansas, we recognize the importance of renewable fuels in helping the United States to become more energy-independent. That's why I am excited about the provisions in this bill that will encourage greater use of a valuable new alternative fuel, biodiesel. Biodiesel, which can be made from just about any agricultural oil, including oils from cottonseed, is completely renewable, contains no petroleum, and can be easily blended with petroleum diesel. It can be added directly into the gas tank of a compression-ignition, diesel engine vehicle with no major modifications. Biodiesel is completely biodegradable and non-toxic, contains no sulfur, and it is the first and only alternative fuel to meet EPA's Tier I and II health effects testing standards. Biodiesel also stands ready to reach the EPA's new rule to reduce the sulfur content of highway diesel fuel by over 95 percent. These tax credits are necessary as biodiesel is not yet cost-competitive with petroleum diesel.

This legislation will provide tax incentives for the production of biodiesel from agricultural oils, recycled oils, and animal fats and will ensure that biodiesel becomes a central component of this Nation's automobile fuel market. This legislation is identical to language authored by myself and Senator Grassley included in the last Congress's Energy Bill. It is intended to be a starting point for our debate and discussion as we draft an energy bill for consideration in this Congress. This legislation will provide a partial exemption from the diesel excise tax for diesel blended with biodiesel. Specifically, the bill provides a one-cent reduction in the diesel tax from virgin agricultural oils blended with diesel up to 20 percent. The legislation will also provide a half-cent reduction for every percent of biodiesel from recycled agricultural oils or animal fats. With today's depressed market for farm commodities, biodiesel will serve as a ready new market for surplus farm products. Investment now in the biodiesel industry will level the playing field and create new opportunities in rural America. This bill also contains a provision I fought for that will provide a tax credit for production of fuels from animal and agricultural waste.

Thanks to new technological developments, we can now produce significant quantities of alternative fuels from agricultural and animal wastes in an environmentally-friendly manner. The production incentives included in this bill will assure implementation and commercialization of this new generation of technology. I am also pleased this bill includes language to encourage additional collection and productive use of methane gas generated by garbage decomposing in landfills. Methane gas is a renewable fuel that can be used directly as an energy source for heating, as a clean burning vehicle fuel, and as a hydrogen source for fuel cells. Furthermore, it can power generators to produce electricity. There are compelling environmental reasons to encourage these projects.

Even the large landfills that are required under the Clean Air Act to collect their gas and control non-methane organic compounds find it more cost-effective to simply flare or otherwise waste the gas rather than use the methane to produce electricity. Some smaller landfills are not required to collect the gas, and may continue to emit it for decades under the Clean Air Act. Thus, landfill gas projects will not only reduce local and regional air pollution while yielding a renewable source of energy, they will also reduce the country's yearly emissions of greenhouse gases by a very substantial amount for virtually free.

I also worked to include a provision that will encourage new waste-to-energy facilities to produce electricity directly from the combustion of our trash. Arkansas stands with other environmentally conscious States in understanding that waste-to-energy technology saves valuable land and significantly reduces the amount of greenhouse gases that would have been released into our atmosphere without its operation. The volume of waste generated is not going to be reduced by greater than 90 percent by utilizing waste-to-energy facilities, and EPA has confirmed that more than 33 million tons of greenhouse gases can be avoided annually by the combustion of municipal solid waste. Municipal solid waste is a sustainable source of clean, renewable energy and I am proud to see this measure enacted into law. Another provision I am extremely proud of is one that will provide a tax credit for the production of super-energy-efficient clothes washers and refrigerators if those appliances exceed new Federal energy efficiency standards. Conservation and efficiency are the most effective and immediate ways to limit our energy consumption and reduce pollution. I am confident this provision will spur manufacturers to develop super-efficient appliances that will be affordable for consumers.

Another provision of which I am particularly proud relates to the clean-up of Southwest Experimental Fast Oxide Reactor, a decommissioned nuclear reactor near the community of Strickler, Arkansas, in the northwest corner of the state. The site is contaminated with residual radiation, liquid sodium, lead, asbestos, mercury, PCBs, and other environmental contaminants and explosive chemicals. I have been fighting to rehabilitate this site since I came to the Senate, and now we know that persistence pays off.

SEFOR was built by the Southwest Atomic Energy Associates, a consortium of investor-owned electric utilities, and the U.S. Atomic Energy Commission for testing liquid metal fast breeder reactor fuel. SEFOR began operations in 1969 and was permanently shut down in 1972. After the reactor's useful life, the ownership of the site was transferred to the University of Arkansas. The Federal Government helped create these contaminants, and therefore should pay to help clean them up. This is great news for northwest Arkansas, because this site has threatened public health and the environment in one of our State's most beautiful areas for too long. I thank the conferees for retaining my provision related to cleaning up this site.

The final provision I would like to praise relates to improving our country's natural gas infrastructure. I am proud that this bill contains provisions to make it easier for natural gas companies to deliver clean-burning natural gas to this Nation's rural homes, by decreasing the depreciation time for natural gas pipelines.

America's demand for energy is expected to grow by 32 percent during the next 20 years and consumer demand for natural gas will grow at almost twice that rate, due to its economic, environmental, and operational benefits. That level of natural gas use is already 60 percent greater than the highest recorded level. To satisfy this projected demand, we must substantially expand our existing gas infrastructure and this provision will do that. These are provisions I am extremely proud of, but there are also provisions in this bill that I am not proud of. I am very disappointed by the way in which the
issue of MTBE liability is handled in this bill. I am also disappointed by the lack of a renewable portfolio standard in this bill and I will continue to work to see that a RPS is enacted in coming years.

Our current global situation shows us just how important it is that we take steps to reduce our dependence on foreign oil. I hope that this bill is taken for what it is: not a comprehensive solution, but a certain step in the right direction. Much more work needs to be done if we ever expect this country to lose its dependence on fossil fuel and foreign sources of energy and I urge my colleagues to continue to work hard until we achieve this goal.

Mr. BIDEN. Mr. President, for our national security, for our economic future, for the health of our environment, our country needs an effective, comprehensive national energy policy. We must free ourselves from dependence on foreign sources of energy. We must support efficient energy practices and invest in cutting-edge technologies that will keep our economy the most productive in the world. And we must protect and heal the natural environment that we will leave to our children and grandchildren.

The legislation before us fails to meet those needs. When I, and 83 other Senators, voted for the Energy Policy Act on July 31, it was very a different piece of legislation. Unfortunately, the bill has been drastically changed since then. Without sufficient discussion and input from our side of the aisle, unacceptable parts were added to this legislation and crucial parts were taken away. We have been left with a bloated symbol of lost opportunity. I cannot support it.

This is not a trivial matter. This bill would set our energy policy for the next 10 years; we must get it right. Consider how different our lives have been since we last enacted an energy policy in 1992 and what new challenges we will face in the next 10 years.

Cracks in our energy policy, both in infrastructure and regulation, have become evident in the last few years. They have been most clearly shown during the Enron scandal and the August blackout in the Northeast and Midwest. These were clear signals of serious problems in the current system. People were affected by the blackout, and it cost New York City alone $1 billion. This should have been a call to action, but it was not. This bill fails to address the weakness in our electrical grid that were exposed over the summer.

The Federal Energy Regulation Commission is prohibited in this bill, until 2007, from reforming the national power grid through mandates on Regional Transmission Organizations, which is necessary to ensure that further blackouts don’t occur. This legislation also requires those who want to construct a Regional Transmission Organization to foot the full bill themselves, basically guaranteeing that it won’t happen. I have received complaints from the Public Service Commission in Delaware on this very provision.

As our colleagues from the West Coast have forcefully proven, Enron-style energy market manipulation was a major force in undermining the energy system in that part of the country. But this bill does not close the loopholes, with cute names like “Fat Cat” and “Get Shorty,” that allowed Enron to inflate their profits, and that directly caused some of the disruptive and costly power shortages. The bill also rescinds the Public Utility Holding Company Act without providing an adequate replacement. PUHCA has for decades protected energy consumers from energy corporations, like Enron, who might undertake predatory actions or make risky acquisitions or mergers. The repeal of this legislation leaves consumers held hostage if a utility loses their money on a non-energy investment. They could just put it on their customers’ electric bills.

Not only does this bill not address the problems of the past, it doesn’t plan for the future. Our reliance on oil and gas today is inescapable, but the need to move toward something better is undeniable. We will invest billions of taxpayer dollars in this bill for a resource that can’t possibly sustain us. Our dependence on oil ties us to international politics of unstable countries around the world. It condemns us to unsustainable levels of pollution. It should not be a very radical idea to suggest that we need to shift the type of energy that we use in this country. We consume almost 25 percent of the world’s daily production of oil, though we hold only 3 percent of the world’s oil reserves. This is a deficit that we will pay for with lack of control over the air we breathe and security. We are bound to the price fixing of Middle East suppliers and unrest in South America and the states of the former Soviet Union, and we will continue to be unless we invest in alternate sources of energy and curb the rate at which we consume.

Unfortunately, this bill takes no major steps toward these goals. In fact, the conference refused to include renewable portfolio standards, supported by 91 Senators, that would have required utilities to generate 10 percent of their electricity from renewable energy sources by 2020.

To deal with our dependence on fossil fuels, we must address both supply and demand. But this bill fails to provide us with a sensible energy conservation program. It doesn’t address the need to improve fuel efficiency in our cars and trucks. In that regard, we can now count China among the countries with more foresight than this legislation in promoting the most sustainable coal, efficiency. And this bill simply dropped a measure, accepted 99 to 1 by the Senate, that would have instructed the President to reduce our daily oil consumption by a little more than 5 percent by 2013.

Instead of a forward-looking policy on energy, this bill has been turned into a vehicle to undermine our Nation’s policy to benefit of fossil fuel producers. The bill spends $1.8 billion in taxpayer dollars for the purchase of conventional coal-burning technologies, which reduces future demand for “clean-coal.” At the same time, subsidies to promote the cleanest coal technologies have been cut by 20 percent.

It rolls back provisions of the Clean Air Act, by allowing communities to bypass compliance deadlines on ozone attainment standards if they can prove that some of the pollution drifts into their area from upwind locations. Unfortunately, almost all communities with poor air quality can meet this test. The result is a significant weakening of the Clean Air Act and a slap in the face for cities like Lexington, DE, who have met clean air standards despite dealing with upwind pollution.

This is not only an environmental problem. Currently, 130 million Americans are living in areas that don’t comply with the air quality standards, and non-compliance has been linked to an increased occurrence of respiratory problems. A group of health organizations including Physicians for Social Responsibility and the American Lung Association have estimated that this rollback would cause more than 385,000 asthma attacks and nearly 5,000 hospital admissions per year.

The Clean Water Act has likewise been weakened. Oil and gas drilling sites are exempted in this bill from run-off compliance, and hydraulic fracturing, an oil and gas recovery technique, has been completely removed from regulation under the Safe Drinking Water Act.

These are two major changes, but there are other assaults on the environment. For instance, royalties charged to oil and gas recovery units on public land were reduced; offshore oil drilling in the Outer Continental Shelf was authorized; and, a Senate-approved provision, authorizing research on global climate change, was eliminated. This bill prefers ignorance to understanding when it comes to the most important environmental issue the planet faces today.

And, in perhaps the most transparent concession to special interests, this bill not only waives liability, retroactively to September 5, for those who have produced the toxic substance, MTBE, that is polluting our ground water supply, but it grants its manufacturers $2 billion in transition funds and doesn’t ban the additive until 2014, a provision which can be easily waived by the President or any Governor. This leaves those affected communities with a $29 billion bill.

But, that is not the only tab that this bill leaves with the American people. It leaves us to pay $25 billion,
mostly in pork, almost half in backward-looking tax breaks to fossil fuel producers. That is simply too much to be spent on a bad idea. This is not a roadmap, a vision on the horizon, to guide us for the next decade.

The bill give us the comprehensive energy policy our Nation needs in this new century. It does nothing to free us from our dangerous dependence on fossil fuels. It does not set a clear course toward cleaner, more efficient technologies. And it fails to protect our environment. In too many ways it has sacrificed the long-term interests that we all share for short-sighted special interests. We can, we must do better.

Mr. KOHL. Mr. President, I regret having to vote against this energy package. The country needs a coherent energy policy to help us tackle the challenges that come with economic growth. Our constituents need to know that when they wake up in the morning, the lights will be on and the energy to power our days will be available.

Our economy needs plentiful, affordable, reliable energy as we struggle to climb out of a devastating period of slow job loss. Unfortunately, this bill does more to meet the needs of special interests than the needs of a growing economy.

We need an energy bill that leads to lower prices, a clean environment, and consumers. The bill before us today is a missed opportunity to further any of those goals. It has come up short in its effort to lower natural gas prices for Wisconsin consumers. Natural gas prices have been a roller coaster for the people from my State, and we need a large long term supply to come on line. The North Slope of Alaska was the answer, but this bill has done little to make that supply a reality.

Another problem plaguing consumers in Wisconsin is spikes in gas prices brought on by our overdependence on boutique fuels. Most recently, in southeastern Wisconsin, a fire at a refinery brought on by our overdependence on boutique fuels. Most recently, in southern Wisconsin is spikes in gas prices that our oversupply of consumers from the kind of price gouging schemes created by Enron. My colleagues worked hard to make sure the Federal Energy Regulatory Commission had the teeth and the oversight capability to protect consumers and our world without the Public Utility Holding Company Act. Again the conference turned their back on the Senate provision and embraced House language that defends industry at the expense of State and Federal regulators.

The Congress has squandered another opportunity to craft a far reaching and progressive energy policy for this country. Instead we have chosen to pander to special interests and create a particularly dry piece of legislative sausage. The bill before us today has been laden with time the tax breaks the President requested, and more than $100 billion in spending. We can do better than this. We should do better than this, which is why I oppose the bill and support the filibuster. Congress owes it to the American people to come back next year and put together a bill that meets the needs of everyone, consumers and industry alike, instead of playing favorites and leaving the taxpayers with three time the tax breaks the President requested, and more than $100 billion in spending.

Mrs. MURRAY. Mr. President, I want to take time to comment on the Energy bill before us today.

It is disappointing that such a massive bill could do so little to promote our energy independence, national security, economy, or environment. It does nothing to protect our rate-payers from the type of energy crisis we faced in the Pacific Northwest and California. Those who claim otherwise are simply masking the real mission of this bill which is a taxpayer giveaway to the big energy companies.

A 1,200-page bill has much to comment on, but I will not take time to detail every concern I have. I want to discuss the electricity title, the lack of a true energy policy, and threats to our environment.

First let me discuss the electricity title of the bill. For those of us from the Pacific Northwest this title was of the utmost concern.

For over 2 years the Pacific Northwest has been struggling against the Federal Energy Regulatory Commission's, FERC, effort to deregulate the transmission system through its promotion of regional transmission organizations, RTOs, and standard market designs.

Two simple points: First, FERC had proposed a solution in search of a problem that doesn't exist in the Pacific Northwest. Second, the one-size-fits-all approach being promoted by FERC would neither work nor be cost-effective in our unique hydropower based system.

With those concerns in mind I have been working with many of my colleagues in the Pacific Northwest and Southeast, who have similar region concerns, to keep FERC from moving forward with these plans. I am pleased that the bipartisan group has been successful in delaying until 2007 FERC's ability to move forward with RTOs.

While the bill delays SMD implementing the direct effects of the Energy bill could do so little to promote a power grab, and does nothing to stop RTO development.

In fact, the bill is an outright endorsement of the RTO plan, going as far as to provide incentives to utilities for joining such transmission organizations.

FERC has not demonstrated that such a system in the Pacific Northwest will be an economic benefit to the region and, to date, the majority of Washington State utilities remain opposed to the RTOs. Even with the SMD delay provision, this bill is a threat to the electricity system of the Northwest, and I cannot add my voice to this bill's support of RTOs.

Also of great concern in the electric title is the bill's failure to deal with market manipulation. The Pacific Northwest and California are still feeling the direct effects of the 2000-2001 energy crisis that we now know was caused, in large measure, by energy companies manipulating prices.

Given the lessons we have learned over the past 3 years, one would have hoped that this Energy bill would aggressively attack these known methods of market manipulation. But that is not the case. This bill only bans one type of manipulation and ignores all the other methodologies we know were used.

By remaining virtually silent on market manipulation, this bill is giving a nod to energy companies to once again employ Fat Boy, Get Shorty, and other infamous price-gouging schemes.

This bill is an open invitation for companies to once again seek to fatten shareholders' wallets at the expense of ratepayers. This is more true now that the bill repeals the Public Utility Holding Act. This Act is essential in implementing any countervailing laws to protect against abuse in the industry.

In total, this bill promotes schemes that are counter to Washington's ratepayers and fails to protect them against the unethical practices that have already raised their rates.

The bill also lacks a comprehensive energy policy.
During the past 3 years of debate on energy I have acknowledged we should recognize the current importance of oil, gas, and coal in our energy production today. But to ensure America's energy security for the future, it must strongly promote energy efficiency, conserve oil, gas, and coal, clean, and renewable energy sources, and should diversify our energy sources.

But rather than aggressively promoting renewable energy and conservation, this bill maintains the status quo. This bill directs billions of taxpayer dollars to traditional energy producers who already have healthy market shares and hardly need Government support.

Of the roughly $23 billion in tax credits in this bill, only $4.9 billion, or 20 percent, would go towards renewable energy or conservation.

I support the production tax credits for wind, solar, geothermal, and biomass renewable energy in this bill, but unfortunately public power is left out of the equation.

Many Washington residents are served by publicly owned utilities and cooperatives and they should receive the same incentives to invest in renewable energy as this bill gives to the for-profit utilities.

Earlier drafts of this bill included a tradable tax credit for public power investment in renewables. I know that Senate Finance committee members fought for this provision, but unfortunately the President and House objected to the provision.

With both Washington and the Pacific Northwest served by public power utilities, it will be much harder to get these types of investments made.

We hear constantly that we need to decrease our reliance on oil from the Middle East and yet this bill does nothing substantive to increase automobile efficiency standards. The United States is the most technologically advanced country in the world. There is no reason we cannot build and produce more fuel-efficient cars.

Without addressing fuel efficiency standards, it is hard to praise this bill for promoting energy efficiency or national security.

In the end, this bill does nothing more than preserve the status quo of energy production in the United States. We are not more secure, we are not more independent, and we have not truly diversified our production sources. It is much more difficult to promote the traditional energy sources of oil, coal, and gas at the expense of our national security and environment.

This bill does serious harm to our environment and our health by effectively backing the clock on decades-old environmental protections.

First, the bill includes a provision that would amend the Clean Air Act to allow more delays for adhering to the EPA's smog regulations. This provision is not in the bill, these areas, along with coastal areas in many other States, would be placed in serious jeopardy.

The bill grants authority to the Department of the Interior to authorize energy development projects on the Outer Continental Shelf, OCS, including the transport and storage of oil and gas. At the same time, it would undermine the rights of States to manage the Coastal Zone Management Act, CZMA. States were given the right to have a say in Federal projects that impacted their coastal regions. This bill would severely compromise these rights.

Third, the bill has alarming environmental implications for drilling and construction projects. It would allow an expedited application process for drilling on Federal lands by requiring the Department of the Interior to automatically approve applications once they have met certain standards, regardless of any outstanding environmental concerns.

It also exempts companies from adhering to the Clean Water Act's runoff regulations at construction and drilling sites. Without adherence to these guidelines, the risk of ground water contamination increases dramatically.

Fourth, I am concerned about a measure to provide legal immunity to chemical companies that produce the gasoline additive MTBE. The toxic substance is known to have caused ground water contamination and this bill shifts costs for cleanup to taxpayers.

Lastly, this bill contains huge amounts of subsidies for the oil and coal industries. Nearly half of this bill's incentives are given to the oil and coal industries, two of the most environmentally destructive fossil fuels that have contributed to global warming. This is not just irresponsible; it is wrong.

We must actively work to reduce our dependence on foreign oil, but subsidizing the industries and rolling back environmental protections is not a logical methodology.

In contrast, the bill provides less than one-quarter of its incentives to industries that produce renewable energy. The facts are clear. Renewables are simply not the top priority of this piece of legislation.

These are some of the many reasons I cannot support this piece of energy legislation. Not only does it put consumers at risk by repealing necessary protections, but it seriously puts at risk our own health and the health of our environment with that special interest giveaways to the oil, gas, and coal industries.

Finally, let me address the claims about job creation in this bill. For Washington State, a more aggressive promotion of renewable energy could have been a boost to local companies involved in this area of generation, but this bill did not provide that direction.

Proponents have argued that the bill encourages the construction of a natural gas pipeline from Alaska, which would create jobs in Washington State. Unfortunately, the bill does not provide the guarantees needed for what could have been an important project. Republican leaders say they would need some protection against gas prices falling below a certain level. But, this bill provides no mechanism for risk mitigation, so according to its own builders, the pipeline will not be built.

The negative aspects of this bill are overwhelming. It fails to adequately address the real problems that we all face. It threatens the environmental progress we have made in the past and the progress we hope to make in the future. Without measures that substantially promote responsible energy use, increased conservation, energy independence, consumer protection, and environmental safeguards, this bill is simply unacceptable.

I cannot support legislation that puts us all in danger, and that is exactly what this bill does. The people of Washington State deserve better, and the people of America deserve better.

Mr. LEVIN. Mr. President, it is difficult to oppose a bill that has a number of provisions that I not only support, but worked to have included in the bill. However, the process and the product are deeply flawed and I cannot support it.

There are many objectionable provisions that were added to this bill that were not in either the House or Senate versions of this legislation; for instance the retroactive MTBE liability waiver, underground storage tank provisions that would require taxpayers, rather than polluters, to pay $2 billion to clean up leaking underground storage tanks containing gasoline and other toxic chemicals, even at sites where viable responsible parties are identifiable, and the numerable State-specific projects that will cost billions of dollars and were, again, not considered by the House or the Senate.

The Senate passed a comprehensive and balanced Energy bill in July. Then, after weeks of closed-door meetings with virtually no input from Democratic conference, the Republicans put forward this "take it or leave it" Energy bill that is drastically different than the bill that the Senate passed. We have no opportunity to amend this bill, or choose among its good and bad provisions. It is all or nothing.

There are simply too many provisions on the negative side of the ledger. The massive power failure of August 2003, on top of the massive price manipulation perpetrated by Enron and others, provided additional proof, proof that shouldn't have been needed, that the United States' deregulated energy markets are not functioning well. This bill doesn't help that problem. It may make it worse.

The Conference report would repeal the Public Utility Holding Company Act, which is the most technologically advanced country in the world. There is no reason we cannot build and produce more fuel-efficient cars.

Without addressing fuel efficiency standards, it is hard to praise this bill for promoting energy efficiency or national security.

In the end, this bill does nothing more than preserve the status quo of energy production in the United States. We are not more secure, we are not more independent, and we have not truly diversified our production sources as much of the bill's incentive is promote the traditional energy sources of oil, coal, and gas at the expense of our national security and environment.

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Second, the bill's provisions for our coastal regions present a threat to an area my State wants protected.
Act of 1934, PUHCA, longstanding consumer and investor protection legislation governing energy industry structure and consolidation, 1 year after enactment of this bill. Unfortunately, the bill fails to provide adequate protections to prevent industry market manipulation and consumer abuses. Governor Granholm of Michigan has said that replacing PUHCA with ‘‘weaker anti-fraud and market manipulation rules’’ could weaken the States’ ability to protect consumers. Further, whereas the enactment of this legislation’s mandatory reliability provisions would be an improvement over the current voluntary system of standards, the bill fails to ensure that regional transmission organizations will have the authority to enforce those standards in order to prevent, or respond effectively to, another blackout. Uncertainty in the power industry threatens our economy and security and ‘‘erodes’’ investor confidence in U.S. energy markets.

If necessary, we should adopt a stand-alone bill that sets mandatory reliability standards, requires utilities to join regional transmission organizations consistent with the enforcement of standards nationwide than pass an Energy bill filled with so many harmful provisions.

In addition, two provisions in this conference report would significantly impede the ability of Federal and State agencies to investigate and prosecute fraud and price manipulation in energy markets. These provisions would make it easier to manipulate energy markets with impunity.

Section 1281 of the electricity title states: ‘‘Any request for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market account, and agreements, contracts, or transactions in commodities (including natural gas, electricity and other energy commodities) within the exclusive jurisdiction of the Futures Futures Trading Commission shall be directed to the Commodity Futures Trading Commission.’’ Section 332(c) of the oil and gas title contains similar language specifically applicable to investigations by the Federal Energy Regulatory Commission, FERC.

If adopted, this would curtail all State and Federal authority, other than CFTC, to investigate wrongdoing in CFTC-regulated markets. This would undermine FERC, Department of Justice, and State investigations of fraud and manipulation in these markets. It would turn the CFTC into an impediment for all other Federal and State investigations into matters within its jurisdiction, which would be an unprecedented intrusion into the enforcement of State and Federal consumer protection laws. Had this approach been in effect in recent years, FERC would not have been able to investigate the manipulation of the energy markets, including the fraud and manipulation perpetrated by Enron through EnronOnline.

Section 1232 of the electricity title would impose a higher criminal standard, ‘‘knowingly and willfully,’’ for filing false information and for improper round trip trading than exists under current law. The new round trip trading provision is inconsistent with current law and the Cantwell amendment, which prohibited market manipulation in electricity markets, and which recently passed the Senate.

For example, section 4c of the Commodity Exchange Act states it is ‘‘unlawful for any person to enter into a transaction . . . involving the purchase or sale of any commodity for future delivery’’ if the transaction ‘‘is, of the character of, or is commonly known to the trade as a ‘wash sale’ or is a fictitious sale.’’ There is no requirement that the violation be ‘‘willful.’’ Manipulation is difficult to prove even under current law. By raising the burden of proof, this provision will make it easier to prove illegal round trip trading or wash sales.

Rather than weakening the laws preventing fraud and manipulation in energy markets, the Congress should be strengthening these prohibitions.

There are provisions that would affect FERC’s ability to ensure markets are transparent and fair.

The ‘‘Enron loophole’’ was attached during the conference on an omnibus appropriations bill in 2000, and was a factor in manipulating the energy market.

The provisions in this bill, attacked under hurried circumstances would widen the loophole and increase the chances of more manipulation and dysfunctional markets. This is the wrong response to the current crisis of confidence and integrity in our energy markets.

I am also disappointed that the conference report on this bill directs the Department of Energy, ‘‘as expeditiously as practicable, acquire petroleum in amounts sufficient to fill the Strategic Petroleum Reserve to the [1 billion] barrel capacity,’’ but does not include any direction to DOE to fill the SPR in a manner that minimizes the cost to the taxpayer or maximizes the overall supply of oil in the United States. That second direction is critical—otherwise the filling of the SPR could lead to continuing high gas prices.

The Levin-Collins amendment, which was adopted unanimously by the Senate last month, directed DOE to develop procedures to fill the SPR in a manner that minimizes the cost to the taxpayer and maximizes the overall supply of oil in the United States. The Levin-Collins amendment expressed the sense of the Senate that the DOE’s current procedures for filling the SPR are too costly for the taxpayers and have not improved our overall energy security.

DOE’s internal documents state that filling the SPR without regard to the price and supply of oil in the global markets exacerbates price problems in those markets. By increasing demand for oil at a time when oil is in scarce supply, the SPR program pushes the price of oil up even further. Moreover, when near-term prices are higher than future, DOE oil can meet the additional demand for crude oil by removing oil from their own inventories rather than purchasing high-priced oil on the spot market. Thus, under these price conditions, which would continue to increase prices to American consumers and the highway trust fund.

The Conference Report of the Conference report on this bill directs the DOE to fill the Strategic Petroleum Reserve to 1 billion barrels is likely to increase the cost of crude oil and crude oil products, such as gasoline, home heating oil, and diesel and jet fuel, to American consumers and the highway trust fund, as well as to the taxpayer, with uncertain benefits to our national security.

Also, while I support the provision in this legislation that would increase the use of ethanol to 5 billion gallons by 2012 and 3.1 billion gallons by 2005, it needs to be reasonable in a way that ensures the continued viability of the Highway Trust Fund.

Twice the Senate passed legislation that included a Volumetric Ethanol Excise Tax Credit, VTEEC, that would address the shortfall in revenue to the Highway Trust Fund that was caused by the ethanol tax exemption. In addition to taxing ethanol, the VTEEC, as adopted by the Senate, would maintain the credit for ethanol production by paying for it from the general treasury, create a biodiesel credit and ensure that all taxes charged on ethanol go to the highway trust fund.

One arrangement worked out by House and Senate Republicans gives ethanol blenders the new option to receive a 5.2 cent tax credit after paying the federal gas tax or they could continue receiving the current ethanol exemption of 5.2 cents.

Since most blenders likely would continue to choose to receive the exemption up front rather than wait for a tax to be paid, this provision would increase the amount of tax credits available under the existing law. This will increase the amount of tax credits available under the existing law.

For example, if a blender is paying federal gas taxes, they would receive the tax credits for the blending of ethanol and jet fuel, to American consumers and their customers, as well as to the taxpayer, with uncertain benefits to our national security.
credit, the highway trust fund would still lose billions of dollars per year. Efforts by Senator BAUCUS to address this problem were approved by the Senate conferees, but was refused by the House. While I support increased ethanol production, it is imperative that increased production does not diminish the Highway Trust Fund.

Additionally, I am troubled that this legislation exempts producers of MTBE from liability. MTBE, an oxygenate that could be replaced by ethanol, is a potentially harmful product and its producers should not be exempt from liability. In Michigan, it has been estimated that MTBE has contaminated ground water around over 700 leaking underground storage tank sites. Further, as many as 22 water supply wells have been deemed unusable due to MTBE contamination. Because of this MTBE liability waiver, the State of Michigan may have to pay over $200 million to clean up those sites. Governor Granholm has strongly protested that we need to hold manufacturers accountable for the damage that MTBE does to public health and the environment, not guard them from liability which then allows them to pass the costs on to the States and consumers.

As I stated earlier, this bill has a number of provisions that I support and that I worked to have included in it. These include tax credits for advanced technology vehicles and joint research and development between the Government and the private sector to promote the expanded use of advanced vehicle technologies. But in the end, the good provisions must be weighed against the large number of bad provisions, and there are too many objectionable provisions for me to support this bill.

The Senate has worked to create a national energy policy for years. In just a few weeks, without bipartisan negotiation or a Senate vote, a bill was created. We should work to complete a long-term, comprehensive energy plan that provides consumers with affordable and reliable energy, increases domestic energy supplies in a responsible manner, invests in energy efficiency and renewable energy sources and protects the environment and public health.

Mr. LIEBERMAN. Mr. President, I rise in the strong opposition to the bill before the Energy Policy Act of 2003. The bill before us is a pork-laden, budget-busting, fossil-fuel promoting vestige of the past, developed largely in secret by a handful of GOP lawmakers. This legislation is a mere shadow of what it was and could be. This could have been a proud moment for this Congress and for the Nation. Rather than caving to special interests and wallowing in pork barrel politics, we could have risen to the challenge and met our obligations to help feed the war effort. Instead, as the Enron energy scandal and the blackout of 2003 from reoccurring. We could have acted to promote our economic prosperity, strengthen our national security, and protect the health and welfare of all Americans through bold, balanced legislation. We could have finally tackled global warming—the greatest environmental challenge of our time. We could have moved forward, based on opening new markets and spurring new technologies. We could have set American energy policy on a better, brighter course.

Instead, we are stuck with this—a sewer of an energy bill. The bill that has emerged from the closed door, Republican-only conference, and which we consider today is a legislative disaster. Sadly, it bears little resemblance to the balanced, bipartisan legislation that passed the Senate last July. The Senate bill, which originally passed this body in the 107th Congress, strengthened our national security, safeguarded consumers, and protected the environment, and was developed in open, meaningful, bipartisan fashion. Before moving on to the provisions of the conference bill, I must offer a few harsh words with the process of GOP majorities employed to produce it. In all my time in the Senate, I have never witnessed more mendacious and unstatesmanlike spectacle. With the exception of the tax provisions of this bill, in which Senator GRASSLEY seized every possibility to involve his Democratic colleagues, this is a thoroughly partisan process.

Here is the way the conference went: One conference meeting at which Democratic conferences offered opening statements only: complete shut out of Democratic conferences from negotiations on the substance of the bill; a few staff-level meetings for show after policy decisions had already been made and reflected in GOP-only developed text; special-interest lobbyists exerting extraordinary influence over the bill; release of a more than 1,000-page document; a last-minute meeting before the scheduled meeting to adopt it—40 percent or more of which was new text. It is inconceivable to me that legislation of this import was developed this way. Quite simply, this process afforded no real opportunity for Democrats to influence the final product and no opportunity for the American public—whom this body is charged to represent—to view and comment on the final product. I second the comments of many of my Democratic colleagues that we will never be subject to a conference like this again.

In dissecting the pork-laden bill that emerged from the smoke-filled back rooms of the conference committee, let me first highlight one provision of extraordinary importance to the State of Connecticut. Connecticut has worked for decades to ensure that the construction and operation of natural gas pipelines and electric cables across our national treasure, the Long Island Sound Park System, over the objection of the Federal Government power to site and construct transmission lines and natural gas pipelines.
Fourth, MTBE liability protection. In a provision added in conference to benefit companies primarily based in Louisiana and Texas, the bill provides retroactive and prospective liability protection for producers of methyl tert-butyl ether (MTBE), curbing the rights of injured Americans across the country and imposing a huge financial burden for cleanup on our States and local communities. Simply unbelievable.

Fifth, environmental protection rollbacks and giveaways. The icing on the cake for this bad bill is the significant environmental protections it strips away for the benefit of energy producers. The bill also contains new provisions to make our air much dirtier.

The conference bill would exempt metropolitan areas from meeting the Clean Air Act’s ozone-smog standard. This issue was never considered by the Senate or the House and was inserted into the conference report during “conference committee” meetings. A new report from Clean Air Task Force reveals that the ill-conceived Energy bill would have severe public health consequences around the country, especially for children. Implementing the Clean Air Act could lead to nearly 5,000 hospitalizations due to respiratory illness and more than 380,000 asthma attacks and 570,000 missed school days each year. The bill exempts all conventional oil and gas drilling sites from coverage under the Clean Water Act and removes hydraulic fracturing, an underground oil and gas recovery method, from coverage under the Safe Drinking Water Act. The conference bill expedites energy exploration and development at the expense of current National Environmental Policy Act, NEPA, requirements. Environmental review is waived for all types of energy development projects and facilities on Indian land.

I urge my colleagues to reject this legislation. The conference bill does contain provisions that make limited progress—baby steps only— toward achieving energy goals. And the bill recognizes the political reality that the Senate has spoken forcefully to the fact that it will not permit the Bush administration to drill in another of our Nation’s treasures, the Arctic National Wildlife Refuge. You can search the bill to find requirements for renewable fuels, (increase in sales of renewable electric energy from sources such as wind, solar, geothermal, and biomass; funding for energy research and development, including related to hydrogen fuels; and limited tax incentives for alternative vehicles, renewable energy sources, and energy efficiency. That is why my colleagues claim this bill articulates an energy program for the 21st century. Hogwash. These weak provisions do not even register on the scale against the predominant special interest, fossilized provisions of the conference bill.

What is this bill missing? Frankly, the list is staggering. I have time to highlight five key areas:

First, renewable energy. Our Senate-passed bill required utilities to generate 10 percent of their electricity from renewable energy facilities by 2020. Such a provision would provide new investments and work to wean the country off foreign oil dependence and the drilling-first-and-only mindset that has predominated American energy policy for generations. In addition, the majority of jobs created by this bill; according to studies of the Tellus Institute and Union for Concerned Scientists, the renewable industry would create new, sophisticated job opportunities for hundreds of thousands of Americans.

Second, climate change. Greenhouse gas emissions from the burning of fossil fuels threaten not only our environment, but also our economy and our public health. Should we continue unabated our polluting, we threaten to disrupt the delicate ecological balance on which our livelihoods and lives depend. This bill is so short-sighted that it contains no provisions of any kind to address climate change.

Third, fuel economy improvements. No credible Energy bill can lack means to improve fuel economy for automobiles and trucks. This is key to reducing our foreign oil consumption.

Fourth, oil savings provision and specific hydrogen standards. Amendments agreed to by the Senate last summer in the Senate conference report before us.

Fifth, Alaska natural gas pipeline. I strongly support construction of this pipeline, which will bring millions of gallons of natural gas to the lower 48 States and create almost half of the new jobs, 400,000, touted under this bill. The conference bill, however, fails to provide the necessary incentives to enable construction of the Alaska natural gas pipeline, which would prevent the U.S. from becoming more dependent on natural gas imports.

This abysmal bill must not be made law. Any Senator serious about advancing America’s energy and environmental policies and curtailing Government waste is compelled to vote against the Energy bill before us. We must not let American democracy and Americans deserve a real Energy bill, one that we can be proud of. This is not it. Let us reject this legislation and return to the drawing board, recommitting ourselves to producing a balanced, innovative, and responsible energy policy for the 21st century.

Ms. SNOWE. Mr. President, as I rise to speak to the issue of the conference report to H.R. 6, the Energy Policy Act of 2003. I want to first recognize the efforts of Energy Committee Chairmen DOMENICI and Finance Committee Chairman GRASSLEY for the extraordinary time and effort they have devoted to developing energy policy for a 21st century America.

There was an arduous task in addressing not only political differences with the bill but also regional ones as well. So I thank them for their work.

This bill certainly has been a long road. Congress has been debating and voting on a number of energy issues over the past two Congresses, one when under Democratic control and one under Republican leadership. There have been a myriad of issues to consider as we have attempted to shape appropriate policy, and to help increase the public’s awareness of the benefits to our health and national security in shifting from foreign fossil fuel imports toward renewable, efficient, and alternative energy sources and technologies. Yes, it has been a long, hard road but this conference report simply does not put us on the right road to accomplish these goals for the good of the Nation. We have yet to find that new direction, but we must keep seeking it.

As Theodore Roosevelt once said, “Conservation is a great moral issue, for it involves the patriotic duty of ensuring the safety and continuance of the nation.” The conference bill has the opportunity to raise the bar for the Nation’s future domestic energy systems through new energy policies, through the creation of tax incentives for available and developing technologies, and most of all for incentivizing the entrepreneurial spirit of the American people.

But, this goal, in my opinion, has not been reached in the Energy conference report before us.

Since we started to develop new strategies for the Nation’s energy policy for the 21st century, we have had to undergo a fundamental reassessment of our energy infrastructure in the aftermath of the horrific events of September 11 and the ongoing turmoil in the Middle East. We realize now more than ever that we must reduce our vulnerabilities to terrorism with more secure, localized, and reliably distributed energy delivery systems rather than relying solely on our current centralized infrastructure of refineries, powerplants, patchwork of electricity grids, and oil tankers berthed in our harbors. The United States simply cannot afford to continue to spend at least $57 billion a year buying oil from the Middle East and continue its upward trend of fossil fuel usage.

The entire world—particularly the developing and fast-growing nations of China, India, and Brazil—desperately needs access to clean, low-cost, energy-efficient, and renewable resources. The key is to make the best alternate energy systems that are competitive with today’s nonrenewable sources of energy.
so that they can be developed and used both at home and sold abroad.

Since 2000, I have been proud to have been a member of the Finance Committee where I worked to develop responsible tax incentives to increase the efficiency of the electricity we produce, the vehicles we drive, the appliances we use, the homes in which we live, and, in turn, enhance the competitiveness of our domestic manufacturers. Our task is to incentivize, through the Tax Code, our U.S. manufacturers to develop and employ the most promising and cost-effective technologies to the U.S. and global marketplace with all due speed.

Unfortunately, the conference report increases oil and gas tax credits to $11.9 billion while conservation and energy efficiency incentives were decreased to $1.5 billion. An equitable balance has not been achieved nor is it a step forward.

We need to expand the mix of the country’s energy sources with the realization that power from nuclear and fossil fuels will continue to be a large part of the energy basket in the next decades—but, at the same time, we must encourage safer, cleaner and decentralized energy sources as well. The conference report before us simply does not progress far enough in this direction, instead maintaining more of a “business as usual” approach to the Nation’s energy future.

One of my greatest disappointments is the absence of provisions from the Feinstein-Snowe SUV loophole legislation that would have phased-in changes in CAFE standards requirements in four, attainable stages that would have brought the standards for SUVs in line with passenger cars within the next 8 years. Closing this loophole alone would save our nation approximately 1 million barrels of oil, or fully 10 percent of the oil our vehicles consume on a daily basis.

Right now, all our vehicles combined consume 40 percent of our oil, while coughing up 20 percent of U.S. carbon dioxide emissions—the major greenhouse gas linked to global climate change. To put this in perspective, the amount of carbon dioxide emissions just from U.S. vehicles alone is the equivalent of the fourth highest carbon dioxide emitting country in the world.

Given these daunting numbers, I cannot see why we continue to allow SUVs to spew three times more pollution into the air than our passenger cars.

Like Senator Feinstein and I, other nations have realized the value of these changes. Even China—a developing country—has great concerns about its increased reliance on foreign oil, so much so that Chinese officials say they have to save energy—and how are they prepared to accomplish this? By implementing more stringent CAFE standards on new cars for the first time, the Administration, in a move that depends on the phasing-in and cost-effective technologies to the U.S. and global marketplace with all due speed.

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with an average fuel economy of 27.5 miles a gallon under a combination of city and highway driving with no traffic; window-sticker values for gas mileage, which include the effects of a fuel surcharge, are 10 percent lower. Light trucks, including vans, S.U.V.’s and pickups, are allowed an average of 20.7 miles a gallon without traffic.

But increased regulation has raised the comparable American standard to 22.2 miles a gallon for the 2007 model year and is now compounding whether to raise it further for 2008. The administration is also considering adopting different standards for different weight classes of light trucks.

Overall fuel economy in the United States has been eroding since the late 1980’s as automakers shifted production from cars to light trucks. It fell in the 2002 model year to the lowest level since 1980. Automakers in Europe have accepted European Union demands to increase fuel economy under different rules that could apply at least as stringent as China’s minimums.

The Chinese standards would require the greatest increases for full-size S.U.V.’s like the Ford’s Explorer, as fuel efficiency standards are as much as 29 percent farther on a gallon of fuel in 2008 than they do now in the United States. Mr. An calculated. Sport utility sales in China are doubling so far this year, but are still a much smaller part of the overall market than they are in the United States.

Because the American standards are fleet averages while the Chinese standards are minimums for each vehicle, the effect of the Chinese rules could be considerably more stringent. A manufacturer can sell vehicles in the United States that are far below average in fuel efficiency if it has others in its product line that meet or beat it by being above average. But under the Chinese rules, the fuel-inefficient models—especially new ones introduced after the standards take effect—would also have to meet the stiffest standards typical of many Chinese regulatory actions.

Japan is also phasing in new fuel efficiency standards based on vehicle weight that allow heavier vehicles only slightly worse mileage than lighter ones. American automakers have complained that the Japanese rules discriminate against them because Japanese automakers tend to produce slightly lighter cars anyway.

China has more than 100 automakers, as Detroit did a century ago, but the bulk of its output comes from a small number of joint ventures with multinational companies. Total production has more than doubled in the last three years, to about 3.6 million cars and light trucks in 2002, nearly as many as Germany. The United States builds about 12 million a year, Japan about 10 million.

The cars that automakers produce on their own tend to very small and light-weight, but the engines are built on older technology, and may not have an easy time complying with the new fuel economy standards.

The government has been encouraging the industry to consolidate, and the new rules may hasten that process by forcing investment in engine designs that small companies may not be able to afford on their own.

Ms. SNOWE. Mr. President, just consider for a moment how much the world has changed technologically over the past several years. The advent of the home computer and the information age. Computers are now running our automobiles, and global positioning system devices are guiding drivers to their destinations. Are we to believe that technology couldn’t have also helped us burn less fuel in getting there? Are we going to say that, while even a developing country like China is transforming, America doesn’t have the wherewithal to make S.U.V.’s that get better fuel economy?

We should keep in mind that China is expected to pass the United States in the next 10 years as the largest emitter of manmade carbon dioxide, the major greenhouse gas that the vast majority of international scientists believe is causing global climate change. And, it is interesting to note that there is not one mention of climate change in the entire conference report. Not one reference in a report of over 1,000 pages that was supposed to be the Clinton administration’s energy policy for the 21st century.

Last year’s Energy bill—which I remind my colleagues is the bill the Senate actually passed this year—had at least three different titles addressing climate change, including research on alternative energy sources. The administration’s National Energy Policy of May, 2001, stated, “Energy-related activities are the primary sources of U.S. man-made greenhouse gas emissions representing about 85 percent of the U.S. man-made total carbon-equivalent emissions in 1998.”

Other grave concerns I have involve provisions in the report that will threaten coastal and marine environments and lead to further degradation of our oceans. As Chair of the Subcommittee on Oceans, Fisheries, and Coast Guard, I am troubled by the ramifications of these provisions, as I strongly believe that any changes to U.S. marine policy should only be developed with contributions and oversight of the subcommittee.

For example, under section 321 of title III, the bill grants sole authority for all energy-related projects in the Outer Continental Shelf to the Secretary of the Interior. Currently, protecting these ecosystems is the responsibility of the Department of Commerce. This section does not suggest that the Department of the Interior should even consult with Commerce.

Two other sections in this bill would limit the ability of the Secretary of Commerce and commerce to guide, plan, and regulate activities that affect coastal and ocean resources and that occur in offshore areas—a right they currently have under the Coastal Zone Management Act.

Further, section 325 would shorten the timeframes for submitting information and appealing the permitting decisions for offshore activities that are inconsistent with States’ coastal management plans—regardless of the quality or quantity of information received. Another section, section 330, would disband all States’ guidance of offshore energy action to the Federal Energy Regulatory Commission rule. I believe that the Secretary of Commerce should have the discretion to develop a record that is relevant to issues in appeal.

These provisions are inconsistent with the administration’s proposed rule amending the appeals processes, and they conflict with the goals and purposes of the Coastal Zone Management Act reauthorization bill. S. 311, I introduced last January. Moreover, the U.S. Commission on Ocean Policy, established and appointed by President Bush pursuant to the Oceans Act of...
2003, is poised to present its recommendations to Congress on offshore energy and other ocean-related issues.

All of these provisions have serious consequences for marine environmental health, and they should not be hastily adopted without the thorough input of the Commerce Committee, the administration, and the U.S. Commission on Ocean Policy.

Moving from our oceans to our air, there are other disturbing provisions in the energy bill that have been raised by many of my colleagues. For instance, the report contains a provision delaying clean air protections for millions of Americans, leading to thousands of additional asthma attacks—and that is of particular concern to me as my State of Maine leads the Nation in per capita cases of asthma.

Also, I am disappointed that the conference report contains no renewable portfolio standard, or RPS, to raise the amount of renewable energy as a source of electricity for Wisconsin and other states, increasing the percentage of electricity produced from wind, solar, geothermal, incremental hydropower, and clean biomass that produces electricity from burning forest waste.

The conference report does not ban MTBE that is polluting our ground water for another decade rather than the 4 years in the Senate bill, while at the same time virtually dismissing pending lawsuits states already have filed against MTBE producers for cleanup. State officials in Maine do not approve of extending the ban on MTBE or the fact that the heavy financial burden of cleanup will shift to the communities and water users because MTBE producers receive a safe harbor from lawsuits in the report.

For hydropower, the conference report provisions give the last say for hydropower permits to industry and does not give equal weight to the agencies' stakeholders that have worked so well in Maine for reaching consensus on hydropower decisions, especially for dam removals.

On electricity reliability, the report holds up FERC’s ability to go forward with its standard market design for regional transmission organizations—or RTOs except on a voluntary basis, until 2007. A voluntary only program, however, does not spur the capital needed right now for increased electric transmission in New England to provide for reliability. For instance, I hope my colleagues are aware that the New England RTO kept the great majority of New England’s electricity grid working and the lights on during the blackout of August of 2003. Actually, the only component of the electricity grid that effectively addressed the basic causes of the 2003 blackout was the establishment of electric reliability organizations that would enforce reliability standards through improved communication standards and would be overseen by FERC.

Regarding consumer protections, the conference report repeals PUHCA, the Public Utility Holding Company Act, that currently protects consumers from higher electricity prices. However, the conference report contains little language that ensures that consumers are shielded from higher bills resulting from, for instance, large electricity and natural gas convergence mergers. Public Power, co-ops and municipalities, who represent 25 percent of the industry, are especially vulnerable to the lack of adequate consumer protections in the report.

Also, the conferees stripped the tradable tax credits for Public Power that I and others had included in the Senate Finance Committee amendment. These tradable tax credits would have allowed Public Power to invest in renewable energy and assist them in decreasing their CO2 emissions by moving away from burning as much coal as they currently do.

On fiscal policy, I do not believe the conference report shows fiscal restraint and does not promote energy savings. The fiscal year 2004 budget resolution calls for approximately $15.5 billion to be spent on tax incentives, and the Senate Finance Committee stayed within this budget blueprint. The conference report contains in tax incentives plus another $6.4 billion in spending and with no offsets.

One of my concerns is that important tax incentives that appeared in the Senate and House Energy bills over the past 2 years have not been included in the conference. Where they have been included, they are so pared back that I question whether the various industries will take advantage of the smaller energy efficiency tax incentives provided, particularly for the construction, lighting, and heating, ventilation and air-conditioning, or HVAC, for commercial buildings.

Gone are provisions for tax incentives to promote the use of more efficient appliances. Although 70 percent of the energy demand in peak periods is for air-conditioners, and that was a significant factor in last August’s major blackout in the Northeast. The lack of these provisions that could be instrumental in the short term for energy savings simply does not move the Nation’s energy policy forward into this century.

The knowledge of alternative and renewable sources has been known for over a century as the simple principle of fuel cells—combining hydrogen and oxygen to produce electricity and pure water—and the photovoltaic principle behind the solar power of the sun, were both discussed in 1839–1846 years ago. We should ask ourselves why, instead of our daily diet of approximately 19 million barrels of oil a day, we are not also choosing to bolster even more the development of these sources of renewable energy for our consumption and to grow our economy.

Imagine automobiles driven by fuel cells—our U.S. auto manufacturers and the Federal Government are beginning to invest in fuel cells. Imagine businesses and homes having their own free-standing and reliable fuel cells—one of the cleanest means of generating electricity—that Senator LIEBERMAN and I have promoted. Fuel cells can provide electricity instead of our current centralized fossil fuel systems that make our air dirtier and less healthy, causing us to spend millions more on health care each year. We need to be more serious about promoting these technologies.

I do not believe that the Energy conference report before us sets the Nation on the right course for the future and well being of the Nation, and I will, regretfully, vote against the conference report with the hope that Congress can continue working toward a more meaningful, secure, and balanced energy-efficient future for the Nation.

Mr. DORGAN, Mr. President, I rise to support the Energy conference report. I do not believe that the Energy conference report contains strong or provisions about the way this bill was created, I believe our country will be better off with this bill than without it. On balance, it will advance our interests.

This bill takes important, major steps toward developing renewable and limitless sources of energy such as ethanol, wind, and biodiesel. It puts us on the road to the development of a new hydrogen cell economy, which is essential if we are to lessen our dependence on foreign oil. And it contains important conservation measures by improving efficient standards on appliances and other devices we use in our daily lives. If we are serious about securing our energy future, I believe we must implement these measures without delay.

Additionally, this bill enhances our ability to develop more traditional sources of energy, while protecting our environment. It contains strong provisions to promote clean coal technology so that we can more effectively use our coal resources without degrading our environment. The bill also funds a pipeline to access over 30 million cubic feet of natural gas a day, bringing it to the lower 48 States. And it provides additional incentives for the discovery and recovery of oil and natural gas.

There is much in this bill that is positive, and I intend to vote for it. Having said that, I know this bill is far from perfect. But in some important matters, it is a step in the right direction.

The bill omits a renewable portfolio standard, RPS, that would have required utilities to produce 10 percent of their electricity from renewable sources. That is a serious omission. A majority of the Senate conferees voted to add this amendment to the conference report before us sets the Nation on the right course for the future and well being of the Nation, and I will, regrettably, vote against the conference report with the hope that Congress can continue working toward a more meaningful, secure, and balanced energy-efficient future for the Nation.

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Unfortunately, this bill also provides liability protection for the producers of the fuel additive, MTBE. This is a major mistake. Insulating the big oil companies, while making the mom and pop gas stations of America liable for the costs of cleaning up these contaminated sites is simply wrong and bad policy.

I also want to address concerns that the bill waives a number of other important environmental provisions. For years, the administration has complained that the process of siting and permitting renewable energy projects is cumbersome and in the name of efficiency needs to be modified. This measure does that. But let me caution the administration for a moment. While Congress has provided discretion to the appropriate agencies in an effort to streamline the process, these agencies will be held accountable if they violate the spirit and trust we have given them. I expect these agencies to make informed decisions based on public input, sound science and common sense.

Additionally, as a member and former chairman of the Commerce Committee's Consumer Affairs Subcommittee, let me address the issue of consumer protection. This bill repeals the Public Utility Holding Company Act and does not, in my opinion, go far enough to protect consumers from price gouging. Congress will be watching very closely to ensure that the agencies responsible for preventing market consolidation and market manipulation are doing their job. I believe we must keep pushing to get better protections for consumers. The experience on the west coast in recent years is a painful reminder that corporate power, if left unchecked, can cause serious injury to our consumers.

These deficiencies in the Energy bill could have been avoided had the majority party included Democratic conferees in a meaningful dialogue. Instead, Democrats were frozen out of the Energy conference. It was a flawed and arrogant process that prevented the American people from getting the most sensitive and critical national security work done.

In closing, we are left with two choices: one, do nothing and pray we don’t have further blackouts, further price spikes, or God forbid, a terrorist strike on our supply of foreign oil; or two, enact the proposed energy legislation and use it as the first brick in the foundation of crafting a comprehensive energy policy that will reduce our dependence on foreign oil. If a meaningful energy policy is analogous to a novel, then this bill is just a first chapter. It is not as comprehensive, as wise, or as bold as the American people have a right to expect. Let me state, this is not a boil-the-end-all comprehensive Energy bill, no matter who tells you it is. I am prepared to continue to modify, amend, and reform this measure as many times and as long as it takes in order to ensure it does not succumb to doomsday comprehensive energy policy, one that works to advance our country’s interest.

In closing, we are left with two choices: one, do nothing and pray we don’t have further blackouts, further price spikes, or God forbid, a terrorist strike on our supply of foreign oil; or two, enact the proposed energy legislation and use it as the first brick in the foundation of crafting a comprehensive energy policy that will reduce our dependence on foreign oil and strengthen our energy diversity and security.

Given these two choices, I choose action over inaction and urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, it is my understanding that the pending business before the Senate is the Intelligence conference report; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERTS. Mr. President, I rise today to urge Senate passage of the conference report for the Fiscal Year 2004 Intelligence Authorization Act.

On November 9th, the conference report was approved by the House of Representatives. In order to quickly provide the Intelligence Community the authorities it requires in order to pay, house, and equip its personnel for our mission and critical national security work, this legislation should be sent to the President without delay. The horrible terrorist attacks in Tur-
more costly than the budgeted funding. This underestimation of future costs has resulted in significant re-shuffling of NFIP funds to meet emerging short-falls.

In an attempt to correct this problem, the conference report contains a provision which would mandate a fundamentally more sound approach to cost estimates for major systems. The business-as-usual approach must end.

There is another area I wish to mention in which reforms concerning the intelligence committees are long overdue. All recent after-action reports or studies of intelligence failures point to the inability of analysts to process ever-growing quantities of information. In an effort to correct this problem, the conferees agreed to move funds to programs at the Defense Intelligence Agency, the National Security Agency, and the CIA to improve the community's analytic capabilities.

My key objectives in formulating the conference report were to ensure our Nation's continuing effort to prosecute the war on terrorism and to ensure that the "longer view" about intelligence community requirements is taken into account. I believe that this conference report meets both objectives.

We met those objectives because we had bipartisan cooperation when and where it counted. I wish to thank the distinguished vice chairman, Senator Rockefeller, as well as the distinguished House chairman, Representative Goss, and his ranking member, Representative Harman, for their assistance in making the conference report possible. The staff of both intelligence Committees must also be commended for their diligent work on this important legislation.

There is no opposition on our side of the aisle. We have worked very hard with the House to come up with a good compromise. This bill is vitally needed on behalf of national security. A similar bill passed the Senate several weeks ago by unanimous consent.

I yield to my distinguished colleague, the vice chairman, Senator Rockefeller.

THE PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I agree with the chairman of the committee and his colleagues. There is no objection on this side. It has been cleared. There is no objection on our side. I presume the bill will be voted through.

Mr. President, I am pleased to join the distinguished chairman of the Select Committee on Intelligence in recommending passage of the conference report on H.R. 2417, the Intelligence Authorization Act for Fiscal Year 2004.

The bill authorizes appropriations for the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and the intelligence components of the F.B.I. and other U.S. government agencies. It also contains a number of important provisions intended to lay the foundation for process and organizational changes in the intelligence community.

The classified nature of U.S. intelligence activities prevents us from disclosing the details of our budgetary recommendations. As I described to the Senate when our bill was considered in July, 10 years ago I joined a majority of Senate colleagues in voting to express the sense of Congress that the aggregate amount requested, authorized, and spent for intelligence should be disclosed to the public in an appropriate manner. The House opposed the provision. I continue to believe that we should find a means, consistent with national security, of sharing with the American taxpayer information about the total amount, although not the details, of our intelligence spending. In holding the intelligence community accountable for performance, and the Congress and the President accountable for the resources they provide to the Intelligence Community, citizens should know the Nation's overall investment in intelligence.

The bill includes a number of provisions intended to promote innovations in information sharing, human intelligence, and counterintelligence, among other things. Many of these initiatives represent initial steps rather than solutions, but they are necessary to raise the level of awareness in Congress and the executive branch regarding a variety of urgent and complex challenges and to lay the foundation for reforms the committee will be considering next year.

Section 351 of the bill requires a report on the threat posed by espionage in an era when secrets are stored on powerful, classified U.S. computer networks rather than on paper. A single spy today can remove more information with his or her laptop than spies of yesteryear could remove with a truck. We have already suffered losses, for example, in the Ames, Regan, and Hanssen cases, where sloppy computer security permitted traitors to exploit large quantities of classified information. Unfortunately, these cases provide a warning that appears to have gone largely unheeded. We still do not have a cohesive set of policies and procedures to protect our classified networks. We must work with people who seek to betray our country. Our reliance on classified information systems for warfighting and intelligence is growing daily, yet hundreds of thousands of individuals have virtually unrestricted access to these critical networks.

All but a few Government personnel are honest and patriotic Americans, but the sad fact is that there has not been a day since WWII when we have not had spies within our Government. There have been over 80 espionage convictions over the past 20 years. They include personnel from the Army, Navy, Air Force, Marine Corps, NSA, CIA, FBI, State Department, the National Reconnaissance Office and the Office of the Secretary of Defense. It is a very real and continuing problem and there will undoubtedly be more espionage arrests in the months and years ahead. Espionage is an unfortunate fact of life, and we simply cannot afford to operate in a classified arena in which thousands of individuals enjoy the ability to download or upload classified information at will.

Other countries are seeking to exploit this situation to collect defense secrets, and no doubt contemplate blinding our government and troops in time of war. We cannot permit such broad access to weapons in an armory, yet these classified systems are of much greater strategic significance than M-16 rifles, tanks, or 500 pound gravity bombs. We simply must develop the policies and capabilities necessary to control input and output devices on these systems and monitor their use.

Section 352 of the bill calls for a review of our cumbersome, outmoded, and many would say ineffective personnel security system. It is a system that almost every spy has received high-level security clearances. It is also a fact that few, if any of these individuals were identified through routine security clearance updates.

Most people who become spies join the government with no intention of betraying their country. The Defense Department shows that most spies are people who develop grievances as their careers progress, at times having developed money and alcohol problems as well, and then turn to espionage as a way of feeding their egos and their bank accounts.

Yet, we give a young, single Navy recruit seeking an intelligence assignment the same scrutiny as a 30-year intelligence operative with financial troubles who routinely travels to countries of concern. Further, even when necessary information is sometimes even very disturbing information which raises serious espionage issues, the government rarely revokes the clearances we rely on so heavily and which cost so much.

In the information age, we cannot wait 5 to 10 years to identify employee problems that may be related to espionage. Too much damage can be done too quickly. We need fresh thinking and recommendations that will provide more effective security for the large sums of money the taxpayer is investing.

Section 354 of our bill calls for a review of classified information sharing policies within the Federal Government. This is an issue closely related to the foregoing provisions regarding inadequate security policies. ATM machines, for example, are a wonderfully convenient and efficient means of providing access to banking resources — but they could not exist without magnetic cards, personal identification
numbers, cameras and locks. Similarly, improved security is not a barrier to more flexible information sharing. It is a fundamental ingredient. The Joint Inquiry report on the 9/11 attacks highlighted information sharing as a critical shortcoming that prevented the intelligence community from properly anticipating and preventing several hijackers. To help accelerate reform, the Joint Inquiry requested an administration report by this past June 30 on progress to reduce barriers among intelligence and law enforcement agencies engaged in counterterrorism. Unfortunately, no report has been submitted.

We have the technology for improved information sharing, and significant progress is being made. A Terrorist Threat Integration Center has been established, and new guidelines regarding sharing of grand jury information have been promulgated. These are very important steps forward. But to truly break down the barriers to information sharing, particularly relying on workarounds, we need revised policies on sharing classified information which recognize and exploit the opportunities provided by modern information technology. This is especially important as we look to the gap between the Intelligence Community and organizations charged with Homeland Security.

Section 355 of the bill identifies a fundamental problem confronting the Defense Department. Specifically the Chairman of the Joint Chiefs of Staff, and the Commanders of the Combatant Commands. The difference in military performance before Goldwater-Nichols—e.g., Desert 1, Lebanon, and Grenada—and after—Panama, Haiti, and Iraq—is stark and clear. In 1982, prior to the Goldwater-Nichols Act did more to enhance U.S. national security than any weapons system ever procured by the Department of Defense.

Although the Goldwater-Nichols reorganization is not a precise template for restructuring the intelligence community, the problems are fundamentally similar: towering vertical structures—NSA, CIA, DIA, NRO, NIMA, the service intelligence components—and relatively weak integrating mechanisms—the DCI and his Community Management Staff. Any reorganization proposal needs to address this fundamental problem of inadequate integration and coordination. In that regard, I would suggest that the intelligence community’s lack of responsiveness to the DCI’s declaration of war on al-Qaida prior to 9/11 was in part a result of the DCI’s weak community management authorities and inability to move the system. I am convinced that a stronger, better equipped DCI would have effectively manage the intelligence community, leading to performance improvements comparable to those achieved by the military in the wake of the Goldwater-Nichols Act.

The incremental approach would involve the creation of a permanent cadre to staff the DCI much as the Secretary of Defense has an OSD staff. This simple change, coupled with aggressive business process re-engineering and “year of execution budget authority” for the DCI over NFIP programs, would significantly strengthen the DCI’s ability to manage the intelligence community and respond to new threats and opportunities.

A more aggressive and far-reaching plan would have to address the fundamental changes that have occurred since the current structure was established by the National Security Act of 1947. Specifically, it would recognize that the once useful distinction between home and abroad has become not only irrelevant, but dysfunctional. This is not to suggest any need to reduce the protections afforded U.S. persons under the Constitution, merely that globalization and the development of cyberspace, combined with the rise of apocalyptic terrorists groups empowered by lethal new technologies, require a different, more agile structure that is not impeded by outmoded geographic distinctions. In that regard, we should find ways to more effectively coordinate foreign and domestic intelligence.

Achievement of any substantial reorganization will require meticulous research by the congressional oversight committees, a substantial hearing record, and sustained interest by the administration. At the end of the day,
incremental steps will be better than none, and a more aggressive reorganization require a consensus not only on the Intelligence Authorization Committees, but with the Armed Services Committees as well. As challenging as these issues are, we simply cannot fulfill our duty to the American people unless we confront these crucial issues when Congress returns next year.

In conclusion, the important steps we have taken with this measure, to include the funding of the administration’s requests for intelligence activities, are the result of lengthy deliberations on matters as complex as they are vital. It is gratifying to see the work that has been done in both Chambers come together today in a bill we can send to the President. It is a useful first step, but only a first step, towards the development of an intelligence community better able to adapt to the rapidly evolving threats confronting our great nation.

Finally, I would like to thank the chairman and the Committee staff for their arduous work on this bill. I look forward to making great strides together next year.

I urge support for this measure.

OFFICE OF INTELLIGENCE AND ANALYSIS

Mr. SHELBY. Mr. President, I rise in my capacity as the chairman of the Committee on Banking, Housing, and Urban Affairs regarding the Conference Report on H.R. 2417, the Intelligence Authorization Act of 2004.

Section 105 of the act will create a new Office of Intelligence and Analysis within the Department of the Treasury. The Office is to be headed by a newly authorized Assistant Secretary for Intelligence and Analysis appointed by the President and confirmed by the Senate. It will enhance the Department’s access to intelligence community information and permit a reorganization and upgrading of the scope and capacities of Treasury’s intelligence functions in light of the nation’s counterterrorist and economic sanctions programs. This section was drafted with bipartisan participation and close coordination with the Department of the Treasury.

The particular terms governing the new office are important to me as chairman of the Committee on Banking, Housing, and Urban Affairs over legislative and oversight matters relating to the Nation’s economic sanctions laws and the Bank Secrecy Act, and, more generally, because of the importance of carefully delineating the limitations on any part of the U.S. intelligence community that lie within the structure of the executive department of the Government. I have a letter signed by the ranking member of the Banking Committee, Senator PAUL S. SARBANES, and myself addressed to Secretary of the Treasury John W. Snowe, as well as Secretary Snowe’s response. This letter expresses the agreement of Treasury about the organization, structure and role of the new Office and Assistant Secretary position created and important related organizational matters concerning the Financial Crimes Enforcement Network and the Office of Foreign Assets Control.

I request unanimous consent that the two letters be included in the RECORD. They provide, I believe, a good statement of congressional intent with regard to the establishment of the new Office and the new Assistant Secretary position. At this time I would yield the floor to the Chairman of the Committee on Banking, Housing, and Urban Affairs, Senator SARBANES.

Mr. SARBANES. I thank the Senator. I simply want to note my agreement with the chairman and with his request to include the two letters in the RECORD.

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

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.


Hon. JOHN W. SNOWE,
Secretary of the Treasury, Department of the Treasury, Washington, DC.

DEAR SECRETARY SNOWE: A proposed amendment to section 105 of the Intelligence Authorization Act of 2004, H.R. 2417, would create a new Office of Intelligence and Analysis within the Department of the Treasury. The Office would be headed by a newly-appointed Assistant Secretary for Intelligence and Analysis appointed by the President and confirmed by the Senate. The Office would enhance the Department’s access to intelligence community information and permit a reorganization and upgrading of the scope and capacities of Treasury’s intelligence functions in light of the nation’s counterterrorist and economic sanctions programs.

We are writing to you to confirm formally, before consideration of the amendment proceeds, your and our mutual understanding of the role of the proposed new Office and Assistant Secretary within the Department of the Treasury. Such confirmation is necessary because of the unique nature of the Senate’s Committee on Banking, Housing, and Urban Affairs over legislative and oversight matters relating, inter alia, to the Nation’s economic sanctions laws, the Bank Secrecy Act, and, more generally, to the Nation’s financial system. In that context, the Committee is necessarily concerned with the careful delineation of the functions, and limitations, of any part of the U.S. Intelligence Community that lies within the structure of the Department of the Treasury. Based on discussions between members of our staffs and the Assistant Secretary of the Treasury (Legislative Affairs), we understand that:

1. The new Office is to be responsible for the receipt, collation, analysis, and dissemination of foreign intelligence and foreign counterintelligence relevant to the operations and responsibilities of the Treasury Department, and to have such other directly related duties and authorities as the Secretary of the Treasury may assign to it. The new Office will replace and absorb the duties and personnel of Treasury’s present Office of Intelligence Support ("OIS") and work in the direct provision of information for use of the Department’s senior policy makers.

2. The Assistant Secretary for Intelligence and Analysis is to be the Under Secretary of the Treasury (Enforcement) as required by the statute. The Assistant Secretary for Intelligence and Analysis will at no time supervise any organization other than the new Office or assume any other policy or supervisory duties not directly related to that Office.

3. The Secretary will seek prompt designation of a new appointee for the vacant position of Assistant Secretary for Intelligence and Analysis, the official appointed to that position will supervise the Office of Foreign Assets Control ("OFAC") and the Financial Crimes Enforcement Network ("FinCEN") and as other functions, but he or she will at no time supervise the Office of Intelligence and Analysis. This Assistant Secretary also will report to the Under Secretary referred to in paragraphs 2. and 3., above.

4. Our mutual understanding is that Treasury plans to have an appointment to a vacant Assistant Secretary position. The official appointed to that position will supervise the Office of Foreign Assets Control ("OFAC") and the Financial Crimes Enforcement Network ("FinCEN") as well as other functions, but he or she will at no time supervise the Office of Intelligence and Analysis.

The expertise of the Department of the Treasury is necessary and integral to our Nation’s security and to success in the war on terrorism. We expect within the next year to highlight your efforts in this area in one of the series of Terror Finance hearings to be held by the Committee, and we look forward to hearing at that time about the innovative approaches to counter-terrorism efforts that the proposed revitalization of Treasury’s capacity for financial intelligence analysis can produce.

Sincerely,

RICHARD C. SHELBY,
Chairman, Committee on Banking, Housing, and Urban Affairs.

DEPARTMENT OF THE TREASURY,


Hon. RICHARD SHELBY,
Chairman, Committee on Banking, Housing and Urban Development, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SHELBY: Thank you for your letter concerning creation, in section 105 of the Intelligence Authorization Act of 2004 of the proposed Office of Intelligence and Analysis, to be headed by the Assistant Secretary for Intelligence and Analysis, within the Department of the Treasury. I have reviewed the letter which states the commitments made to you on behalf of the role of the proposed new Office and new Assistant Secretary within the Department of the Treasury.

I appreciate your input and look forward to working with you, Senator Sarbanes, and
your House colleagues to make sure the Treasury Department meets the Congress’ expectations. An identical letter has also been sent to Senator Sarbanes.

If there is anything that I can do to be of assistance to you, please do not hesitate to contact me.

Sincerely,

John W. Snow.

Mr. ROBERTS. Mr. President, I ask that the Chair put the question to the body.

The PRESIDING OFFICER. Is there further debate?

Mr. ROBERTS. I ask unanimous consent that there now be a further debate.

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

The conference report.

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

The PRESIDING OFFICER. The clerk will call the roll.

The PRESIDING OFFICER. The legislative clerk proceeded to call the roll.

Mr. REED. I ask unanimous consent that the order for the quorum call be rescinded.

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

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

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

MORNING BUSINESS

Mr. ROBERTS. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Who seeks recognition?

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

The PRESIDING OFFICER. The clerk will call the roll.

The PRESIDING OFFICER. The legislative clerk proceeded to call the roll.

Mr. ROBERTS. I ask unanimous consent that the order for the quorum call be rescinded.

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

ENERGY POLICY ACT

Mr. REED. Mr. President, we have just concluded a cloture vote which will give us the opportunity to look more carefully at the Energy bill that is before the Senate. I believe such a careful and thorough review of the bill is entirely warranted. Indeed, it is not just my opinion but the opinion of countless numbers of Americans and also countless numbers of opinion leaders throughout the country.

These are a sample of some of the editorials that have appeared with respect to the Energy bill. The Washington Post calls the bill ‘‘depleted energy.’’ The New York Times says ‘‘a shortage of energy’’. The Atlanta Journal-Constitution directs: ‘‘Put back in the energy bill out of the country’s misery.’’ The Houston Chronicle: ‘‘Fix the flaws—this proposed energy bill is half a loaf, half baked.’’

The American people deserve good national energy policy, created through an open and democratic process. Sadly, the legislation before the Senate is not such a policy nor has it been achieved through an open and transparent and collaborative process. The Energy bill was crafted behind closed doors by members of one political party who chose to involve industry but not elected Senators and Congressmen. It looks as if the industry got the bill they wanted.

We have been told ‘‘take it or leave it.’’ I hope we can leave this bill behind. I hope this cloture vote signifies such a development.

If we leave it behind, one of the salient aspects of the Energy bill presented to Members is that it does not leave any lobbyist behind. In fact, to borrow a statement from my colleague from Arizona, this bill, indeed, leaves no lobbyist behind.

There is an Archer Daniels Midland ethanol provision adding $8.5 billion to gas prices over each of the next 5 years while cutting $2 billion a year from the highest gas prices. The highest gas prices will be implausible, indeed irrational, that we would enhance an industry while at the same time depriving our local cities and towns and States of the money they need to maintain the roads and bridges of America.

According to the Denver Post, there is $180 million to pay for development projects in Shreveport, LA, including the city’s first ever Hooters restaurant. I am not sure how that will help our energy policy.

Let’s not forget the $2 billion that taxpayers bear to clean up the mess left by MTBE producers.

As the Wall Street Journal wrote:

‘‘We’ll say this for the energy bill that is about to come to a final vote in Congress: It’s certainly comprehensive. It may not have all that much to do with energy any more, but it does give something to everyone elected Representative.’’

This bill utterly fails to establish an energy policy for the 21st century. It does nothing to address our country’s dependence on foreign oil, an issue I will discuss at length in a few minutes.

In addition, it contains so many provisions that will hurt consumers and damage the environment that it is impossible to list them all. Here are just a few:

The bill doubles the use of ethanol in gasoline, which will drive up gasoline prices and deny valuable revenue to fix our roads.

The bill fails to make the reforms necessary to modernize our electricity grid and enhance reliability by providing a standard set of rules for our electricity markets. These rules would have provided greater efficiencies, greater reliability, and reasonably priced electricity that our homes and businesses need.

The bill increases air pollution by delaying rules to control mercury and other pollutants as well as by failing to make progress on reducing greenhouse gas emissions.

The bill increases water pollution by exempting oil and gas exploration and production activities from the Clean Water Act storm water program.

The bill allows drilling on our coastlines by diminishing States’ rights to review offshore oil development projects and other proposed Federal activities to determine if the projects are consistent with the State coastal management plans.

The bill threatens our national security by failing to reduce the Nation’s dependence on foreign oil and providing billions of dollars in subsidies to build new nuclear powerplants. And the list goes on and on and on.

The American public deserves an economically sound Energy bill that will strengthen our economy and create good-paying jobs for Americans. But that is not this Energy bill.

This Energy bill is business as usual. It is a special interest grab bag cloaked in the rhetoric that it would create jobs and spur the economy. The cost of the entire bill is estimated to exceed $25 billion, more than $200,00 for each job that the authors claim the bill will create. With the tax breaks alone costing American taxpayers over $25 billion, this bill adds to the deficit and further reduces spending for vital programs, such as education, health care, and water infrastructure.

The American public also deserve an environmentally friendly Energy bill that will protect our air and water and reduce greenhouse gases. But that is not this Energy bill.

This Energy bill will endanger the public’s health by allowing the energy industry to increase the pollution it emits into the air and water and limiting environmental review of energy projects.

One of the most egregious giveaways to corporations, at the expense of the environment and public health, is the product liability protection for MTBE. MTBE is known to cause serious damage to water quality nationwide. This immunity provision—which is retroactive to September 5, 2003, before virtually all the recent lawsuits involving MTBE—would shift $25 billion in cleanup costs from polluting corporations to taxpayers and water customers.

My State of Rhode Island and our residents are all too familiar with the dangers of MTBE. After MTBE leaked from an underground storage tank at a gas station and found its way into the water system of the Passaic Utilities in Burlington, by the summer of 2001, more than 1,200 families were forced to use bottled water for drinking, cooking, and food preparation for several months. Subsequent tests showed MTBE at such high levels that the State department of health recommended residents reduce shower and bath times and ventilate bathroom with exhaust or window fans. Fortunately, Passaic’s lawsuit against ExxonMobil to pay for the cleanup was filed before the September 5, 2003, cut-off date, but many suits filed on behalf of residents in New Hampshire and other States will be thrown out by this bill. That, to me, is a tragedy.

The American people deserve a meaningful Energy bill that will ensure our national security by ending our dependence on foreign oil, diversifying our energy resources, and increasing our Nation’s energy efficiency. But that is not this Energy bill.

This Energy bill perpetuates the failed policies of the past 30 years, focusing almost exclusively on squeezing what little domestic energy production
is available and offering generous incentives to the oil and gas industry while giving little attention to developing alternative sources of energy and reducing consumption. We have to face the facts: We cannot drill our way to energy independence.

Furthermore, the bill creates new security threats by reversing a long-standing ban on the reprocessing of spent fuel from commercial nuclear reactors. It promotes, through the Department of Energy’s advanced fuel cycle initiative, joint nuclear research efforts with nonweapon states, undermining efforts to curtail new weapons systems. The proliferation of nuclear weapons is one of the most challenging and difficult problems we face, and we are now involving ourselves with states that do not have nuclear weapons, but we are doing so in a way that we could inadvertently and unintentionally give them insights that are advantages. This is poor policy as well as, I believe, poor energy policy.

Our Nation needs a comprehensive Energy bill, but we must reorder our priorities if we want to achieve greater energy independence. Yesterday’s solutions are today’s urgent needs for energy security. Increased efficiency in our homes, our cars, and our industries, renewable energy resources, and new technologies will secure our energy independence.

We are on a collision course that threatens our economic and national security. Worldwide oil consumption is projected to grow by 60 percent over the next two decades. For developing countries, the growth is expected to be much higher, possibly as much as 115 percent. China and India will be major contributors to these increases in demand and will require imports to meet their needs.

Chinese economic expansion is rapidly expanding the oil demand throughout the world. The International Energy Agency estimates that Chinese demand for oil next year will rise to 5.7 million barrels per day. This would account for about a third of global demand growth. Growing global demand will raise prices for U.S. consumers as countries race for the world’s remaining oil supply.

Two-thirds of the world’s proven crude oil reserves are in the Middle East. The United States is dependent on oil from the region. The Organization of Petroleum Exporting Countries is disproportionately leveraged in the international arena.

America’s dependence on imported oil is a major constraint on our foreign policy. A substantial portion of our Nation’s military budget is spent in the Persian Gulf. Oil imports make up 36 percent of the Middle East oil. Oil imports contribute to our trade deficit and heighten our economy’s vulnerability to oil price spikes. According to the Rocky Mountain Institute, 53 percent of the U.S. oil supply is imported and one-fourth is from the 11 countries of the OPEC cartel.

Net oil imports cost the United States $109 billion in the year 2000—29 percent of the then-record trade deficit. Retail oil products cost Americans more than one-quarter trillion dollars per year. As the U.S. economy is dependent on oil, we remain vulnerable to major oil disruptions anywhere in the world and to domestic price spikes. According to the Department of Energy, every million barrels of oil per day displaced from the Persian Gulf 2.5 times over. To displace the amount of oil we import from the Persian Gulf 2.5 times over. To displace Persian Gulf imports would only take a 3.35 mile-per-gallon increase in the 2000 light vehicle fleet. We are risking our soldiers in the Persian Gulf, but we are unwilling to raise mileage standards in the United States. If we don’t do that, I fear we will be at risk again and again and again—our troops, our economy, and our society.

According to the Rocky Mountain Institute, since 1975, the U.S. has doubled the economic activity of producing each barrel of oil. Overall energy savings, worth about $365 billion in 2000 alone, are effectively the Nation’s biggest and fastest growing major energy source, equivalent to three times our total oil imports or 12 times our Persian Gulf imports. Let me say that again. We have the greatest resource available to us. It is not oil under the ground or under the sea. It is energy efficiency. Yet this bill refuses to tap that great resource.

During 1977 to 1985, gross domestic product rose 27 percent. Oil use fell 17 percent. Net oil imports fell 42 percent, and imports from the Persian Gulf fell 87 percent. When we were forced by the embargo in 1973 to take steps to improve efficiency, the results were palpable, dramatic, and beneficial. The key to the huge 1977-85 oil savings was better mileage for our automobiles. Unfortunately, light vehicle efficiency
stagnated through the 1990s. And we refused to do the obvious and increase those standards.

Taking steps to reinvigorate the CAFE program is the best way to produce dramatic savings in oil consumption, those savings that we witnessed in the 1970s and 1980s. That is why I am an original cosponsor of S. 794, which would increase fuel economy standards for passenger vehicles to 40 miles per gallon by 2020, and for trucks to 27.5 miles per gallon. This would save 1.8 million barrels of oil a day by 2015, and 3.1 million barrels a day by 2020. This is the Energy bill we need, not the one we are considering.

Indeed, this approach, a technological approach, is most suited to our greatest advantages. We are the Nation of technological innovation. We are the Nation that first ventured into space dramatically and went to the moon. I cannot believe that if we give them the simple mission of raising gas mileage standards, that our automobile industry cannot do so and do so promptly without losing jobs, without losing market share.

What failed to take action to increase fuel economy standards and provide $100,000 tax loopholes for SUVs, China, already a growing economic power, recognizes the need to reduce its oil demands from the Middle East. In contrast to this bill, China is preparing fuel efficiency rules that will be significantly more stringent than those in the United States. The Chinese standards call for new cars, vans, and sport utility vehicles to get as much as 2 miles a gallon of fuel more in 2005 than the average required in the United States and about 5 miles more in 2008.

Let me guarantee you, our automobile manufacturers will be trying desperately to sell in that market, and we will be producing cars that go into that market. Yet they will turn to us and say: It is impossible to do that here in the United States.

The United States is more sensitive to the global imbalance in supply and demand for petroleum products than we are. They are taking action—and we can't—because they recognize the economic implications and the national security implications.

The Energy bill before us could have reduced our dependence on foreign oil and strengthened national security by including a renewable portfolio standard for America's electricity industry. A strong renewable portfolio standard would diversify our fuel supply, clean our air, and better protect our consumers from electricity price shocks.

According to the Energy Information Administration, requiring utilities to produce 20 percent of electricity from renewable resources such as solar and wind is both affordable and feasible. In addition, it would create jobs by spurring $80 billion in new capital investment. Again, this is the Energy bill we need, not the one we are considering.

For over 30 years, through four different Presidencies, Americans have been promised that our Government would end the national security threat caused by our dependence on foreign oil. But energy security means more than drilling in new places for oil and natural gas. It starts with using less of it. It means using energy from sources that are less vulnerable to terrorism or world politics. Unfortunately, it appears that the American people will continue to wait for a meaningful energy policy that promotes efficiency and reduces our dependency on foreign oil.

We faced an important vote today. I believe we made the right vote. We have given ourselves more time to improve this bill, to develop legislation that will meet our economic, our environmental, and our national security needs, to serve the American people in a way which will make them more secure and more prosperous. I hope we use this intervening time not simply to return to this legislation but to vigorously reform legislation so that we can present the American people a bill that will serve their needs and not the needs of special interests.

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

The PRESIDING OFFICER. The assistant legislative clerk proposes to call the roll. The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

HONORING TWO SOUTH DAKOTA SOLDIERS KILLED OVER THE WEEKEND IN IRAQ.

Mr. DASCHLE. Mr. President, yesterday was a national day of mourning in Italy. Tens of thousands of people lined a procession route and gathered at a basilica in Rome to pay their final respects to 19 Italian soldiers killed last week in Nasiriyah in the northwest Iraq. The soldiers' deaths mark Italy's worst military loss since World War II.

The American people share Italy's sorrow over their enormous loss.

There is also a profound sense of sorrow today in South Dakota. Two of the 17 American soldiers killed last Saturday, when those 2 Army Black Hawk helicopters collided in the sky over the demilitarized zone in Korea. As his father told a reporter as he left Walter Reed Army Medical Center near Washington:

Willow Lake, where Scott Saboe grew up, is a small town. About 300 people live there. On Sunday, more than half of them stopped at Arlo Saboe's house to pay their condolences.

Before Iraq, Scott Saboe had flown helicopters over the demilitarized zone in Korea. As his father told a reporter for the Sioux Falls Argus Leader, "He was going to go anywhere."

He reportedly was scheduled to return to the United States in 2 weeks for training.

Today, at Willow Lake High School, where he was a student, and at a center in the football team, the flag has been lowered to half-staff.

Bill Stobbs, a former teacher and football coach who now is the school's principal, told the Argus Leader: "It's hard doing what we're doing when you're a dedicated soldier. That's all there is to it."

Darin Michalski, a childhood friend, said:

Most of us can go through our lives and don't really accomplish anything, and some of us only live to be 33, and we're here.

PFC Sheldon Hawk Eagle was just 21. He lived in Eagle Butte, on the Cheyenne River Sioux reservation, and was an enrolled member of the Cheyenne River Sioux tribe—one of about 90 members of the tribe deployed to Iraq.

He was a descendant of the legendary Lakota warrior leader, Crazy Horse. His Lakota name was Wambleoheetka, Brave Eagle.

Like Scott Saboe, Sheldon Hawk Eagle grew up in a family that viewed military service as a citizen's duty. His grandfather, father and uncle all served.

Souls and family members describe him as a hard-working, quiet young man. One of his former teachers remembers his "nice smile."

His parents died when he was a young boy. He was raised by his aunt and uncle, Harvey and Fern Hawk Eagle.

His only surviving sibling, his sister, Frankie Allyn Hawk Eagle, lives in Grand Forks, ND. He enlisted in Grand Forks, in June 2002, to be close to her. He was deployed to Iraq, in March and reportedly had hoped to be home this coming February.

Emmanuel Red Bear, a spiritual leader who teaches Lakota language and culture at Eagle Butte High School, remembered Hawk Eagle to a reporter as an aggressive, but fair, football player who was a model of sportsmanship on and off the field.

Said Red Bear of Hawk Eagle:

He was a role model, in his quiet way. The younger kids looked up to him. . . . He really was a modern-day warrior.

Tribal Chairman Harold Frazier said simply:

...
He’s our hero. He defended our country and protected our freedom.

News of Scott Saboe’s and Sheldon Hawk Eagle’s deaths reached their hometowns on Sunday. Many people first heard the news first at church services.

It had been some time since South Dakota had lost anyone in Iraq.

On May 9, CWO Hans Gookezen, of Lead, was killed when the Black Hawk helicopter he was copiloting got caught in a power line and went down in the Tigris River.

On June 18, PFC Michael Dool of Nemo, was killed while on guard duty at a propane distribution center in Baghdad.

The crash of the two Black Hawks last Saturday was the deadliest single incident since the United States invaded Iraq. The military is investigating whether enemy ground fire has caused the crash.

All 17 of the victims were from the Army’s 82nd Airborne Division—the famed “ Screaming Eagles”—the same unit that parachuted into Normandy on D-Day.

Like people in every state perhaps, South Dakotans sometimes focus on our shared experiences: East River versus West River, Native American versus the sons and daughters of pioneers and immigrants. Today, we are one State, united in sadness over the deaths of our soldiers, and pride over the noble lives they lived.

I yield the floor. 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.

OBESITY

Mr. FRIST. Mr. President, I rise for a few moments to speak to a once silent, now highly visible epidemic that plagues every neighborhood in this country. It is an epidemic that plagues our schools. It is an epidemic that plagues our school grounds. It is an epidemic that plagues youth in our playgrounds and it plagues older people in that there is a plague that in many ways is a new problem—a problem that is only really 15, 20, maybe some years old—but it is a problem and a plague that is growing. It is one that specifically hurts children, and, indeed, once it attacks our children, it can destroy in many ways their future quality of life and their future life in terms of longevity. This epidemic, this plague, is childhood obesity.

Just this summer, the Food and Drug Administration announced it will require labels that list trans fatty acids. Most people do not know what trans fatty acids are; people do not know exactly what they do. But they do things which make in many ways food taste better. They make foods last longer. They give flavor to foods. They increase shelf life. The problem is that these trans fats contribute to heart disease. Heart disease is the No. 1 killer in the United States of America today.

For 20 years, before coming to the Senate, I spent my life in medicine and ended up gravitating to this field of heart disease. It wasn’t as big of a problem in the late 1970s or early 1980s, but it has been. What bothers me most is that it is skyrocketing today, and it is increasing faster among adolescents—children—than it is among anyone else.

It is interesting. If my colleagues are listening to me, the likelihood is one out of every two of you is going to die of heart disease—not just my colleagues but on average around the country. That is how common heart disease is in terms of mortality.

Various food companies really deserve praise for their plans to reduce the level of trans fats in their most popular products. These are important advances in public health, and I applaud our food manufacturers for stepping up and taking this leadership position.

Ultimately, however, the responsibility for this growing, skyrocketing epidemic rests with all of us—individual consumers, American communities and all of us because ultimately we make that decision for ourselves in terms of our shopping, in terms of how we conduct our lifestyle, how much exercise we get, and what we eat.

But the point is that we have an epidemic. It is hurting specifically children. Children are really condemned to a lower quality of life because of this epidemic. But the good news is that there is something we can do about it; we can reverse these trends.

Sixty percent of Americans today are overweight. More than one out of two are overweight. By itself, obesity might be considered just another choice we have in life, that we just choose, that is what we do, and, if it hurts us, that is just the way it goes. It is more than just another choice. It really does come down to what we do, which may not be a choice in part because there may be even a genetic component to this as well.

But researchers in England believe they have discovered a gene which they are calling an obesity gene that some way predisposes some to overeat. It is a choice in terms of lifestyle. People choose to take the peso or the subway rather than walk. We know our children in schools today are exercising a lot less. We know that our kids today are spending a lot more time in front of the television or at the computer and are less likely to be exercising.

Whether it is a result of some combination of genes and environment, we know obesity is now a major public health threat in the United States of America. Obesity contributes directly to heart disease but also to diabetes. Diabetes is reaching epidemic proportions in our children today. It directly contributes to other illnesses, including cancer and stroke.

There are 300,000 deaths a year that can be directly attributed to fat. The epidemic is spreading in faster and faster proportions with our children. The percentage of kids age 6 to 19 who are overweight has quadrupled since the early 1960s. It is not a static problem; it is getting worse.

Pick any city in the country. Look at New York City’s public school children, nearly half are overweight; one in four is obese. The problem is particularly acute among African-American and Hispanic children, especially Hispanic boys. More Hispanic boys than Hispanic girls are obese. In my own State of Tennessee, the statistics are even worse.

Nationwide, type 2 diabetes, the kind of diabetes that is associated with obesity, is skyrocketing. At the Centers for Disease Control and Prevention, estimates are that one American born in the year 2000 will develop diabetes in their lifetime. One in three Americans born today will develop diabetes in their lifetime. This is attributed to obesity. It is attributed to being overweight. African-American and Hispanic children that number is not just one in three Americans, but it is one in two Americans in those populations that will develop diabetes in their lifetime.

People say diabetes is bad and that should be reversed. But it is even worse than saying it is just diabetes because diabetes itself is the leading cause of kidney failure, which is renal failure. Diabetes is the leading cause of heart disease. Diabetes is a leading cause of blindness as well as amputations. It all starts as a child, who, in this growing epidemic, is led to be obese.

As adults, we know how hard it is to battle the fat or battle the bulge. We all struggle with that in our environment of fast food and transportation. It is very easy to find excuses not to exercise four times a week for 30 minutes. But imagine struggling with obesity when you are just 10 years of age, where this is reaching those epidemic proportions. Teachers say they see the physical toll on their students every day. Kids are out of breath walking up the school stairs. Kids are not able to participate to their full potential. Kids are not able to participate when they do field trips and go outside, activities we associate with playing and vigorous childhood activity. Kick-ball, jumping rope, and climbing trees for many children today, until they have become grueling exercises that, indeed, they try to avoid. They say they will not participate because they are embarrassed to participate.

Mr. President, 25 percent of our Nation’s children say they do not participate in any vigorous activity today. That is one out of four children. Obesity is not only robbing them of those
everyday pastimes, it is also robbing them of their childhood years. Obesity is associated with the early onset of puberty among girls.

According to a study from the University of North Carolina, 48 percent of African-American girls begin puberty by age 10, compared to 12 percent of white girls. Yes, we are in the midst of a national health crisis. It is harming our children in ways that we can observe, but the crisis also occurs in ways we cannot observe. It threatens their future. It also condemns their future in many ways to the lower threshold of having other adult diseases if they start as a child being obese. They carry that with them for the rest of their life.

It affects what we call their morbidity, the relationship to other disease patterns. It affects their longevity in terms of length of life.

There is a lot we can do. We cannot just talk about it. The Surgeon General, Dr. Richard Carmona—for whom I have a very high respect—is so alarmed, this month he urged the American Academy of Pediatrics to step up the fight against childhood obesity. In the Washington Post yesterday, Dr. Kay Stein wrote an article “Obesity and the Future” and he pointed out the Food and Drug Administration has launched an initiative to determine how and in what way it can play a role in helping to fight obesity, which, as the article points out, has reached epidemic proportions in this country.

In that article from yesterday, FDA Commissioner Mark McClellan—again, a physician for whom I have great respect—and he pointed out the Food and Drug Administration has launched an initiative to determine how and in what way it can play a role in helping to fight obesity, which, as the article points out, has reached epidemic proportions in this country.

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The issue of obesity challenges us in every aspect of our efforts to protect and advance the public health, and that is why it needs to be front and center of our public health agenda.

The good news to all this is that there is action in government that obesity is both treatable and preventable, which means there are things we can do to reverse the epidemic. We can reverse the trends. We must reverse the trends. It is now time to put our minds to it in this body.

I am gratified by the action of the HELP Committee which unanimously approved recently the IMPACT Act, the Improved Nutrition and Physical Activity Act that I have been working on—by the way, for a long time, in fact—awaiting on some final agreements, but we want to make the very best use of the time we have here to work together on both sides of the aisle to come to the floor to begin talking about that very important issue.

We want to make the very best use of time today, tomorrow, and Sunday, in all likelihood, and Monday, on that issue as well as others. It may be confusing to people. We will be going back and forth because we have a lot of business to do. So we will be here on the floor, and then we will take up Healthy Forests, and then I encourage people to come back and begin Medicare.

I yield the floor.

The PRESIDING OFFICER (Mr. Coleman). The Senator from Illinois.

Mr. DURBAN. Thank you, Mr. President.

I join my friend and colleague from Nevada, Senator Reid, in saying to Senator Frist, thank you for your service to this institution. You have been a great asset to our Nation and to this body.

Mr. DURBAN. Thank you, Mr. President.

I yield the floor.
The issue is the issue of prescription drugs, particularly for seniors. I do not know of a single Member of the Senate who has not expressed support for finding some way to help seniors pay for prescription drugs.

We all know that what has happened here. We have more and more and better and better prescription drugs available across America, and a lot of people have learned—in my family and yours, too—that if you take the appropriate medication, you can avoid going in for hospitalization or surgery. Prescription drugs are an important part of that.

But, sadly, prescription drugs for seniors are not just covered by Medicare. So unless you are in a hospital receiving those drugs, you have to pay for them. For a lot of seniors, it is too expensive. There are people living on fixed incomes under Social Security who do not have much. They may have a few assets left on Earth, maybe a home they saved up for all their lives and a car, and they are trying to figure out how to pay several hundred dollars per month for prescription drugs they need if they can afford it. So, many do not take the drugs, some take half of what they need, and many find themselves in a terrible, perilous personal position.

We have come forward and said: We should change Medicare. If Medicare covers your illness when you go into a hospital, why wouldn't Medicare cover the drug that would keep you from going into the hospital? That makes eminent sense. It is not the greatest bill. In fact, there are many who want to change it, and move the issue to a vote, and the motion to stop that debate did not prevail; it only received 58 votes.

Well, the windows are open now, and there is anxious negotiation and a lot of effort underway to try to find two more votes. And I would imagine, in the closing days of the session, we may see this issue surface again. I could express myself in saying I hope it does not, but it makes no difference what I hope or what the minority hopes, and the majority will decide whether they have the votes to bring it to closure.

That is one of the heavyweight fights. But there are two more coming, two more that will affect virtually every family in America.

One is an omnibus appropriations bill, with five major appropriations bills lumped into one, that is now in conference, a conference on which I serve; and debate is underway. The debate is closed doors, and you and I, frankly, do not know what is happening there. But before we can leave, we need to pass that bill. It could include a myriad of issues, issues as far-flung as stem cell research in medicine, issues as diverse as education, transportation. All of these issues could come before us in that large bill. That is another heavyweight fight.

But the one I come to address today is one that has received a lot of attention across America for a long time, and it is likely to receive even more attention in the closing days of the session, both in the House and in the Senate.

My experience as a Senator from Illinois, and as a Congressman, is that HMOs can break your heart. They cost a lot of money. They deny care, they limit your choice in terms of doctors and hospitals, and, frankly, when the going gets rough and they are not making much money, what is that what we want to hold out as the future of Medicare? I don’t think so. But a lot of people do.

The Republican majority in the House certainly believes that, and that is what they have pushed now in this so-called prescription drug bill. It is no longer a bill about just paying for the prescriptions. It is a bill about changing the face and future of Medicare. That, to me, makes a substantial difference in our mission and what we need to do.

The bill, as it is currently written, is not a bill which I can support. I guess the biggest disappointment I have is the fact that we started off with such a noble and such a lofty purpose. We were going to help our mothers and fathers and grandmothers and grandfathers pay for their prescription drugs. Now we have gone far afield. There are many who want to change Medicare. But let me ask you: If you stepped back in the course of legislation and wanted to determine whether or not it was good for consumers and families in America, isn’t it fair to say that one of the first questions you would ask is: Where does the money go? Who ends up profiting from this bill, and who ends up losing as a result?

Clearly, you want to turn first to the pharmaceutical industry, the people who sell drugs in America. I will readily concede this is one of the most important industries in America. We lead the world in breakthrough drugs and pharmaceuticals, I want to make certain that these drug companies in my state and others that with their profits they can fund research to find new drugs. I want to make certain that those drugs are available to Americans. That is something on which everybody agrees. But sadly, what we find in this bill is that the pharmaceutical industry is cheering the loudest for the bill to pay for prescription drugs. That leads us to ask some serious and important questions.

First, let me ask you: If we are going to change Medicare, what is it supposed to do?...
pharmaceutical companies; 10.2 percent for the rest of the Fortune 500. So it is very clear that we are talking about a profitable industry.

Here is another illustration of the same point. This is an indication from Fortune of the most profitable industries in America, with 2002 profits as a percentage of revenues. No. 1 on the list is pharmaceutical companies. Pharmaceutical companies are extremely profitable in America today. We understand that. We ought to keep it in mind as we discuss how we are going to pay for prescription drugs for seniors.

Then I would like to show you what some of the people who are the CEOs of managed care companies earn. Here we have a chart that shows the chairman of Aetna, John Rowe, his compensation, exclusive of stock options, $3.9 million; Anthem, Larry Glasscock, president and CEO, $6.8 million; CIGNA, Edward Hanway, chairman and CEO, $12.2 million—that is exclusive of stock options which are usually considerably more—Coventry, Allen Wise, president and CEO, $21.6 million annual compensation; Health Net, senior vice president, $6 million; Humana, president and CEO, $1.6 million; WellPoint, Leonard Schaeffer, chairman and CEO, $21.7 million; PacifiCare—you may have seen the ads that show the whale flopping in the water. Mr. Howard Phanstiel is not a heavyweight; he makes $3 million; Sierra Health, Dr. Marlon, chairman and CEO, $4.7 million; UnitedHealth, Channing Wheeler, chairman and CEO, $9.5 million; WellPoint, Leonard Schaeffer, chairman and CEO, $21.7 million.

The total compensation for these 11 executives at these managed care companies is $166.3 million. Their average compensation, $15 million. We must try to figure out how much of their compensation is reasonable.

Here is their full-page ad calling for prescription drug coverage for Medicare recipients. We recently shifted position and poured enormous resources into shaping this legislation. Since the 2000 election cycle, the pharmaceutical industry has contributed $50 million in political donations and $69 million in lobbying in the first 6 months of this year.

Thirty-seven million dollars on Capitol Hill? You will meet these fine men and women in their beautiful suits and well-shined shoes in the lobbies right outside this Chamber. The article goes on to say:

The lobbying continued in earnest this week with a television and print advertising campaign urging passage of this bill. In one series of witty commercials sponsored by the industry-backed Alliance to Improve Medicare, elderly citizens look into the camera and demand: "When ya gonna get it done?"

I think I may have a copy of that ad somewhere around here. You have seen it. The fellow is pointing to Congress saying, "When ya gonna get it done." That is paid for by the pharmaceutical companies. So if we are talking about helping seniors pay for prescription drugs and the pharmaceutical companies can’t wait to see this legislation passed, why? It tells you they are not going to have to cut their prices. It tells you they are going to make more money. It tells you that ultimately we are not producing a bill which helps consumers and families and senior Americans. We are creating a profit opportunity for pharmaceutical companies that already lead the Nation in profitability.

The pharmaceutical lobby is so strong in this town that they have been able to convince American people into believing that this prescription drug package is somehow going to cause some sacrifice on the part of pharmaceutical companies. It will not. They are the big winners in this, just as the big oil companies and energy companies would have been the big winners in the last bill. This is the heavyweight fight, the match you can expect to see in the closing hours of this session.

Let me tell you, in closing, what the Washington Post says this morning:

Perhaps the most striking political victory for the pharmaceutical industry was the decision to reject provisions that would have allowed Americans to legally import drugs from Canada and Europe, where medications retail for as much as 75 percent less than in the United States. Polls show that an overwhelming majority of Americans support that change, and the House approved a measure 243-186. But the Bush administration and the pharmaceutical lobby was dangerous and would cut into future research and development. The provision was dropped from the bill’s final version.

So why would people want to import drugs when we already have the answer. They are cheaper. The same drug made in the United States by an American company, based on research paid for by the Federal Government many times—that same drug for sale in Canada is a fraction of the price. Why? Why is it cheaper in Canada or in Europe, if it comes from the same American drug company? Because we are not importing drugs from Canada or Europe; we are importing leadership.

The Canadian Government, and governments around the world, have decided to stand up to the pharmaceutical companies and tell them there is a limit to how much money they can charge for their drugs. Our Government is unwilling to do that. This bill essentially says that. Instead, what seniors have been forced to do—and families, I might add—is to pay high pharmaceutical drug bills, and some are going to Canada trying to keep up with the costs. This bill closes that border for the importation offrom Canada and Europe—meaning that America’s senior citizens will continue paying the highest drug prices in the world.

This is all in the name of a prescription drug benefit for those seniors. So it is natural that pharmaceutical companies are spending millions of dollars trying to urge Congress to pass this bill as quickly as possible. The ads that they run—some are directly from their own front organizations, but others through an organization such as AARP. I know about AARP because once you reach age 50 in America, they start filling your mailbox with solicitations for membership. I have been rejecting those for many years. I don’t plan on being a retired person soon. However, the voters will have the last word on that decision.

Here is their full-page ad calling for Congress to pass the proposed prescription drug Medicare bill. Honestly, I think if you looked at it you would find that AARP money to pay for this ad comes through the pharmaceutical companies that cannot wait to see this bill passed. It means more money for them. They want to cut off the sources of drugs coming in from Canada and Europe so they can really charge seniors the highest prices in America.

Let me give you an illustration of what competition can mean when it comes to drug prices. If you said to people, ‘‘Do you want price controls from the Federal Government,’’ they would say: No, no, no, that is too much Government.
But if you say: Would you want your Government to bargain for the best prices for people who need prescription drugs, most people would say: Why, sure. And why wouldn’t they? You could say to them: Do you realize we do this now? The Veterans Administration does that today; it bargains with drug companies so veterans get cheaper drugs, and the Veterans Administration pays less. The Indian Health Service does it, and some community health centers do it. So we can do it through the Medicaid programs. They bargain with them successfully. A lot of people are not covered in those groups—veterans health care, Indian Health Service, or Medicaid. They are left totally unprotected, with no bargaining power.

Look at this chart. These are some fairly common drugs. Xalatan is an eyedrop. If you buy this at the Federal supply schedule price, it is $41 for the prescription. If you go to the drugstore to buy it, it is $101. So we manage, through the Federal Government, to bargain with the drug companies and bring prices down for some people.

Celebrex, for arthritis, is $108 on the Federal Supply Schedule. That is what we pay the drug companies for the prescription. If you go to the drugstore to have that filled, she will pay $173—$65 more.

Lipitor, a very valuable and important drug, is $215, based on what we have negotiated and bargained. If you pay the full price at the drugstore, which many American seniors do, it is $446.

Plavix, for stroke, is $257. It is $593 at the drugstore.

The point I am making is this: This bill is designed so that the Federal Government is prohibited from bargaining and negotiating for lower prices for seniors across America. That is why the pharmaceutical companies are salivating. They cannot do it through the Medicaid programs. They bargain with them successfully. A lot of people are not covered in those groups—veterans health care, Indian Health Service, or Medicaid. They are left totally unprotected, with no bargaining power.

There is another element. One of the ways to cut the cost of drugs is to encourage the use of generics. Once a drug has been discovered, it is the exclusive right of the drug company to sell it under a patent. During that period of time, nobody else can make the drug. When the patent expires, everybody can make the same drug and they do it under a generic name.

You may remember Claritin, with all the ads on television that showed the happy faces skipping through the field of wildflowers saying, “I don’t sneeze anymore.” It went off patent and it is now available over the counter. So they came in with Clarinex—I think that is the name. So once you see the generic drugs come in, the prices go down for consumers, and they get the benefit of what was a pretty expensive drug for a long time.

We tried in the Senate to make sure there were more generic drugs for sale because it is a good way to keep everybody healthy at a lower cost. It turns out that the pharmaceutical companies didn’t care for that at all. They want people to pay for the more expensive drugs under patent. So they ended up challenging the language we had, which would have allowed generics to come to the market more quickly so seniors could take advantage of it. Also, this would weaken the ability of States to negotiate with drug manufacturers.

Some States are way ahead of the Federal Government. Oregon is one, and my State of Illinois has a plan. The ability of each State to bargain for the lower price in the market is restricted by this bill because all drugs are paid for through Medicare—something else the pharmaceutical companies wanted. They don’t want to have to bargain with anybody. They want to charge top dollar. They don’t want any competition to reduce their profitability, which is already at record-breaking levels. They have been successful. They cannot wait for this bill to pass because they are already profitable, and this bill will enhance their profits even more.

Under this bill, seniors will receive a benefit that will cover less than 20 percent of the projected drug costs for seniors over the next 10 years.

A break-even point of $310 is what you have to put in, in payments and copayments, before you get anything back, which means about 40 percent of seniors will either lose money or gain very little under this prescription drug plan.

There is also a hole in this plan. It is complicated, but I will try to explain it, and it has been changing, even this week.

The coverage on this plan, once you make your monthly premium cost and your copayment—and you then understand that you have to pay 25 percent of the cost of the drug itself—the coverage goes up to a certain point and then it stops. If you are still paying for drugs at that point, you have to go to your pocket to pay out. Then when you reach the higher level, it kicks back in again. So there is a period where you are, frankly, not covered.

If you have expensive pharmaceutical care, you buy into the program, you make your copayment, and you are paying a percentage for each prescription you take, at a certain level the Federal help stops. Then if you keep paying out of pocket without Federal assistance, it kicks in again for catastrophic coverage. Let me try to describe where it is today.

The reports in the news have been, frankly, misleading. They have been reporting the catastrophic cap in the States as the $3,600 and the $5,100. That is not true. It is $5,100. So the gap between $2,250 and $5,100 is $2,850, the total out-of-pocket expenses for which seniors will be responsible is $3,600.

We have a situation where at $2,250 worth of costs, the seniors are on their own. It turns out, according to the Congressional Budget Office, 30 percent of seniors spend between $2,000 and $5,000 per year on prescriptions. That is 12.6 million people. It basically means even though prescription drug coverage and this complicated scheme I just described has been offered, there is an exposure where seniors will have to pay
out of pocket, which will be a surprise to many of them, particularly when they are facing astronomical costs.

I had some examples made to give you some idea of what seniors might face in my State and others. One involved Mrs. Jones who has more than $35 a month and takes Celebrex, which costs about $86 a month. Her husband has high blood pressure and takes Norvasc, which costs $152 per month. Under this plan, Mrs. Jones would pay at least $865. If her premium is more than $35 a month, she would pay more. There is no set premium in this bill. Mr. Jones will pay at least $1,064, for a combined cost of $1,929. This benefit will only cover a third of the drug costs of Mr. and Mrs. Jones.

There are other elements we ought to look at here. If you want to get the most help from this bill, you have to be in the lowest income categories. That is fair, I think that is the right thing to do. The people struggling the most should get the first helping hand from our Government. They decide they are going to look at certain income levels as to whether or not you benefit from this prescription drug. Then they have an asset test which, as I understand it, is $6,000. That means if you have assets of $6,000 or more, you don’t get the most help.

Some of these seniors, I know, have the old family car that may still be worth $6,000, and they would be disqualified when, frankly, they have almost no income and very few other assets on Earth.

The asset test is extremely low. Six million poor seniors will be made worse off by this bill. They previously paid nothing for drugs. They will now have to pay copays that increase annually.

Three million fewer low-income seniors citizens will receive enhanced benefits than under the original Senate bill because of the strict assets test. Let me give an example.

If a senior has an income of $12,000 a year plus $6,100 savings bond, a burial plot, insurance policy, or car worth $6,000 or more, they will not have access to low-income assistance. They will have to pay the full premium, deductible and donut, or the period where the Federal program does not apply.

That means if they have high drug costs, they could pay more than $5,000 a year for their medications simply because they own a burial plot and an insurance policy. That is what the bill says. That, frankly, is something about which we ought to be concerned.

We have to understand that when it comes to this prescription drug situation, most seniors are going to be stung by it. I might add something else that is interesting. The decision was made by the Administration and the Republican leaders in Congress that this prescription drug plan would not go into effect until after the next election, a very interesting political move.

If this is really supposed to help seniors across America, wouldn’t you think this President and this Congress would want to put it in place and activate it before the election?

The reason they won’t is because it is extraordinarily complicated, it is unfair to many seniors, and it includes provisions that, frankly, I seniors won’t be happy with all. So they want to put it off until after the next election, and that is what they have done.

One of the other concerns I have is the role of AARP in this whole conversation. One of the things that is driving this is UnitedHealth Group. It is a chart which shows the insurance royalties at AARP over the last several years—insurance royalties which, frankly, indicate $111 million in 2001, $123 million in 2002. The same thing goes for the investments they have made. We can see that AARP makes a lot of money from the insurance business.

One of the companies they sell insurance with is UnitedHealth Group. It turns out, coincidentally, that UnitedHealth Group could be one of the biggest beneficiaries of the bill that is going to come before us. So AARP comes to this debate not with clean hands.

AARP is fronting for an insurance company that has the potential for dramatic profitability from this bill. So when AARP announces they are for this bill, they ought to be very honest with the seniors about what that means.

AARP receives millions of dollars from the sale of health insurance policies. AARP’s insurance-related revenues made up a quarter of their operating revenue and one-third of their operating revenue in 2001.

They receive royalties from AARP insurance policies marketed to their members by UnitedHealth Group, MetLife, and others.

More than 3 million AARP members have health-related insurance policies from UnitedHealth Group. Last year, UnitedHealth Group earned $3.7 billion in premium revenues from their offerings to AARP members.

The royalties AARP earned as a result of licensing their name to insurance products, as I mentioned, went up to $123 million in 2002. They received so-called access fees from insurance companies of over $10 million. They received something called a quality control fee of almost $1 million from insurers.

AARP also earns investment income on premiums received for members until the premiums are forwarded to UnitedHealth Group and MetLife. In 2002, AARP earned $20.7 million in such investment income.

There is a total of $161.7 million in revenue from insurance just in 2002.

According to Advertising Age magazine, AARP and UnitedHealth Group hired a direct marketing agency in May to conduct a marketing campaign for their insurance product that could cost $100 million.

UnitedHealth Group stands to gain significant portions of the new Medicare Advantage market that would be created by this bill, given that it is currently participating in a Medicare PPO demonstration project in eight States.

AARP can make a lucrative business even more lucrative by continuing its partnership with UnitedHealth Group. Let’s take a look at AARP’s advertising.

Last year, AARP earned $76 million on advertising. Their magazine, formerly called Modern Maturity, and now called AARP, The Magazine, has the largest circulation of any magazine in the United States, going to 21.5 million households.

The latest issue has three full-page ads for brand-name drugs, and another for a Pfizer glaucoma kit. It contains four ads for AARP’s various kinds of insurance.

Combine that with the four ads for insurance in the November AARP Bulletin, and that is a lot of insurance advertising. The September/October AARP magazine and the October bulletin have a combined 14 ads for insurance.

There is a direct linkage between AARP and the insurance industry and another industry that stands to profit from this so-called Medicare prescription drug bill. It is interesting, too, that when the members of AARP were recently asked in a nationwide poll what they thought of this prescription drug bill that is pending before Congress, the results were amazing. A poll that was released 2 days ago showed that 66 percent of AARP members were somewhat or very unfavorable to the level of prescription drug coverage that was just described in this bill.

Eighty percent of AARP members do not believe this bill does enough to encourage employers to maintain current retiree coverage. Sixty-eight percent of AARP’s membership were somewhat or very unfavorable to the following statement: This provision is designed to increase the number of seniors receiving their Medicare coverage through private health plans like HMOs and PPOs by significantly installing Government subsidies for these plans.

So I would just ask this: If AARP is spending all of this money on behalf of their membership to promote a proposal which two-thirds or more of the members of AARP oppose, what is driving this? I think it goes back to the earlier explanation. AARP is not acting as an advocate for seniors. AARP is acting like an insurance company. AARP has forgotten their mission. They must have a new responsibility: They have to generate money from insurance companies.
Frankly, it is a sad situation because for many years AARP was respected across America for being a nonpartisan voice for seniors. Sadly, at this point in time they are not. As a result, there are very few who are standing up to speak for what they believe is right. When I take a look at this bill and what it does, it worries me that what started off as a prescription drug bill to help seniors has become so complicated that it is almost impossible to explain. It has gone in a direction that will leave seniors without any help when they need it the most and instead is trying to dramatically privatize Medicare as we know it.

There are forces in Congress, primarily on the Republican side of the aisle, who want to privatize both Medicare and Social Security. That has been their goal. As a party, they never supported Medicare. Only a handful of Republicans voted for its creation. Over the years, they have made it clear where they stand. There was a time when former Speaker Gingrich and his assistant Richard Armey, who was a Congressman from Texas, said their goal was for Medicare to “wither on the vine.” That does not sound like a group supportive of a program. Instead, it sounds like a group that will look for every opportunity to make sure that Medicare is not as good as it should be.

So ultimately what they are proposing is that we are going to move Medicare from the program we know today, a Government-run program with low overhead and low administrative costs that serves all Americans universally, to a new model which will bring in HMO insurance companies to cover senior citizens.

Naturally, they are afraid the free market will not work. So they put in generous subsidies to these HMOs so that they will lure away seniors out of Medicare. How will they do this? An insurance company wants to insure the healthiest people it can find. Insurance companies do not go out and look for sick people. Insurance companies try, if they can, to exclude from coverage anybody who is going to be expensive. Understandable. If they reduce their risk and exposure, they increase their profitability. So these HMO companies, which are being designed to lure away seniors from Medicare, are going to do not achieve this by looking for the healthiest seniors, they get an added boost from our Republican friends, our free market advocates who argue that they need a subsidy on top of the—billions of dollars in subsidies to these HMOs.

What is wrong with this picture? If one believes in the free market, why in the world would they subsidize an HMO company? so they could take the healthy people out of Medicare? That is exactly what they want to do: they want to cherry-pick the healthiest and those left in Medicare are going to be poorer and sicker.

The net result of that is obvious. At the end of any given year, there is going to be a massive migration of the healthiest seniors, they get a cherry-picked group of seniors out of Medicare. Therefore there will be fewer people in Medicare because those Government-subsidized HMOs will be creaming off and cherry-picking the healthiest people and those left in Medicare are going to be poorer and sicker.

Some people believe—and I believe they think it passionately—that the free market is the answer to everything. I would say to them, take a look at what the free market is doing to health insurance in America today. This is what the free market is in the process of doing what we expect it to do, increasing profitability. Ask anybody in America about health insurance costs or ask any group why they are going on strike in November. Nine times out of ten they will say it is because of health insurance coverage: The company we worked for will not pay for the coverage; there is less coverage, and, frankly, we had to go on strike.

So ultimately what they are proposing is that Medicare will become a prescription drug benefit for seniors. When the seniors across America ask for a prescription drug benefit for seniors? Well, I think, frankly, that when one looks at the HMOs across America, they find that they are doing pretty well. They are pretty profitable, just like these pharmaceutical companies. The average compensation of a chief executive of the 11 largest insurance companies currently serving Medicare was more than $15 million—average compensation, $15 million. The former chairman of Oxford Health Plan—and who is mentioned it earlier—was paid $76 million in 2002. According to Weiss Ratings, an insurance rating agency, profits for 519 health insurance companies they evaluated jumped 77 percent from 2001 to 2002.

UnitedHealth Group reported a 35 percent increase. That is the group that is joined at the hip with AARP, and both of them are widely applauding this new idea to move seniors out of Medicare into these HMOs, to privatize our treasured program. What are the seniors going to pay? Medicare seniors would have to pay under Medicare. So when we look at this alliance, we can understand why we have now come to the heavyweights division of the prize fights at the close of the congressional session. That is exactly what we are facing.

We have a situation where two of the largest lobbies in this town, two of the biggest special interest groups, two of the best financed industries in America, HMOs and the insurance companies, are anxious to see us pass a bill which means more profitability for them. Sadly, it will be at the expense of the same people we were really trying to help in the first place.

When it is all said and done, the seniors will not get a helping hand. Drug costs are going to go up. The program they are proposing is so complicated, it is impossible to explain, so it is understandable, and ultimately Medicare as we know it is almost impossible to explain. What exactly is the goal of those who took what was a prescription drug bill, as complicated as it is, and turned it into a bill to privatize Medicare. That is exactly what we have coming before us in the next few hours. In the next few days I think, frankly, that when one looks at the HMOs across America, they find that they are doing pretty well. They are pretty profitable, just like these pharmaceutical companies. The average compensation of a chief executive of the 11 largest insurance companies currently serving Medicare was more than $15 million—average compensation, $15 million. The former chairman of Oxford Health Plan—and who is mentioned it earlier—was paid $76 million in 2002. According to Weiss Ratings, an insurance rating agency, profits for 519 health insurance companies they evaluated jumped 77 percent from 2001 to 2002.

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We have a situation where two of the largest lobbies in this town, two of the biggest special interest groups, two of the best financed industries in America, HMOs and the insurance companies, are anxious to see us pass a bill which means more profitability for them. Sadly, it will be at the expense of the same people we were really trying to help in the first place.

When it is all said and done, the seniors will not get a helping hand. Drug costs are going to go up. The program they are proposing is so complicated, it is impossible to explain, so it is understandable, and ultimately Medicare as we know it is going to be phased out and privatized and HMOs will take over.

Unfortunately, this program, which has been designed behind closed doors and is now being unveiled one corner at a time, is not going to meet the needs of seniors across America. In the next few days, I am sure you will hear from my colleagues who are...
going to come and will explain in de-
tail why this is a bad idea. I think we
started off with the right goal, to help
seniors pay for prescription drugs.
Today, with this bill, we will have
failed in meeting that goal. That is
why I oppose it.
I yield the floor and suggest the ab-
sence of a quorum.
The PRESIDING OFFICER. The clerk
will call the roll.
The assistant legislative clerk pro-
ceeded to call the roll.
Mr. BYRD. Mr. President, I ask unan-
imous consent the order for the
quorum call be rescinded.
The PRESIDING OFFICER. Without
objection, it is so ordered.
Mr. BYRD. Mr. President, I am under
the impression that there will be a ses-
son of the Senate either tomorrow or
on Monday or on Tuesday or on any
number of those days. I am also under
the impression that the Senate is rap-
idly, hopefully, approaching a sine die
date for adjournment.
Being confronted with those expecta-
tions, I want to make a speech about
Thanksgiving. I don’t want it to appear
in today’s RECORD, necessarily, but I
would ask for it to appear in the
Record of the last day’s session prior to
Thanksgiving, whatever day that is.
I make such a unanimous consent re-
quest, that my speech not appear in to-
day’s RECORD, but that it appear in the
record of the last day of the session prior
to Thanksgiving.
The PRESIDING OFFICER. Without
objection, it is so ordered.
(The remarks of Mr. BYRD are printed in
a future edition of the RECORD.)
Mr. BYRD. Mr. President, I yield the
floor. I suggest the absence of a
quorum.
The PRESIDING OFFICER. The clerk
will call the roll.
The assistant legislative clerk pro-
ceeded to call the roll.
Mr. BYRD. Mr. President, I ask unan-
imous consent that the order for the
quorum call be rescinded.
The PRESIDING OFFICER (Mr.
BURNS). Without objection, it is so or-
dered.

HEALTHY FORESTS RESTORATION
ACT OF 2003—CONFERENCE RE-
PORT

Mr. COCHRAN. Mr. President, I ask
unanimous consent that the Senate
now proceed to the consideration of the
conference report to H.R. 1904, the
Healthy Forests Restoration Act.
The PRESIDING OFFICER. Without
objection, the report will be stated.
The legislative clerk read as follows:
The committee of conference on the dis-
agreeing votes of the two Houses on the
amendments of the Senate to the bill (H.R.
1904) to improve the capacity of the Sec-
retary of Agriculture and the Secretary of the
Interior to plan and conduct hazardous
fuels reduction projects on National Forest
System lands and Bureau of Land Man-
agement lands, protecting communi-

cities, watersheds and certain other at-risk
lands from catastrophic wildfire, to enhance
efforts to protect watersheds and address
threats to forest and rangeland health, in-
cluding catastrophic wildfire, across the
landscape, and for other purposes, having
met, have agreed that the House recede
from its disagreement to the amendment of
the Senate to the text of the bill and agree
to the same, and the Senate agrees to the
same, and the Senate to the text of the bill
and agree to the same, signed by a majority
of the con-
feres on the part of both Houses.
There being no objection, the Senate
proceeded to consider the conference
report.
(The conference report is printed in
the House proceedings of November 20,
2003.)
Mr. COCHRAN. Mr. President, I am
pleased to present to the Senate the
conference report on the Healthy For-
estes Restoration Act.
Senators may remember that this
bill was passed by the Senate on Octo-
ber 30 by a vote of 80 to 14. It embodied
a bipartisan agreement to improve for-
est health on both public and private
lands. It provides Federal land man-
agers the tools to implement scientif-
ically supported management practices
that balance the environmental
consultation with local communities. It also
establishes new conservation programs
to improve water quality and regenerate
decaying forests on private lands.
The legislation will reduce the amount
time and expense required to conduct
hazardous fuel projects.
The conference report retains provi-
sions adopted by the Senate that will
protect old growth forests. It improves
the processes for administrative and
judicial review of hazardous fuel
projects. But it will continue to require
rigorous but expedited environmental
analysis of such projects.
The conference report specifically en-
courages collaboration between Fed-
eral agencies and local communities to
take protective action against threat-
ened species and their sensitive
watersheds. It provides for expedited envi-
ronmental analysis of hazardous fuel
reduction projects adjacent to communi-

ties that are at risk to catastrophic
wildfire. It requires spending at least 50
percent of Federal hazardous fuels re-
duction funds to protect communities.
It requires courts considering legal
actions to stop a hazardous fuel reduc-
tion project to balance the environ-
mental benefits of the project against those
of not carrying it out. And in carrying out
hazardous fuel reduction projects in areas
that may contain old growth forests, it
requires Federal agencies to protect or
restore these forests.
In other areas, it requires agencies
to maintain older trees consistent with
the objective of restoring fire resilient
stands. It authorizes $720 million an-
ually for hazardous fuels reduction ac-
tivities. It provides grants for removal
of hazardous fuels and other biomass to
encourage their utilization for energy
and other products. It provides for as-

cistance to private land owners to pro-
tect and restore healthy watershed
conditions.
It authorizes research projects de-
signed to evaluate ways to treat forests
to reduce their susceptibility to in-
sects, diseases and fire. It also author-
izes agreements with private landowners
to protect and enhance habitats for endangered
and threatened species. And it encourages
more effective monitoring and early
warning programs for insect and dis-
ey outbreaks.
The conference report would not be
possible without the active involve-
ment of Senators on both sides of the
aisle who worked hard together to de-
velop this bill. I especially appreciate
the able assistance of the distinguished
Senator from New Mexico, Mr. DOMENICI, and his Forestry Sub-
committee chair from Idaho, Mr. CRAIG, were also very helpful in guid-
ing this legislation along its path
sage.
The Agriculture Committee also had
assistance of Senator LINCOLN of Ar-
derived and actively worked with
her. The able assistance of the distinguished
Senator from Idaho, Mr. CRAPO, which
the Agriculture Committee also ben-
forwarded from the assignment of an em-
ployee of the Forest Service, Doug
MacCleery, who assisted our staff in
the development of the legislation. We
appreciate his assistance. And our com-
mittee staff did a superb job under the
able direction of the Agriculture Com-
mittee staff director, Hunt Shipman.
Let’s not forget, it was President
Bush, the President of the United
States, who recommended in the first
place that Congress act on a healthy
forest initiative. It was at his sugges-
tion and his urging that we pushed
and pushed until we finally achieved
success, with the adoption today by the
other body of the conference report, on
this bill. I must also mention the able
assistance of his Secretary of Agri-
culture, Ann Veneman, who provided
valuable insight and assistance all
along the way.
I urge the Senate approve this con-
ference report.
The PRESIDING OFFICER. The Sen-
ator from Idaho.
Mr. CRAPO. Mr. President, this is
truly a historic day. As the Presiding
Officer knows, we have worked lit-
erally for a decade or more to try to
find a path forward in the area of find-
ing a solution to the problems we face
in our national forests.
In recent years, we have seen an ave-
rage of 4 million acres a year burn. We
have seen devastating wildfires this

November 21, 2003
year that have destroyed not only tremendous amounts of property and environment in our forests, but have also taken lives. We have seen insect infestations that have jeopardized the future of one of the most incredible environmental resources we have in America. Our forests.

All of it has occurred while we have been battling in the courts, trying to find a path forward simply to allow our forest managers the ability to implement their forest management decisions, to deal with insect infestation, to deal with the threat of catastrophic wildfire, and to help preserve the great legacy we have in America, our forests.

I stand today to thank those in our Senate conference who have worked with us to build and strengthen the bipartisan solution that has brought us to this point.

Sitting here beside me is the Senator from Mississippi, Thad Cochran, chairman of the Agriculture Committee. Without Senator Cochran’s able leadership, without his patience and his wisdom in guiding us through this process, we would not be here today. I want to personally thank him. Thank him, and all of a grateful nation for the skill and the patience he has given us to help bring this bill forward.

Also, I thank Senator Larry Craig, my colleague from Idaho, who has worked on this issue tirelessly for the better part of the last decade to try to help bring America to an understanding of the need for reform, and for helping us work through a bipartisan solution in the Senate. Senator Craig deserves great praise and commendation for his unflinching work to help give us the possibility of being here today—just a short time away from successfully passing in both the House and the Senate this Healthy Forests legislation.

Also, Senator Domenici, chairman of the Energy Committee, has worked tirelessly on this issue and he deserves to be thanked for his tremendous efforts. Not many people follow it this closely, but there is forestry jurisdiction in both the Energy Committee and the Agriculture Committee. Senator Cochran chairs the Agriculture Committee, and Senator Domenici the Energy Committee. By coincidence, both of these chairs chair the respective subcommittees on forestry. Senator Craig chairs the subcommittee on forestry in the Energy Committee, and I chair the forestry subcommittee on the Agriculture Committee. Together, on the Republican side, we have developed a strong team to work in the Senate.

I also thank Senator Blanche Lincoln, from Arkansas, for stepping forward as the ranking member on the forestry subcommittee and working with me to develop the Senate bill that set the mark for improving this legislation and moving it through the Senate. We then expanded that bipartisan base and worked with Senators Feinstein from California, Wyden from Oregon, and others, including additional Republicans and Democrats, all of whom came together to bring a bipartisan solution to the Chamber.

It was not easy. There were many who wanted to use this issue to further their political efforts, to either cause further strife and conflict on the issue surrounding our forests or to simply promote some agenda that was not consistent with efforts to move forward on a bipartisan basis to protect and preserve our forests.

We fought many battles over the last 2 or 3 months, and they were the resulting, concluding battles in a crescendo that has been developing over the last decade. When we were done, we needed to work with the House of Representatives. There was concern at that point. There was actually another filibuster to stop us from even going into conference with the House because there was concern the bill would be changed too much in ways that would not allow us to find a common consensus-based path forward.

Yet we have gone on together, again, in that bipartisan fashion that we developed in a bimodal fashion and bipartisan fashion with the House to come together with this legislation that is now before us.

As many of us said as we developed this legislation, it is necessarily what any of us have wanted had we had complete control over the issue. But it is the result of what can happen if we work across party lines, across the lines of the rotunda between the House and Senate, and across regional lines in our Nation, to try to make sure that we get past the politics, the partisanship, past the personal attacks, and focus on the principles that will allow us to move forward and develop positive legislation such as that.

I am confident that this legislation will pass the Senate today. I am confident that when it goes to the President’s desk, he will sign it. The United States will have taken a very big step forward in terms of preserving one of the great environmental legacies we have—our forests; we will have taken a step to protect and preserve our rural areas in America; we will have done much to protect our great firefighters, many of whom gave their lives this year, and in previous years, in trying to protect our forests and our communities; we will have put statutory protection in place for old-growth forests in our Nation; we will have worked to develop small-diameter timber and other uses of those parts of our forests that need thinning; we will have taken steps to make sure that rural communities such as Elk City, ID—literally at the end of the road—do not face the potential devastation a wildfire could cause not only to their economy but to their safety as well. We will have protected the wildland urban interface, where so many of the people who now live in urban areas find their homes and lives and property threatened by the danger of uncontrolled wildfire.

All of these things will be brought together because we were successful today and, over the past few years, in bringing together the kind of politics that is good and beneficial, that helps us to cross the divisions and eliminate those conflicts that so often bring us to a stalemate or a stall on the floor of the Senate or on the floor of the House.

Mr. President, again, I thank all Senators and all of the House Members who have done so much to look past their own individual concerns and to work together for the collective good of the whole as we built this strong bipartisan solution to a critical issue facing our Nation.

With that, I yield the floor.

Mr. Daschle. Mr. President, I am pleased to support the conference report on the Healthy Forests initiative.

The question of how we effectively and efficiently deal with the threat of wildfire is a complex one, and I have been committed to finding a solution that will provide the Forest Service with additional tools, can win approval in the Senate, and can become law. This bipartisan compromise meets that test.

As I toured the Black Hills National Forest this August, it was clear that the Forest Service needs additional tools to address the increasing fire risk to South Dakota communities. There are currently over 460,000 acres of the Black Hills National Forest that are in moderate to high fire risk. And, it is increasing. The Forest Service estimates that over 550,000 acres will fall into this category in the next 10 years if we do nothing to address it.

It is clear that we must find a way to allow Forest Service personnel to spend less time in the office planning, and more time in the forest actually clearing high fuel loads.

This legislation takes major steps to do just that. The legislation provides communities more flexibility in defining what should be considered priority areas as well as incentives to work near communities. It clarifies how much detail is needed for environmental analysis of fuel reduction projects. The conference report adopts the Senate-passed streamlined appeals process, expediting decisions for fuel-reduction projects while ensuring that the public has an opportunity to be heard early in the developmental stages forest restoration projects. And, it includes Senate-passed language encouraging speedy disposition of any projects that are challenged in court without giving undue deference to any party.

While the legislation is not exactly how I would have written it, I think it is the best shot we have to get something meaningful enacted into law this year. I am pleased the House has passed
this legislation and encourage my colleagues to pass it, and hope the President will quickly sign it into law.

Mr. BAUCUS. Mr. President, I rise to urge my colleagues to support the Healthy Forests Restoration Act of 2003. This legislation is about the west to and my constituents as we look for ways to reduce the risk of large and dangerous wildfires that threaten our homes and communities. You just have to look at the devastating fire season Montana went through last summer to understand why we feel so strongly about this issue.

I have said that a healthy forests bill must first allow Federal agencies and communities to address dangerous fuel loads on a local level, quickly and efficiently. Second, it must support small, independent mills and put local people to work in the forests and the mills. Third, it must promote and protect citizen involvement and be fair to the states in the eyes of the federal judiciary. And finally, it must protect special and sensitive places.

We have achieved that with this legislation.

My one disappointment is that the conference committee stripped out the Rural Community Forestry Enterprise Program. I worked together with Senators CRAPO and LEAHY to include this program in the Senate bill, first in the Agriculture Committee and then as part of the Senate-passed bill.

The Rural Community Forestry Enterprise Program would bring much needed support for building and maintaining a thriving forest industry in rural communities.

Just as this industry is important to maintaining the economic vitality of these small and often remote communities, it is vital to meeting the objectives of this legislation. We cannot afford to lose more mills and highly skilled workers from Montana. We cannot accomplish needed hazardous fuel reduction work without them.

I would like to share with you concerns I heard today about the removal of the Community Enterprise Program from a friend, Jim Hurst, the owner and operator of a small family-owned mill called Owens and Hurst, in Eureka, Montana.

He said:

Small mill owners like myself and Ron Buentemeier, the General Manager of F.H. Stoltze Land and Lumber Company in Columbia Falls, told you we needed this type of help to maintain business. This bill is a huge step in the right direction.

This is an important program and should be put back into the Healthy Forests Bill. Independent owners have been under long-time family ownership and because of that my family and the other families who own mills know that we each have one heck of a responsibility to our communities. This Community Enterprise Program would help the independent owners who have been impacted the hardest by reduced federal timber supply.

They have shown their mettle and have been courageous. We need to keep fighting for small mill owners, operators and the rural communities who depend on these small mills for their livelihood.

While I will continue to work with my colleagues on both sides of the aisle to ensure a thriving forest industry in our rural communities, it is imperative to pass this legislation now. I believe we must take action now. I think we do have in this bill the opportunity to provide a healthy, fire-wise forest.

The legislation has the elements necessary to allow local citizens and leaders to make decisions that address this problem efficiently and effectively and I urge my colleagues to support it.

I would like to thank several Senators for their hard work on this bill, including Senators WYDEN, FEINSTEIN, CRAPO, LYNCH and COCHRAN, without their dedicated efforts and leadership that I was very pleased to support, we would not be the close to passing this bill today.

Ms. MURKOWSKI. Mr. President: I rise today in strong support of the conference report for the Healthy Forest Restoration Act of 2003.

I especially thank my colleagues—Senators COCHRAN, Senator DOMENICI, Senator CRAPO, Senator CHAI, Senator LINCOLN, Senator WYDEN, and Senator FEINSTEIN for the leadership they demonstrated in addressing this national crisis that affects all Americans, particularly those who live in the urban-wildland interface.

The conference report is a major step forward toward preventing the severe wildfires that have become an annual event. What is more important is that the legislation will provide for public comment during the early stages of hazardous fuel reduction projects. The conference report is a major step forward toward preventing the severe wildfires that have become an annual event.

What is more important is that the legislation will provide for public comment during the early stages of hazardous fuel reduction projects. The conference report is a major step forward toward preventing the severe wildfires that have become an annual event.

The 2002 and 2003 fire seasons have been some of the worst on record nationally. Forest fires continue to create extensive problems for many Americans, predominantly for those living and working in the West. In 2002, Alaska alone experienced fires that burned more than one million acres.

These catastrophic wildfires caused great damage to our forested lands; many were already vulnerable as a result of uncontrolled insect and disease damage. Deteriorating forest and rangeland health now affects more than 190 million acres of public land, an area twice the size of California.

In my home State of Alaska, the damage caused by the spruce bark beetle, especially on the Kenai Peninsula has been devastating. Over 5 million acres of trees in south central and interior Alaska have been lost to insects over the last 10 years.

I am particularly enthusiastic that this legislation authorizes and expedites fuel reduction treatment on Federal land on which the existence of disease or insect infestation has occurred, such as those on the Kenai Peninsula. Federal land managers will now be able to manage these dead and dying tree stands.

The key to long-term forest management on the Kenai Peninsula is to manage the forested landscape for a variety of species compositions, structures and age classes; not simply unmanaged stands. The legislation removes the U.S. government will not do just that, and will prevent a reoccurrence of the type of spruce bark beetle mortality we have experienced in Alaska.

I firmly believe that this conference report is a comprehensive plan focused on giving Federal land managers and their partners the tools they need to respond to a national forest health crisis. The legislation directs the timely implementation of scientifically supported management activities to protect human health and the forest ecosystems as well as the communities and private lands that surround them.

Under this legislation, the Secretaries of the Interior and Agriculture will conduct authorized fuel reduction projects in accordance with the National Environmental Policy Act with a critical, streamlined process. Additionally, for those authorized fuel reduction projects proposed to be conducted in the wildland interface, the Secretaries will be able to expedite such projects without the need to analyze and describe more than the proposed agency action and one alternative action. In other words, we can now get the work on the ground done quickly.

Still, the Secretaries must continue to provide for public comment during the preparation of any environmental assessment or EIS for these authorized fuel reduction projects. The public process is not undermined in this legislation.

I also support the proposed new administrative review process associated with these authorized fuel reduction projects. Too often we have become mired in administrative appeal gridlock in this country at the expense of communities at risk to wildland fire. We saw such devastation recently in the State of California.

This legislation establishes a fair and balanced predecisional review process. Specific, written comments must be submitted during the scoping or public comment period.

Additionally, civil actions may be brought in Federal district court only if the person has exhausted his/her administrative review process. The legislation will foreclose venue-shopping.

It encourages the courts to weigh the environmental consequences of management action when the potential devastation from these fires could occur. This provision is important public policy and demonstrates to the American people that the risk of catastrophic
wildfire must be known, understood, and respected in our judicial system and acted upon quickly.

I am also excited about title 2 of the legislation which will encourage the production of energy from biomass. Developing biomass could provide a tremendous boost to the local economy on the Kenai Peninsula while reducing the dangerous wildland fire risks that exists there. That is a win-win solution. The biomass provision is innovative, environmentally sound and a good approach in achieving healthy forests.

The bipartisan legislation before us is good for the nation and good for Alaska. I will enthusiastically support its passage today.

Mr. BOXER. Mr. President, southern California has recently experienced the devastating impacts of wildfire firsthand. More than 750,000 acres burned, and 24 people died. We have seen how important it is to take the appropriate steps to protect communities and waterways, and at least 50 percent of the funds must be used near at-risk communities. The other 50 percent will be spent on projects near municipal water supply systems and on lands infested with disease or insects. This is a good start at preventing fires.

I do, however, have to mention my deep disappointment with the House Republican conference for removing my amendment to help firefighters who battled the biggest fires. I am almost speechless that the House Republicans would turn their backs on our brave firefighters.

My amendment, which passed the Senate 94 to 3, would have required long-term health monitoring of firefighters who fought fires in a Federal disaster area. These firefighters are exposed to several toxins known to be harmful to long-term health, including fine particulates, carbon monoxide, sulfur, formaldehyde, mercury, heavy metals. This amendment was important to the firefighters in my State and was supported by the International Association of Firefighters.

I pledge to the firefighters, this is not over, I will be back to continue fighting on behalf of all firefighters who are put at risk in Federal disasters.

I am also disappointed that the conference dropped another amendment of mine, which was included in the Senate-passed bill. My amendment required the EPA to provide each of its regional offices a mobile air pollution monitoring network, so that in the event of a catastrophe, toxic emissions could be monitored and the public could know the health risks.

Despite the fact that the conferees dropped my two amendments, I believe this bill will help protect communities from the threat of wildfires. This is why I am supporting it.

Mrs. FEINSTEIN. Mr. President, today's vote to pass the Healthy Forests legislation is a major bipartisan victory. This is not just because it is the first major forest bill in 27 years.

Much more broadly, we have nourished the middle ground in the forest debate that is so often lost in the partisan rhetoric.

We actually can create good rural jobs, protect our communities, and restore our forest environment at the same time.

Let me repeat this: we can create rural jobs, protect our communities, and take action to restore the health of our forests at the same time.

Even today my close friend and colleague from Alaska, Senator WYDEN, has been working to bring together the rural, forest-dependent communities—rather than unnecessarily dividing them.

This bill goes a long way to that end throughout the West and the Nation.

There are many people who deserve credit for this bill, but there are a few Senators in particular to whom I want to give special thanks. Senators PETE DOMENICI and LARRY CRAIG were the best bipartisan allies I could ever ask for in terms of how they approached this issue.

Even though they are in the majority, Senators DOMENICI and CRAIG realized that a forestry bill needed a bipartisan coalition. They worked in good faith with me and Senator WYDEN from the start to finish, and I am deeply grateful for it.

I also want to thank Senator COCHRAN, the chairman of the conference on this bill, for his leadership throughout the process. Senator COCHRAN ably and skillfully represented the Senate position in the negotiations. I particularly want to emphasize that his staff conducted the conference in a fine and fair manner throughout, and it's a credit to his leadership.

There are many others Senators who played critical roles in this process, including Senators CRAPO, KYL, LINCOLN MCCAIN, BINGAMAN, and BINGAMAN.

I finally want to thank Senator WYDEN, the ranking member on the Forestry Subcommittee of the Energy Committee. He is as good a ranking member and as good a leader on forestry as the Democrats could ever have.

I also want to say that I second his views on the meaning of the different parts of the bill in his statement today. As the two principal Democratic negotiators of this bill, he and I are in complete accord as to the meaning of its contents.

This legislation H.R. 1904, approved by a House-Senate conference committee today is very similar to a bill passed by the Senate last month, with priority given toward removing dead and dying trees and dangerously thick underbrush in areas nearest communities as well as targeting areas where invasive pests have devastated forests. This is especially important in California, where hundreds of thousands of trees have been killed by the bark beetle, creating tinderbox conditions.

While the recent wildfires in Southern California have been contained, these deadly fires consumed a total of 738,158 acres, killed 23 people, and destroyed approximately 3,626 residences and 1,184 other structures. Clearly, we must do everything we can to avert such a catastrophe in the future. The National Forest Service estimates that 57 million acres of Federal land are at the highest risk of catastrophic fire, including 8.5 million in California, so it is critical that we protect our forests and nearby communities.

More than 57 million acres of Federal land at the highest risk of catastrophic fire, including 8.5 million in California. In the past 5 years alone, these fires have raged through over 27 million acres, including nearly 3 million acres in California. It is critical that Congress acts to protect our forests and nearby communities.

The House-Senate agreement both speeds up the process for reducing hazardous fuels and provides the first legal protection for old growth in our nation's history.

Let me describe what the legislation would do.

Critically, it would establish an expedited process so the Forest Service and the Department of the Interior can get to work on brush-clearing projects to minimize the risk of catastrophic wildfire.

Up to 20 million acres of lands near communities, municipal watersheds and other high-risk areas can be treated. This includes lands that have suffered from serious wind damage or insect epidemics, such as the bark beetle.

We made an important change to the bill's language in section 102(a)(4) in the conference report. In the Senate-passed bill, the insect and disease exception was related to infestations, whereas in the conference bill, the exception has been clarified to apply only when there is a presence of an epidemic or disease. By its own terms, an insect or disease-related event of "epidemic" proportions is different from "endemic" insects and diseases, which are present in a naturally functioning forest ecosystem.

Under the final bill, only epidemics are given special treatment. This is an important distinction.

A total of $708 million annually for hazardous fuel reduction is authorized by the legislation, a $340 million increase over current funding.

At least 50 percent of the funds would be used for fuels reduction near communities.

The legislation also requires that large, fire-resilient, old-growth trees be protected from logging immediately.
It mandates that forest plans that are more than 10 years old and most in need of updating must be updated with old growth protection consistent with the national standard within 2 to 3 years. Without this provision in the amendment, we would likely have to wait a decade or more to see improved old-growth protection. And even then there would be no guarantee that this protection—against the threat of both logging and catastrophic fire—would be very strong.

In California, the amendment to the Sierra Nevada Framework that is currently in progress will have to comply with the new national standard for old-growth protection. Let me explain how the agreement improves and shortens the administrative review process and makes it more collaborative and less confrontational. It is critical that the Forest Service can spend the scarce dollars in the federal budget in doing vital work on the ground, rather than being mired in endless paperwork.

The legislation fully preserves multiple opportunities for meaningful public involvement. People can attend a public meeting on every project, and they can submit comments during both the preparation of the environmental impact statement and during the administrative review process. I guarantee you the public will have a meaningful say in these projects.

The legislation changes the environmental review process so the Forest Service still considers the effects of the proposed project in detail, but can focus its analysis on the project proposal, one reasonable alternative that meets the project’s goals and the alternative of not doing the project, instead of the 5-0 alternatives now often required.

In the highest priority areas within 1 1/2 miles of communities, the Forest Service need only study the proposed action and not alternatives. There is no requirement in current law, however, in how closely the Forest Service must study the environmental effects of the project it is proposing to undertake.

The legislation replaces the current Forest Service administrative appeals with an administrative review process that will occur after the Forest Service finishes its environmental review of a project, but before it reaches its decision. This approach is similar to a process adopted by the Clinton administration in 2000 for review of forest plans and amendments to those plans. The process will be speedier and less confrontational than the current administrative appeal process.

Next I want to turn to judicial review. I want to emphasize that cases will be heard more quickly under the legislation and abuses of the process will be checked, but nothing alters citizens’ opportunity for fair and thorough court review.

Parties can sue in Federal court only on issues raised in the administrative review process. This is a commonsense provision that allows agencies the opportunity to correct their own mistakes, if everything gets litigated. Lawsuits must be filed in the same jurisdiction as the proposed project.

Courts are to resolve the case as soon as possible. Preliminary injunctions are limited to 60 days, although they can be extended if appropriate. This provision sends a signal to courts not to delay important brush-clearing projects indefinitely unless there really is a good reason to do so.

The court must weigh the environmental benefit of doing a given project against its environmental risks as it reviews the case.

In closing, I want to say that my colleagues and I have been trying to come to an agreement on a forest bill for several years. We finally broke through the deadlock. I am deeply pleased that we are enacting this legislation to give the residents of southern California and elsewhere a better chance against the fires that will come next time.

Mrs. FEINSTEIN. I have a question for the Senator from Oregon as to the meaning of one specific provision of the conference report on the Healthy Forests Restoration Act of 2003. This provision is section 105(c)(3)(B), which sets forth an exception to the general requirement that must participate in the administrative review process before raising claims in Federal court. I don’t understand the conference report and statement of the managers as doing anything to change the parties’ preexisting obligations as to environmental review except as explicitly provided in the statute. Do you agree, as the ranking member on the Subcommittee on Public Lands and Forests of the Senate Committee on Energy and Natural Resources?

Mr. WYDEN. I have the same understanding of this matter as the Senator from California.

Mr. LEAHY. Mr. President, I will oppose the conference report on H.R. 1904, the so-called Healthy Forests Act. While I have several substantive concerns about this legislation, let me first speak about the process by which this legislation has come before the Senate.

As my colleagues know, there has been a significant and growing concern about the way the other side is operating conference committees. In fact this conference was delayed several weeks because the minority has continually been excluded from conferences. However, good faith, I, along with interested Members and their staffs, worked out an agreement on the first six titles of the bill. Coincidentally, there were only six titles in the House version of the bill. An agreement was reached on those parts of six current titles, while I still had serious concerns about the substance of the agreement, I did not object to the process moving forward. I did so because I was given commitments that we would work out an agreement between the House and Senate on the remaining three titles that were passed by the Senate.

But what happened next is absolutely astounding. One hour before the conference committee was scheduled to meet, I was informed that the conference would only consider the first six titles of the bill, and that the remaining titles that were passed by the Senate were ‘off the table.’

Yet another backroom deal was cut by the other side to exclude the minority from any real conference proceedings.

These were highly important provisions that were passed by the Senate. Of particular importance to me was the Rural Community Forestry Enterprise Program, which I authored with Senators CAFPO and BAUCUS. In my State and to quote what I wish had been a deal of small-diameter trees for which we need help finding markets. This program would build on the existing expertise of the Forest Service by providing technical assistance, cooperative marketing, and new product development to small timber-dependent communities. Whether it is producing furniture, pallets, or other creative new markets, this program would help small forest-dependent communities expand economically.

Back room deals summarily excluded this, and several other important initiatives in the Senate-passed bill, from consideration in the conference committee. That is why I declined to sign this conference report.

I will not vote for this conference report because this bill before us remains a well-camouflaged attempt to limit the right of the American people to know what their Government is doing on the public’s lands.

The bill before us is really a solution looking for a problem. So let’s take a closer look at the ‘solution’ on the table.

First, the bill would make it much more difficult for the public to have any oversight or say in what happens on public lands, undermining decades of progress in public inclusion. In this new and vague pre-decisional protest process, this bill expects the public to have intimate knowledge of aspects of the project early on, including aspects that the Forest Service might not have disclosed in its initial proposal.

This bill gives the Forest Service a real incentive to hide the ball or to withhold certain information about a project that might make it objectionable, such as endangered species habitat data, watershed analysis, or road construction information that are not raised about this possibly undisclosed information in the vaguely outlined ‘predecisional’ process. The Forest Service can argue to the courts that no claims can be brought on these issues in the future when the agency, either through intent or negligence, withholds important information from the public.
Essentially, this provision penalizes citizens and rewards agency staff when the agency does not do its job in terms of basic investigation and information sharing regarding a project. This bill makes other significant changes to judicial review. It will force judges to reconsider preliminary injunctions every 60 days, whether or not circumstances warrant it.

In many ways, this provision could backfire on my colleagues’ goal of expediting judicial review. It will force judges to consider otherwise unnecessary proceedings, slowing their consideration of the very cases that proponents of S. 1904 want to fast track. Moreover, taking the courts’ time to engage in this process will also divert scarce judicial resources away from other pending cases. It is also likely to encourage more lawsuits. Requiring that injunctions be renewed every 60 days, whether needed or not, gives lawyers another bite at the apple, something that Congress finds hard to resist.

Instead of telling the courts when and how to conduct their business, we should instead be working to find a workable and effective approach to reducing wildfire risks. The bill does not achieve that, but, with these provisions that minimize the public’s input, it instead poses a real risk to the checks and balances that the American people and their independent judiciary now have on Government decisions affecting the public lands owned by the American people.

Sadly, this bill plays a bait-and-switch trick on communities threatened by wildfires. It is not fair to roll back environmental laws, public oversight, or judicial review under the guise of reacting too devastating wildfires. It will do nothing to help or to prevent the kid of devastation that southern California recently faced. It is a special interest grab-bag shrouded behind a smokescreen.

We should be offering real help and real answers, instead of allowing fear to be used as a pretext for taking the public’s voice out of decisions affecting the public’s lands and for ceding more power to special interests.

Mr. COCHRAN. Mr. President, 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. COCHRAN. 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. BAUCUS. Mr. President, I would like to speak a few minutes about the upcoming Medicare conference report that will be before this body—I don’t know when—maybe Sunday, Monday, Tuesday. Before I do so, I would like to thank and compliment many people who helped bring this legislation to this point. For many years, many of us in Congress have urged the passage of prescription drug benefits legislation for seniors. We have been close to passage many times in the last several years.

I remember last year, for example, about this time when Congress was close to adjournment. I called a meeting together in my office for one last chance—Senator Kennedy, Senator Snowe, myself, Senator Hatch, and other Senators who were vitally concerned about passing prescription drug legislation. We worked mightily. We worked very hard. At the very end, the talks collapsed. It didn’t work, largely for political, partisan reasons, I might add, and we were not able to get a bill passed.

Here we are again. We are at the brink. We are on the verge. We are very close to getting prescription drug legislation passed. This time I very much hope that all of us—as Senators and House Members—put partisan differences aside and suspend judgment. That is, we should look at the legislation, look at the facts, and not listen to the rhetoric from various groups, to see what really makes sense.

There are a number of people I wish to thank at this time—the chairman of the committee, Senator Grassley, who has worked very hard; Senator Breaux, also a member of the committee; Senator Snowe, a member of the Ways and Means Committee, has worked extremely diligently. The Speaker of the House, the majority leader of the House, Tom DeLay; the majority leader of the Senate, Bill Frist—there are many people who have worked very hard. I thank them very much for their efforts and for the work.

One person I also wish to thank is Senator Ted Kennedy. Senator Kennedy worked very hard to help us pass prescription drug legislation in the Senate not too many weeks ago. He worked very hard. He worked with me. He worked with the minority leader. He worked with the majority leader. He worked with various Members of the Senate who were critical to passage of the bill.

I thank Senator Kennedy for his yeoman’s work to help pass prescription drug benefits legislation in the Senate. He also worked very hard to help get a conference report put together. He spent a good deal of time with the conferees, with myself, with the Senator from South Dakota and with the Senator from Tennessee, Mr. Frist, and many other people trying to help get prescription drug legislation passed. I regret at this point that he and I have a different view of this bill. He believes there are flaws in this bill. I think this is a good bill and should be passed. Nevertheless, Senators should know that Senator Ted Kennedy has done a great job in helping move this legislation to the point it is today. Without his efforts, this bill would be flawed in many areas. He helped make this, in my judgment, quite a good bill.

Why should we pass prescription drug benefits legislation? I suppose the main reason is that times have changed so dramatically. In 1965, when Medicare was enacted—and it was enacted by a large vote margin—prescription drugs were not necessary. Most seniors citizens were more concerned with doctors, over-the-counter medicines, and hospital visits for their medical concerns, rather than prescription drugs.

Look what has happened in the last 38 years since the Medicare Act passed. Prescription drugs and generic drugs are so vitally important today. They replace procedures. They help prevent the onset of disease. Often times, the medications people take tend to prevent, forestall, and delay all kinds of maladies. They are really important, much more important today and getting more important every day. I believe.

In addition, prescription drugs are becoming more expensive—much more expensive—and it is putting seniors in a bind. Many low-income seniors are in a bind.

I worked at a pharmacy during one of my work days at home. I have worked at many different jobs in Montana. I work at a pharmacy during one of my work days at home. I have worked at many different jobs in Montana. I show up at 8 o’clock in the morning with a sack lunch. I have worked in sawmills, I have waited tables. One day I worked in a pharmacy in Montana. I saw senior citizens walk up to the pharmacist in a quiet voice and ask how perhaps they could change their
medication or what prescription should they cut back on because they couldn’t afford to pay for them all.

Seniors couldn’t afford to pay it. It was stunning, and it was sad. It was a revelation to me. You hear about it, but what you don’t hear about is that, not only was it a revelation to me, it happens. Many low-income seniors are having a very difficult time trying to make ends meet. Sometimes it is a tradeoff between buying prescription drugs, buying food, and paying the rent. It happens way too frequently, and it is not right for one part of the country, the United States of America, to let this happen.

This legislation does a good job in remedying this situation. First of all, it is $400 billion of prescription drug benefits for seniors spread out over 10 years—$40 billion. That is a lot of money, but we have a lot of seniors who have great needs.

Under this legislation, seniors will find they will not have to pay all the cost of the drug but, rather, 25 percent, and the rest will be picked up by Medicare, the Federal Government, through the mechanism that is designed in this bill. They will only pay a quarter. But if you are a low-income senior, you are in a much better position under this legislation.

One-third of United States seniors are classified as low-income. A full one-third are low-income. Under this bill, low-income citizens will find that 90 percent of their drugs are covered—90 percent. That means low-income people can get the prescription drugs they need and will not have to walk up to that pharmacist and, in a hushed, quiet tone, ask what tradeoff, what drugs that person should cut back on because he or she cannot afford them.

If you are a low-income senior—and one-third of Americans are low-income. In my State, that is about 46,000 seniors who are affected; about 46,000 seniors in the State of Montana who are low-income, out of about 140,000 seniors statewide. The general rule for all seniors is 75 percent of your prescription drug costs; if you are low-income, 90 percent of your prescription drugs will be paid for over 10 years.

This is good legislation. We are here at a time when people in our country are asking us, Should we help our seniors or should we not?

Let me mention a couple additional reasons why I support this bill.

First of all, it helps rural America. Who does rural America affect? It is about 46,000 seniors affected; we run the risk of not having good, adequate health care in rural parts of our country. We have all talked to many doctors and nurses who practice in rural parts of our country. They talk about the hours. They want to serve their patients. Believe me, they want to serve their patients, but after a while there comes a time when they are just worn out.

In rural America, there are often pathologists—or pulmonologists or other specialists—who have to be on call all the time or on call every second or third day. Why? Because there are fewer of them in rural America than in urban America. The costs, believe it or not, are also very high in rural America—in many cases higher than in cities. There are the transportation costs, the cost of distances, the travel costs, for patients, doctors, and suppliers.

Our State of Montana is a low-income State, unfortunately. Our per capita income in Montana is low, but we are in the middle of all the States when it comes to cost of living. We are about the bottom when it comes to cost of living. That is also the middle when it comes to costs. It is because we are a rural State, and this is true for rural parts of all States.

This bill finally helps address the unequal playing field that has existed between urban and rural America. Now, rural America, finally after many years, gets its fair share.

When I first came to the Senate a few years ago, I realized just how hard it was for rural America to get a square deal. It was stunning. Every year since I have been here, I am having to work to get rural America a square deal compared with urban America. I was part of an organization—and I still am—called the Rural Medicare Caucus. In fact, I chaired it for a few years. Every year I am here, I have—as I know my good friend from Montana, the Presiding Officer has—worked to help to make sure that rural parts of the country are getting a fair deal. This is not rhetoric. This is real. After all of these years, finally rural America gets a fair deal.

I also support this legislation and strongly advocate for its passage because it makes sure that senior citizens, wherever they live in our country, get a universal Medicare prescription drug benefit. Now, this certainly is true in the first years after this legislation is effective, but it is also true in the future. It is also true when preferred provider organizations are designed to come into effect. It is also true in the year 2010 when in six regions of the country, there may be demonstration projects selected to test a new system called premium support. The dual, particularly in health care. It is also true in the year 2020 when all regions of the country, in all parts of the country, in all years, will have access to the same prescription drug benefit as any other senior, in any other part of the country, in any other year. This bill does not undermine traditional Medicare—that is, Part A and B—during the years in which it is in effect. In a few moments I will return to this and will explain in greater detail.

This bill also very much helps address an issue that is on the minds of a lot of Senators—retiree coverage. When we were debating the bill, the prediction was that companies, States, municipalities, and nonprofit organizations might drop their retiree coverage because the bill, when passed, would provide government drug benefits to seniors. The thinking was why should companies not go ahead and drop their retiree coverage.

Well, when the Senate took up this legislation, the CBO, which is the organization we rely upon for estimates, said that the drop rate might be about 37 percent. Since then, they have revised their numbers and they have come up with other figures. In short, if one compares apples with apples, the conference report that will soon be before this body results in a retiree drop rate that is actually less than the bill that passed this body by a vote of 76 to 21. Maybe it is 45 percent. Stop and think about that for a moment.

For Senators who voted for the Senate bill, they can be comforted and relieved that retiree droppage rate is estimated by CBO to be about half of what it was in the Senate bill.

Let’s focus a little bit on the retiree provisions. Essentially what this says is Medicare beneficiaries who receive about $88 billion under this bill for their retiree benefits. The net effect is that it will discourage companies from dropping—not encourage droppage. We are all very concerned that companies across America are beginning to cut back, and have cut back, on the number of retirees who have health care benefits or on the nature of the benefits. It is happening in America. It is happening in America as the world becomes more competitive with global competition. Companies strive to cut down on their costs to increase their profit margins. One of the ways they can do so is cut back on employee and retiree benefits. This is happening. We know it is happening.

This legislation tends to discourage companies from cutting back. It tends to help companies keep coverage. It discourages dropping retiree coverage—it does not accelerate it. Again, it is because of the additional dollars that are going to companies. The companies still get the tax deduction for their health benefit plans. That is unchanged. In addition, under this legislation, the payments to the companies for retiree coverage are tax free. One could even say there is a little double-dipping because the assistance is tax free. This is a tremendous additional financial benefit to companies, to nonprofits, to cities, and other plans to encourage them to keep their coverage. It is a bonus. It is an incentive. This legislation, the payment to the companies for retiree coverage is tax free. One could even say there is a little double-dipping because the assistance is tax free. This is a tremendous additional financial benefit to companies, to nonprofits, to cities, and other plans to encourage them to keep their coverage. It is a bonus. It is an incentive.

This is another reason passage of this legislation is important—because it helps companies keep their retiree health plans. As a result, employers
will tend less to drop retiree coverage. They will probably tend to maintain and increase it.

There is also a myth about this bill that is that there is a coverage gap on prescription drug coverage that will leave seniors more vulnerable than the old. Well, the truth about this so-called donut hole is that the majority of seniors will never reach the spending level where they would not have coverage. Even more important, seniors who are low-income get full coverage in the benefit gap.

Of course, we have added more money to give a complete benefit to everyone without any donut hole, but we do not have an infinite number of dollars. We only have $400 billion. It sounds like a lot, and it is a lot, but if we are going to give a universal drug benefit to seniors that is honest, that makes sense, that does something, not over the top but that makes sense for all seniors, it would cost a lot more than $400 billion. We have limited ourselves, and at $400 billion, there are going to be some people who will not get quite the same benefit as other people, but they will all get the benefit. I might add that if we looked at each State, the number of seniors who have coverage for prescription drugs varies. In some States it is very high. In some States it is low. Compare that with the passage of this bill, every State gets about 96.6 percent. That is virtually 100-percent coverage. That is a big improvement.

Let’s take the State of Delaware, for example. I know the Senators from Delaware know their State a lot better than I. Today, about 27 percent of seniors in Delaware have no drug coverage. Only 3.4 percent will be without coverage once this bill is enacted. Let me restate this positively: 27 percent of seniors in Delaware today do not have drug coverage. When this bill passes, virtually every Delawarean will have drug coverage.

The same is true of the State of California. Now about 21 percent of California’s seniors and disabled live without prescription drug benefits. This bill will reduce this number to 5 percent. Again, most seniors, in California and in every other State, would benefit as a consequence of this legislation.

I would like to address some concerns others have raised regarding this bill. The concerns are that this legislation undermines traditional fee-for-service Medicare—that this is the beginning of undermining Medicare, the camel’s nose under the tent. This is the charge.

What are the facts? The bottom line: Fee-for-service Medicare, traditional fee-for-service Medicare as we know it today, is held harmless by this bill. This is the bottom line. So if you are a senior in the United States of America you can decide that you want to keep traditional Medicare and that you do not want to participate in the plans that may or may not exist in the future. That is, it is voluntary. A senior can either join or not join. It depends on what he or she wants to do. It is an honest choice because fee-for-service traditional Medicare remain what it is today. It is held harmless. That is, the deductible doesn’t change, the copay doesn’t change, the benefits don’t change. What exists today is what is in the legislation. I hope Senators listen to that. I hope staffs of Senators listen to that. I hope those who are listening, who are concerned about the bill, listen to that. Let me explain this in greater detail.

The bill finally provides a prescription drug benefit for senior citizens. We have had this opportunity many times in the past. We now have the chance to seize this opportunity. The bill also makes some changes in the general Medicare structure in terms of setting up some health care plans in the future, assuming the plans actually take shape, form, and come into existence. They don’t exist today. I am referring to regional PPOs; that is, regional preferred provider organizations. They do not exist today. There are other managed care companies called HMOs in many cities. They exist in the cities primarily because they can cherry-pick counties. They can pick the counties in which they want to provide service and if they do not want to pick one county because it is less profitable, they do not have to. If they want to serve another county because it is more profitable for them, they do. This is the way HMOs operate today. This is the system.

This legislation says, beginning in the year 2006, our country will be divided up into various regions. Insurance companies will be allowed to offer Medicare services, including drugs, in any of the regions. The question remains, What about traditional fee-for-service? What happens to traditional fee-for-service in an area where a company sets up a plan? What if one wants to remain in traditional Medicare? The answer is: They will probably tend to maintain traditional fee-for-service in any respect, primarily because they can cherry-pick. They will probably tend to maintain the plans in the areas where they are going to see the results. This is the way HMOs operate today. This is the system.

This legislation says, beginning in the year 2006, our country will be divided up into various regions. Insurance companies will be allowed to offer Medicare services, including drugs, in any of the regions. The question remains, What about traditional fee-for-service? What happens to traditional fee-for-service in an area where a company sets up a plan? What if one wants to remain in traditional Medicare? The answer is: They will probably tend to maintain traditional fee-for-service in any respect, primarily because they can cherry-pick. They will probably tend less to drop retiree coverage. This is the way HMOs operate today. This is the system.

It is what some Senators suggest. It is what the Senators are supposed to do—make up their own minds. I am urging Senators to suspend judgment for a little while, listen to what I am saying. They will see that what I am saying is true. But you do not have to take it on my account. Just please do not make up your minds until you read what is actually in the legislation. You will see, even in the supposed premium support demos, and there might be up to six cities in the country, that fee-for-service Medicare is held harmless. There is no change in fee-for-service in any respect, deductibles and on—except for one. That one possible change is the Part B premium.

However, this legislation ensures that seniors who happen to live in one of the six demonstration areas can keep the same fee-for-service Medicare. If it happens that your Part B premium goes up as a result of the demonstration—it may or may not go up—but if it does, the legislation says there can be no more than a 3 percent increase on your Part B premium. This is the only way a senior citizen could be adversely affected in these demonstration projects.

Another point regarding these demonstrations, I have heard various figures that the demos are going to affect 10 million fee-for-service beneficiaries. We have all heard the 10 million figure. It is what some Senators suggest. It is not true; it is untrue. How many seniors might possibly be affected? Let’s get an unbiased, objective opinion.

We asked the CBO, the Congressional Budget Office: Mr. CBO, what is the answer? How many seniors may potentially be in an area where they would be affected? With a choice, stay in traditional Medicare or join one of these premium support organizations? How many could be adversely affected? The answer is not 10 million. CBO says: We think it is between 670,000 and 1 million. 10 million is the figure of scare tactics. The actual facts are 670,000 to 1 million. There are many other instances where there is a lot of rhetoric floating
around. But if you look at the facts, if you read the legislation that is now available, you will find it is really good legislation and all these worries and exaggerated claims about the bill are just not true.

I have a couple of additional points regarding premium support. It is a time-limited demonstration. It exists only for 6 years, starting in 2010. It would take an act of Congress to change it, an act to expand it. It cannot be extended or expanded by the Secretary or anybody else.

Fact No. 2, the demonstration will only affect limited areas of the country—up to six areas of the country only.

Fact No. 3, low-income beneficiaries are totally protected in any of these areas where premium support might occur.

Fact No. 4 and No. 5. There is no requirement for beneficiaries to enroll in the private plans. None. There is no duress to enroll in any of these plans unless the plan happens to be a lot better than traditional fee-for-service Medicare which this bill strengthens.

How does this bill undermine traditional fee-for-service Medicare? How?

The things I do not know how we could possibly do this is that I will close by saying this is a good bill. It provides prescription drug benefits for seniors. Seniors need and deserve this help. It provides $400 billion of help. We are not going to have this opportunity again. It is true that this bill is not perfect. But I think on the whole it is a very good bill. This bill is much closer to the Senate bill than it is to the House bill. It is about one-quarter away from the Senate bill. It is about three-quarters away from the House bill. Seventy-six Senators voted for the Senate bill. I think that the 76 Senators who voted for the Senate bill will find that in many respects, this bill is better than the Senate bill they supported. Additionally, when my colleagues look at the facts of this bill, they are going to find that this is pret- ty good legislation. It is something we should pass.

I hope people will look at the actual language and look at the facts and will support this bill.

THE PRESIDING OFFICER (Mr. Corr- ny). The Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief. My colleague from Oregon and I wish to mention only briefly the health and public land management. I am so pleased to have a chance to address the Senate on the area of wildfire and forest and public land management. I am proud of the work we have done.

I yield the floor.

The PRESIDING OFFICER. The Sen- ator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, I want to commend Senator CRAIG. He and I have been working with Senator FEINSTEIN in particular on this legislation in the Energy and Natural Resources Com- mittee. We have really been a trium- virate with respect to this issue.

I am so pleased to have a chance to be on the Senate floor today to speak on this conference report. This is the first forest management bill to pass both houses in the U.S. Congress in 27 years. The fact is, the forestry legisla- tion that is now on its way to the President of the United States will protect our communities. It will offer the first legal protection for old-growth trees, and it will create jobs.

As the distinguished Senator from Idaho, Mr. CRAIG, just noted, this legis- lation came together because at every stage of the process Senators said we want to get beyond the old rhetoric. We want to get beyond the polarization that has dominated this issue in the past, and we want to, in particular, take meaningful action to protect our communities.

That is what this legislation has been all about. The fires in the West, as the Senator from Idaho has known through his field hearings and other such sec- tors, have literally been infernos. We just felt it was critical to take steps to en- sure that the rural West wouldn't be sacrificed again. We are proud today to rise in support of the conference report on H.R. 1904. This conference report is based upon the Senate-based wildfire bill compromise
brokered by Senators Feinstein, Craig, Cochran, Domoinici and myself passed by the Senate on October 30. With the good faith efforts of Representatives Pombo, Goodlatte, and my friend and colleague from Oregon, Representative Walden, these conference report has made only minor changes to the Senate approved version. This legislation will get us back on track restoring forests, protecting the environment, and putting people back to work in rural communities.

This conference report is the first forest management bill to pass both houses of the United States Congress in 27 years. The last time Congress was able to send a forest management bill to the President of the United States, the President was Gerald Ford and it was the Nation’s bicentennial. The bill was the National Forest Management Act of 1976.

The world has changed a lot in the last 27 years. Forest management and forest-related economies have changed dramatically. Americans have grown more interested in protecting the environment while using natural resources to support rural communities like those in the State of Oregon. The conference report we passed today reflects some of those changes: it contains the first ever statutory recognition and meaningful protection of old growth forests and large trees, while streamlining the National Environmental Policy Act process that has seemed to favor paperwork over forest health.

This conference report will streamline restoration forestry in forests at risk of unnaturally catastrophic fires resulting from 100 years of fire suppression. It provides the authorities and guidelines for the Forest Service and Bureau of Land Management to treat unhealthy forests while preserving public input and protecting old growth. It’s a truly balanced approach to forest health.

There were times when I was not sure this day would come. After the Senate passed our version of H.R. 1904 on October 30, 2003, there was doubt and disagreement on how to proceed with the House of Representatives. As a solution to the gridlock threatening the final passage of wildfire legislation, Senator Feinstein and I proposed informal meetings. The staffs of the two Houses reached the agreement on Title I, the forest health title, through these informal meetings that allowed for a formal conference on all the rest of the Titles. That conference was held Thursday, November 20. I lost a couple of provisions for Oregon that I cared deeply about. But, I am overall pleased that the forest health provisions worked out so diligently by both Houses were preserved intact.

The Senate said there were four features that were particularly important to us to maintain in the legislation.

First, we said we have to have the funding to do the job right. We are not going to get this work done without funding to get this work done on the ground. I am very pleased with the conference report in that it keeps that funding intact. I am very pleased that the conference report will authorize the full $340 million in the House, a $340 million increase over current funding. It also ensures that we spend the money in the right place. That is in the area known as the wildland-urban interface. The Senate took one approach, the House had other ideas. With some very minor tweaking, this, too, was preserved in terms of the work done by the Senate.

On the old-growth part of the legislation, I am especially pleased because all Americans value these unique treasures, our very large old-growth trees. Professor Jerry Franklin of the University of Washington is considered the leading authority on this subject. He says our provisions with respect to old growth are a major step forward. I am particularly honored to have Dr. Franklin’s comments on this. He is the authority, as Chairman Craig knows, on this subject. For those who have followed the environmental aspects of the forestry legislation, let the world know that Jerry Franklin from the University of Washington, one of the most distinguished scholars in this field—not just now but at any time—believes this is a significant step forward in terms of environmental protection.

We were able to protect the public involvement aspect of forestry policy. Citizens all across this country—whether in Senator Dodd’s part of the world in Connecticut or any other part of the country—feel passionately about their natural resources and want to be involved in the debate over this process. As Senator Craig has noted, we have streamlined the process but we have preserved every single opportunity for involvement. Every opportunity that exists today, for the public to comment on forestry legislation, has been preserved in this bipartisan compromise.

Finally, the Senate conferees did very well at defending the Senate compromise. The Senate kept the number one issue the environmental community was concerned about off the table and preserved the Senate compromise position on judicial process. In negotiating to keep the notion that any special deference beyond the deference that is ordinarily due should be given to any agency determinations under the Act, except where explicitly provided in the statute’s text. In fact, the conference report expressly rejected the House bill’s language giving special deference to agency determinations.

This section, section 106 of Title I, limits venue for these hazardous fuels reduction cases exclusively to the district court for the district in which the federal land to be treated is located. It also encourages expedited review of jurisdictional and substantive issues leading to resolution of cases as soon as practicable. In addition, this section limits the duration of any injunctions and stays pending appeal to 60 days and provides an opportunity to renew an injunction and stay pending appeal. It also requires the parties to the litigation to present updated information regarding the status of the authorized hazardous fuel reduction project in connection with such injunction and stay renewals. This last provision is intended to provide an opportunity for the parties to the complaint to work together to resolve their differences or explain to the judge why that is not possible over time.

This section also directs the courts to balance the impact to the ecosystem likely affected by the project of the short- and long-term effects of undertaking the agency action, against the short- and long-term effects of not undertaking the agency action. There can be environmental risks associated with both management action and inaction. America is acutely aware that the past few fire seasons have been among the worst in modern history in terms of effects on natural resources, people and private property. Air pollution problems are rising and wildland fires have forced thousands to evacuate. In 2002 in one state alone, Colorado, 77,000 residents were evacuated for periods of a few days to several weeks. Seventeen thousand people in Oregon’s Illinois Valley were on half-hour evacuation notice the same year. In 2002, millions of dollars of property damage included the destruction of homes and other buildings. It is becoming increasingly evident that while one cannot uncut a tree, similarly one cannot unburn a forest. In hazardous fuel reduction projects, it is important to focus on the removal of the right vegetation to modify fire behavior—primarily surface and ladder fuels.

At the same time, there can also be adverse environmental consequences of hazardous fuel reduction projects, including but not limited to wildlife habitat, increased sedimentation in streams, soil compaction, and fragmenting of unroaded areas. As documented by the General Accounting Office, poorly designed vegetation treatments in the past have contributed to increased fire risk by removing the large and fire resistant trees, while leaving highly flammable smaller trees behind.

This Act is intended to foster prompt and sound decision making rather than perfectly executed procedures and documentation. Environmental analyses should concentrate on issues that are essential to the proposed projects rather than being limited to Rosenthal’s detail. Section 106 is intended to reinforce Congress’s desire that the totality of circumstances be assessed by the courts to assure that public interest in the environmental health of our forests will be served.

Let me be more specific about a few of the other provisions of this legislation. The Senate also prevailed in
keeping the Senate funding requirements and levels, preserving the Senate NEPA language on at-risk lands outside the wildland urban interface; preserving the Senate old growth and large tree protections, and preserving the Senate administrative appeals process.

The legislation changes the environmental review process so the Forest Service still considers the effects of the proposed project in detail, but can focus its analysis on the project proposal, one reasonable alternative that meets the project’s goals and the alternative of not doing the project, instead of the 5-9 alternatives now often required. In the highest priority areas within one mile and a half of communities, the Forest Service need only study the proposed action and no alternatives. There is no relaxation from current law in any areas, however, in how closely the Forest Service must study the environmental effects before the project it is proposing to undertake.

The changes that were made to the Senate compromise on H.R. 1904 include more relief and respect for rural forested communities. This conference report contains an alternate action alternative to be analyzed under the National Environmental Policy Act inside the wildland urban interface defined as 1.5 miles from the community boundary. Within the area identified for protection, the wildland urban interface under a community fire plan, the agency is not required to analyze the “no action” alternative under NEPA, but is required to analyze two action alternatives. This conference report also allows a single action alternative to be analyzed under the National Environmental Policy Act inside the wildland urban interface defined as 1.5 miles from the community boundary. Within the area identified for protection, the wildland urban interface under a community fire plan, the agency is not required to analyze the “no action” alternative under NEPA.

The compromise will require the Forest Service to rewrite their appeals process using the pre-decisional appeals and comment process that has been used by the Bureau of Land Management since 1984. It works by encouraging the public to engage in a collaborative process with the agency before projects effects before final decisions have been rendered upon them by the agency. This model places a premium on constructive public input and collaboration, and less emphasis on the litigation and confrontation of the post-decisional appeals process currently used by the Forest Service. The compromise is designed to move from the current model of confrontation, litigation and delay to one which places a premium on constructive, good faith public input. Whereas in the current model of confrontation, the appeals process by not raising salient points in hopes of later derailing the entire proposed action in the courts, parties would not be allowed to litigate on issues they had failed to raise in the comment or appeal period unless those issues or critical information concerning them arose after the close of the appeals process—as a result of the revised agency decision.

This process provides the first-ever statutory recognition and meaningful protection of old growth forests. Never before has Congress recognized by statute the importance of multifunctional ecosystem stands. Under the compromise, the Forest Service must protect these trees by preventing the agency from logging the most fire-resilient trees under the guise of fuels reduction under these new authorities.

The issue of old growth continues to be the subject of considerable scientific inquiry and debate. What is not subject to debate is the special character and ecological value of old growth. Clearly, it is the intent of Congress that in interpreting the provisions of section 102(e), federal agencies must recognize the special importance of old growth forests while maintaining the deference they are due unless their determinations are arbitrary, capricious or an abuse of discretion.

This legislation is designed to address past mismanagement of federal forests, and to protect old-growth so that we don’t repeat the mistakes of the past. The majority of old-growth stands are healthy, and don’t require management intervention. Old-growth stands in the drier parts of the west, where natural fire regimes have been disrupted by a century of fire suppression, silviculture with a minimum of disturbance can be appropriate that will restore natural forest structure and fire regimes.

Where old growth stands are healthy, as they are throughout much of the forest on the west side of the Cascade Range in Oregon, the compromise requires that they be “fully maintained.” Section 102(e) of the conference addresses the treatment by the Forest Service and Bureau of Land Management of old growth stands that may occur on authorized hazardous fuels reduction projects. Since recently issued resource management plans of the two agencies are supposed to provide guidance on the treatment of old growth Section 102(e) directs the agencies to rely on the old growth definitions contained in resource management plans that were established in the ten-year period prior to the enactment of the legislation.

Older plans must be reviewed, and if necessary, revised and updated, to take into account relevant information that was not considered in developing the existing definitions or other direction relating to old growth. Any revision or update must meet the requirements of subsection 102(e)(2), which requires the Secretary, in carrying out authorized hazardous fuels reduction projects, to ensure that the projects are implemented in a manner that fully maintain, or contribute toward the restoration of, the structure and composition of structurally complex old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining the large trees contributing to old-growth structure. Nothing in the bill is intended to prohibit or restrict establishing other standards for old growth stands where purposes other than hazardous fuel management are being pursued under other authorities.

The intent of section 102(e)(4) is to avoid disrupting resource management plan revisions that are already underway. Comprehensive revision of older resource management plans may be preferable to separate amendments or updates for old growth standards, and the bill allows additional time for operating under older plans where revisions are in progress.

In negotiating this bill, I did not agree to the imposition of any more restraint on competing land use standards or to “federalists” who want “substantive supporting evidence” explicitly set forth in the statute for members of the public’s identification of old growth stands during scoping in subsection 102(e)(4)(C).

This compromise makes it less likely that old growth will be harvested under current law by mandating the retention of large trees and focusing the hazardous fuels reduction projects authorized by this bill on thinning small diameters. In the right way in the right place using the right tools.

In moving this legislation, it was my intent to see that the right work gets done in the right way in the right place using the right tools. In other words, to see that the risk of catastrophic fire is reduced through legitimate hazardous fuel reduction activities.

These activities are referenced in Section 101(2) of the bill and are spelled out in detail in the Implementation Plan for the Comprehensive Strategy for Collaborative, Proactive Fuels Management: Reducing Wildland Fire Risk to Communities and the Environment, dated May 2002. That document lists the following tools as being appropriate for hazardous fuel reduction: prescribed fire, wildland fire use, and various mechanical methods such as crushing, tractor and hand piling, thinning, and pruning.

In other words, this bill does not authorize a new wave of large tree commercial timber sales. It must be noted that the bill emphasizes the avoidance of the cutting of large trees in Section 102(f), where it specifically states that protects must focus largely on small diameter trees, thinning, strategic fuelbreaks and prescribed fire to modify fire behavior and that projects maximize the retention of large trees.

Section 104(f) requires the agencies to focus on small diameter trees, thinning, fuel breaks and prescribed fire to modify unnaturally severe fire effects, and to maximize the retention of small trees as an important ecological components of most forest systems. In particular, they are often more fire and insect resistant.
than smaller diameter trees, and therefore, with rare exceptions do not contribute to hazardous fuels overloads. They are also considered to be critical ecological legacies because they are essential to the desired future structure and composition of forests. However, large trees are often the represented components of many forest types. In those forest types, forest health will not be restored without a diversity of age classes and types, including large trees.

Section 104(g) deals with federal agency treatment of large trees in authorized hazardous fuels treatment projects outside of the areas identified under section 102(e) and requires the Forest Service and Bureau of Land Management to maximize the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resistant stands. From an ecological standpoint, and in regards to modifying future fire behavior, large trees are among the first ones that should be removed, if at all.

This is an appropriate limitation in that the last trees that need to be removed from an ecological sense, as well as to modify fire behavior, are the larger ones. The intent of this legislation is to focus primarily on surface fuels such as brush and dead and down woody material and ladder fuels consisting of small diameter trees and saplings.

This direction is very important to me and I intend on remaining vigilant and responsive to concerns where projects veer from this important direction.

This conference report restores balance to healthy forests legislation by authorizing $760 million annually for these projects. This is a $340 million authorized increase over the currently appropriated level of $420 million for hazardous fuel reduction projects. The conference report maintains the requirement that at least 50 percent of funds spent on restorative projects to be spent to safeguard communities which face the greatest risks from fire.

This conference report also includes improved monitoring language that will help Congress track the successes and failures of this legislation. Section 104(g) requires the Secretaries to monitor and assess the results of authorized projects and to report on the progress of projects towards forest health objectives. This evaluation and reporting will help the agencies in future hazardous fuels reduction treatments in existing project areas and in other project areas with similar vegetation types.

The Senate intends that treatments authorized under this Act be directed to restoration of fire-adapted ecosystems as well as hazard reduction. The threat of uncharacteristically severe fires and insect and disease outbreaks decreases when the structure and composition of fire-adapted ecosystems are restored to historic conditions. Thus, section 104(g)(4) directs agencies to evaluate, among other things, whether authorized projects result in conditions that are closer to the relevant historical structure, composition and fire regime.

The Senate recognizes that fire ecology is a landscape process and that treatments are most effective when conducted in accordance with landscape- or watershed-scale analyses. Section 104(g)(4) requires the agencies to evaluate projects in light of any existing landscape—or watershed—scale direction in resource management plans or other applicable guidance or requirements. Managers should also evaluate and use available relevant scientific studies or findings.

Section 104(g) also requires the Secretaries, in areas where significant interest is expressed, to establish a multiparty monitoring and evaluation process in order to assess the environmental and social effects of authorized hazardous fuel reduction projects and projects implemented pursuant to section 404 of this Act. Many forest-dependent communities support multiparty monitoring, which simply means that communities and individuals may participate with the Federal agencies in monitoring the projects. The Managers recognize the importance of multiparty monitoring as a way to rebuild trust between rural communities and the agencies.

In conclusion, we have a lot of work to do. We will have others raise questions about the ramifications of this legislation as it relates to the National Environmental Policy Act and other concerns. We want to get this done and implemented properly. As Chairman CRAIG and I have seen in the subcommittee on forestry, we know, for example, it will be tough to get all the funds that are going to be necessary to do these projects on the ground. Our bipartisan coalition has committed to doing that. Then we can turn our coalition to looking at other areas where we can find common ground and move forward in the natural resources area.

A lot of people never thought we would get to this day. Look at the editorials that have been written, some of the interest groups with respect to this legislation, and some of the attacks made on Members. I recall some of those to which Senator FEINSTEIN was subjected. She showed the courage to make her coalition and hang in there and work to get this legislation enacted.

We had a lot of Members of the Senate on both side of the aisle say they would put the public interests first, they would concentrate on protecting communities. That is what has brought us to this day.

I want to thank the following Senate staff for all their hard work on this important legislation: Lance Kotschwar and West Higginbotham of the Senate Agriculture Committee staff, Frank Gladics and Kira Finkler of the Senate Energy and Natural Resources staff, Calli Daly of Senator CRAIG’s staff, John Watts of Senator FEINSTEIN’s staff and Sarah Bittleston and Josh Kardon of my own staff. Josh Penny and Doug Crandal, staff from the House Resources Committee, did yeoman’s work to get this bill to conference. These folks, and many others, put in countless and numerous evenings and weekends into this bill and they deserve our appreciation for their hard work and dedication.

This legislation will now go to the President’s desk for his signature. I look forward to that happening. Just this week it snowed in Oregon—the fire season has passed for another year but it will come again next year as sure as the spring follows the winter. With this bill in place as law I am hopeful that we will be a bit better prepared.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, are we in morning business?

The PRESIDING OFFICER. That is correct.

MEDICARE

Mr. DODD. Mr. President, I will take a few minutes and comment on the upcoming debate on Medicare. Let me begin by expressing my appreciation and my respect for those who have worked on this issue for a great deal of time. I have nothing but the highest admiration for my colleagues, Senator BERAUX, Senator BONNIE, Senator HARKIN, Senator DODD, Senator BREAUX, Senator KENNEDY, and others who have spent a great deal of time over the last number of months trying to put together a proposal to provide Americans with a comprehensive prescription drug benefit while not undermining the core program of Medicare which has served millions of Americans so well for the past 38 years. Whatever other views I may have on this proposal, it does not diminish my respect for the efforts they have made to put this bill together. I begin on that note.

Let me state the obvious. I don’t know of many other programs that have enjoyed as widespread and as deep and profound a degree of support in our Nation’s history as the Medicare Program. I cannot think of another program which has done as much for as many people as Medicare has over the past 38 years. Whatever other views I may have on this proposal, it does not diminish my respect for the efforts they have made to put this bill together. I begin on that note.

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in the House of Representatives, under the leadership of Lyndon Baines John-
son, in 1964, giants in this body, crafted the Medicare Program. In fact, Presi-
dent Johnson went to Missouri, to the home of Harry Truman, who had been such a great—certainly, great leader in health care, to sign that historic piece of legislation into law. There have been a lot of other things we have done over the years, such as Title I of elementary and secondary education, that might come close—certainly, Social Security—I suspect if we had to pick two programs this Government has fashioned in the 20th century that have meant as much to such a critical part of our society, one would certainly have to identify Social Security and Medicare.

It is with that background that I rise this afternoon to express my deep con-
cern and worry over what we may be doing in the next few hours in a rather hasty manner. That does not mean to suggest that the conferees and others who have worked a long time on this have acted in haste; although I dis-
agree with their product, I respect the amount of time and effort they have put into this. The Presiding Officer and this is solely two Members present at this moment, and our abil-
ity to go through this and to under-
stand what is about to happen in the coming days is rather limited.

Sometime tomorrow, Sunday, or Monday, but certainly no later than that, we will be asked to vote up or down on a conference report that does something all Members have wanted to do for years—provide a prescription drug benefit for older Americans under the Medicare program. Knowing, as we all do, that we had been writing the Medicare bill in the year 2003 for the very first time, or several years ago, we would never have considered a Medicare proposal without the inclu-
sion of a prescription drug benefit. Both Members who wrote the bill in 1964 were not confronted with the terribly high cost of prescribed medicines. At that time, there simply were not that many pharmaceutical products out there, so prescription drugs were not as major a factor as they are today. The idea of providing basic healthcare services was what originally drove Congress to enact the Medicare Program.

Obviously, the world has changed. So the prescription drug benefit today, given the tremendous costs our elderly face every single day across this country, where they literally, without any exception at all, are forced to make choices about whether or not to take the drugs they have been pre-
scribed, to have a meal, or to pare back on their prescriptions so as to spread them out over a longer period of time so they will not have to go back in and pay for the drugs they cannot af-
ford, in which case they are not getting the full benefit of the prescription—cause they are self-medicating them-

selfs, and in many cases can do far more harm than not taking a drug at all, as any good doctor can tell you—that is the reality today for millions of our senior citizens.

It is my belief that if we were solely dealing with the prescription drug ben-
efit piece of this package, it would pass. But, there is no doubt in my mind that would be the case. If that were the only issue before the Senate, that would clearly be the outcome. Although I would quickly tell you there are parts of this prescription drug benefit that could be drawn far more wisely and far more fairly in many ways, I could not argue over the fact that a $400 billion appropriation over the next 10 years offered a good start.

But also just as quickly I would say to my colleagues, if we were dealing with the portion of this package deal-

ing with the structural reform of Medi-
care, and they were standing alone just as I suggested a moment ago if the pre-
scription drug benefit package were standing in isolation, Medicare insti-
tuting structural changes to Medicare would not get 10 votes. I don’t know of many people who would support a Medicare package that had the sections this bill does that would so dramatically alter Medicare. The only reason it is getting any consider-
ation at all is that we have lured peo-
ple into this on the prescription drug benefit aspects of this conference agreement.

So if we set that aside for a minute and begin to look at the structural side of this, and understand how many years it originally took to put together the Medicare program, what a dif-
ference it has made in people’s lives—
when you consider the tremendous sal-
vation this has been to people—and then recognize the direction in which we are about to go if this conference agreement is adopted—and I suspect it may be—then it will not take long, in drug costs, that costs could go up. The Medicare program—somehow, by some reason, the Congress coming back in to reverse itself in 2006 or shortly thereafter when the provisions of this bill go into place.

The more you look at the structural side of this particular proposal, then the more people are going to be con-
cerned about what they are doing. So I applaud those who have worked on the prescription drug side of this bill. But I have great concerns about what this conference report would do to the foun-
dation of Medicare.

In June of this year, when S. 1 was before this Senate, I based my support for that measure on the belief that it offered a strong, though not complete, first step towards ensuring prescription drug coverage for America’s seniors and strengthening the overall struc-
ture of the Medicare Program.

This conference report, I say with deep regret, can now be accurately characterized, in my view, as a mis-

 singly if not completely, in my view. If you look at the agreement before us today will lead us down the path towards greater privat-
ization of Medicare, towards a greater burden on our States trying to meet the needs of their own low-income sen-
or citizens, and towards an overall weakening of the Medicare Program. A very simple way to describe this, as we look at the great success the Medicare program has enjoyed over the past 38 years, is to remember that this is a universal program. This program says to everybody who reaches a cer-
tain age, regardless of how healthy you are, or how wealthy you are, or how well you are insured, you can qualify and be a part of this Medi-
care Program. We are about to do something now that is going to say to those who are wealthier and healthier, you can move off into private plans, in which case the only ones who will be left within traditional Medicare are those who are less wealthy and those who are most sick.

Now, you do not have to have a Ph.D. in mathematics to understand what the outcome will be if this conference report is adopted. If this becomes a program of poor, sicker people be-
cause wealthier, healthier people have left, as I believe they will under this bill, then you have just forced either a reduction of benefits or increased costs for those who remain under the Medicare—

those who can least afford it.

There is no other outcome you can draw from that which we are about to do. That is the eventual outcome. It fundamentally changes and alters the basic concept that was part of the plan passed in 1965—it’s universality.

The underlying concept of wealthy, healthy people joining with poorer, sicker people—being together—has been the cornerstone of this tremen-
duously successful program. When you begin to pick off those who are wealthi-
er and healthier, for all the obvious reasons, into private plans, the sicker and poorer people will be left with ei-
ther Medicare benefits getting cut or premiums going up. That is the sadly predictable outcome of this legis-
lation, Mr. President.

Medicare is first and foremost a pro-
gram to protect our Nation’s seniors from the often insurmountable costs associated with securing quality health care services. Prior to its inception in 1965, as I mentioned, many seniors—the overwhelming majority, in fact—faced abject poverty as a result of sky-
rocketing health care costs. The cre-

atic concept that was part of the plan passed in 1965 was to remember that this
care, as well as their financial security.

Earlier this year, and prior to the Senate’s consideration of the under-
lying legislation, I had the opportunity to convene a series of forums in my home State of Connecticut on health care issues in an attempt to frame the scope of this debate for them. At those forums, I heard from my constituents on Medicare and the future of health care. I heard from seniors who literally could not afford to fill prescriptions—

and I know my colleagues have heard
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the same stories—called for by their doctors. I heard from elderly Medicare beneficiaries forced to choose between purchasing groceries or filling their prescriptions. I heard from seniors who were forced to skip dosages of their medications in an attempt to stretch their limited savings of limited medicines. I heard from Medicare beneficiaries requiring more than 10 prescribed medicines a day unable to afford even half of those prescriptions. Clearly, what I heard from the bill's owners of my own constituents is their grave concern over the present lack of a prescription drug benefit under the Medicare Program.

When Medicare was first enacted, few could have envisioned the tremendous costs associated with prescription medicines. However, it is the great need for prescription drug coverage under Medicare that was firmly behind my initial support for S. 1. Sadly, however, the conference report before us simply does not go anywhere near far enough to provide sufficient coverage for prescription medicines for the great majority of Medicare beneficiaries. That said, we cannot turn our backs on what this bill would do for Medicare beneficiaries. This bill says, if you make under $13,470, representing 150 percent of the federal poverty level, then you will get real help under this bill. But if you make anything more than $13,470, which is what two-thirds of our seniors citizens do, then you are going to be offered little in the way of help under this bill. That is why it is my belief the prescription drug benefit aspect of this bill should be greatly strengthened.

But I believe for most seniors that it is terribly unrealistic to suggest that someone making more than $13,470 can somehow manage to afford the cost of their prescription medicines, particularly if they have costs that would push their spending into the bill's gap in coverage, or donut hole, as it is often described. But, nonetheless, that is the direction we are going with this conference agreement.

The emerging bill contains a gap, as I mentioned, of more than $2,800, twice the size, by the way, contained in the Senate-passed legislation. Under this conference agreement, Medicare beneficiaries with costs within this so-called donut hole will be forced to pay for up to one-half the cost of their prescribed medicines as well as the monthly premium of an estimated $35—and I stress the word “estimated”; I will get to that in a minute—and receive absolutely no financial assistance whatsoever.

Only 4 percent of seniors in the country make over $80,000 a year. Two-thirds of seniors make somewhere above $13,470. The idea that somehow people are going to have enough money, as a senior, trying to pay a home mortgage on whatever obligations they have, not to mention food and other things, and also be able to pick up as much as $2,800 a year for prescription drugs, is, I think, terribly unrealistic.

This bill would require Medicare to move dangerously toward privatization, which is what I want to get back to, because it is the side of this bill calling for some form of managed care. I find this bill's greatest concern and greatest worry, and undermines this credibly fine program. I can’t tell you how disappointed I am in the AARP for en- couraging any support of this management. I truly wish that AARP's affiliates across the country had been heard on this issue before their national leadership decided that they would support this bill and disregard the 38 years of history when it comes to Medicare and the millions of people who have greatly benefitted from its coverage. As one who has witnessed firsthand the tumult and confusion created by Medicare-Choice organizations entering and then quickly withdrawing from programs in every State of Connecticut, I can say assuredly to my colleagues here today that this would establish a dangerous precedent that may very well lead to the devolution of the Medicare Program as we know it.

Also of great concern to me is the effect this legislation will have on employers that have already provided their retirees with prescription drug coverage. In my State of Connecticut, more than 225,000 Medicare beneficiaries, one-third of my State's senior citizens, receive coverage for their prescribed medicines from their former employers. Under this bill, about 40,000 of those elderly will lose this coverage as a result of employers dropping their prescription drug plans. I don't know the numbers in every other State, but if 40,000 of my 225,000 beneficiaries presently with prescription drug plans from their former employers are going to be dropped from coverage, how many in other States are going to be?

Where do the States of other Senators fall in this category?

I additionally have another 74,000 people in my State—and I represent a small State with a little more than 3.5 million people—who qualify for both Medicare and Medicaid. These beneficiaries—and there are 6.4 million of them across the country that are eligible for both Medicare and Medicaid—will be dropped from their prescription drug costs under the underlying bill. There will be a significant cost increase for those people who fall within both Medicare and Medicaid if this conference report is adopted. So even before we start talking about what will happen in the year 2010 and down the road under this bill, Mr. President, we are going to witness significant numbers of people lose their present coverage or be forced to withstand both higher costs and diminished benefits.

Also very troubling to this Senator in the underlying conference agreement is its unqualified support for private for-profit insurers at the expense of traditional fee-for-service programs. Particularly disturbing are the provisions securing $12 billion to be solely reserved for these private insurers in order to entice them to enter the Medicare market. Twelve billion dollars is going to private companies just so they can compete against the traditional Medicare program. They are calling this competition. Back in the Roman Empire, they had a competition like that. You would go to the forum around noon, the hour that the forum did.”

I was born at night, Mr. President, but not last night. I know and most other people know, without a great deal more knowledge about this, that if you provide $12 billion, as this bill promises to private companies to go out and compete against a company that doesn’t get that kind of help, do you know who is going to win that competition? I wonder. I wonder what the outcome will be there. Yet that is what this bill promises to give all Medicare beneficiaries and the addition of $12 billion to entice private plan participation is wholly unwarranted and unnecessary.

In fact, this bill will also prohibit the Medicare program from going out and forming a consortium to drive down the cost of prescription drugs. Under this bill, you are violating the law if you go out and do that. While we are going to provide $12 billion instead to allow them to go out and compete against enriched private care market. Twelve billion dollars is order to entice them to enter the Medicare market. The inclusion of this provision truly represents a solution in need of a problem, Mr. President. Traditional Medicare already has a program to help all Medicare beneficiaries and the addition of $12 billion to entice private plan participation is wholly unwarranted and unnecessary.

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I was born at night, Mr. President, but not last night. I know and most other people know, without a great deal more knowledge about this, that if you provide $12 billion, as this bill promises to private companies to go out and compete against a company that doesn’t get that kind of help, do you know who is going to win that competition? I wonder. I wonder what the outcome will be there. Yet that is what this bill promises to give all Medicare beneficiaries and the addition of $12 billion to entice private plan participation is wholly unwarranted and unnecessary.

In fact, this bill will also prohibit the Medicare program from going out and forming a consortium to drive down the cost of prescription drugs. Under this bill, you are violating the law if you go out and do that. While we are going to provide $12 billion instead to allow them to go out and compete against enriched private companies. Twelve billion dollars is allows private plans.

I additionally have another 74,000 people in my State—and I represent a small State with a little more than 3.5 million people—who qualify for both Medicare and Medicaid. These beneficiaries—and there are 6.4 million of them across the country that are eligible for both Medicare and Medicaid—will be dropped from their prescription drug costs under the underlying bill. There will be a significant cost increase for those people who fall within both Medicare and Medicaid if this conference report is adopted. So even before we start talking about what will happen in the year 2010 and down the road under this bill, Mr. President, we are going to witness significant numbers of people lose their present coverage or be forced to withstand both higher costs and diminished benefits.

Also very troubling to this Senator in the underlying conference agreement is its unqualified support for private for-profit insurers at the expense of traditional fee-for-service programs. Particularly disturbing are the provisions securing $12 billion to be solely reserved for these private insurers in order to entice them to enter the Medicare market. Twelve billion dollars is going to private companies just so they can compete against the traditional Medicare program. They are calling this competition. Back in the Roman Empire, they had a competition like that. You would go to the forum around noon, the hour that the forum did.”
It is my belief that the adoption of this purely arbitrary cap, which you will find nowhere else, will lead to almost certain erosion of critical programs, scope of coverage, and affordability.

Today, nearly 40 years after Medicare?the creation, we find ourselves at a crossroads. I can truly say that I am somewhat stunned that we are about to make a decision on a program that has worked so well for so long within a matter of hours here, without any of us fully understanding—at least, what I don't seem to understand—the implications of what we are about to do. How could you take a program that has worked so well for so many people and, in the waning days of a session, with just a few hours remaining, get up and ask the Congress to do what we are about to do here? I don't understand how we could allow this to happen. We are on the cusp of fundamentally altering a program that has worked so well for this nation's elderly and most frail citizens.

Again, Mr. President, we find ourselves at a crossroads. The opportunity is before us to move Medicare toward the future without threatening its proven availability to provide for the health care needs of our nation's senior citizens. Sadly, however, this conference agreement before us represents an opportunity lost, an opportunity not only to add comprehensive coverage for prescribed medicines under the Medicare Program, which would have been a great success story, but also an opportunity to strengthen the Medicare Program for future generations.

So it is with great sadness that I find myself, only months after originally supporting the underlying legislation when it was first considered by the Senate earlier this year, now having to oppose this conference agreement in its current form. Under the guise of providing needed prescription drug coverage under the Medicare Program, this conference agreement fails far short of addressing this need for the great majority of our Nation's nearly 41 million Medicare beneficiaries.

Forty-one million Americans take prescription drug coverage, there had to be two drug-only providers available. However, this conference agreement calls for only one of these plans and an HMO. This is a fundamental change. Let me describe what this can mean in the clearest terms I have seen written about this.

Under the conference report, we have now learned that the Medicare guarantee fallback is only triggered if a senior does not have a choice of two private plans, one of which can be an HMO. Again, that was not in the Senate bill and it is in the conference report before us.

In order to receive prescription drug coverage under this bill you have two choices: One, you can choose traditional Medicare and receive no prescription drug coverage. Two, you can choose to keep traditional Medicare and purchase a drug-only plan. The problem is that there is no limit on the monthly premiums these drug-only plans can charge. When you hear about the changes that are being proposed in these plans, you must remember that this is only an estimate. If there is only one provider of the drug-only plan in your area—and that is all there has to be under this bill the monthly premium for Medicare beneficiaries in this plan caps what the premium should be on a monthly basis for the drug coverage. That is what the offer is under this bill.

In other words, it will be permissible for only one insurer to offer the new Medicare drug benefit and charge whatever premium they desire, as long as there is also an HMO option in the area. This type of arrangement strategically avoids the protection of a traditional Medicare fallback benefit from being made available to seniors. As a result, seniors in these regions, many of which will be rural areas, will be financially forced into HMOs just to obtain an affordable drug benefit. In the meantime, they will lose their choice of doctors.

Does this sound familiar? Earlier this year, President Bush and his administration made clear that he wanted to reform Medicare by providing a prescription drug benefit, but only to those seniors who were willing to go into a private insurance plan and HMOs. This compromise has been designed to help achieve that goal.

So that it is further understood, it is important to note that the Senate required that there be at least two private stand-alone options for Medicare beneficiaries. This would have ensured that there would at least be competition for premiums for the new stand-alone drug benefit. Some have argued that the competition between the drug-only plan and an HMO or PPO will force down the premium of the drug-only plan. The fact is, drug-only plans cannot compete on an even playing field with PPOs and HMOs. This is because HMOs and PPOs are funded additional subsidies under this bill and, by definition, offer a wide variety of services that give these plans a competitive advantage over the stand-alone drug plans. Any losses on the drug side can be offset by gains on the medical side, in a sense.

This is yet another example of how all financial incentives are designed to move the private PPOs over traditional Medicare. People need to understand the fundamental changes in this bill that will greatly alter the very structure of the Medicare program.

Here we have taken a lot of time this afternoon, Mr. President, and I apologize to my colleagues. But I feel very strongly about this critically important issue. Last week in this body we had a filibuster that went on for 4 days because people were upset over the nomination of 4 judges. I contend that perhaps there ought to be a filibuster on this legislation as nearly 41 million Medicare beneficiaries are going to be adversely affected if this legislation is adopted by this body.

Here we are toady, Mr. President, down to the waning few hours of the session, and we are about to consider fundamentally altering and setting back Medicare for the elderly. When the roll is called on this, I will vote no. I will seek other options between now and then to see if there is a way to delay consideration of this until we have more time to examine more fully the implications of this bill. Under the guise of providing needed prescription drug coverage under Medicare, the conference agreement before us today offers far too little coverage for the great majority of Medicare beneficiaries, while at the same time institutes structural reforms to the underlying Medicare program that will significantly weaken its ability to provide for the health and well being of our nation's senior citizens. It should be soundly rejected. I thank my colleagues and I yield the floor.

The PRESIDING OFFICER (Mrs. Dole). The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I didn't interrupt the Senator from Connecticut, so I hope my colleagues will let me give my remarks in rebuttal unhindered by any other obstacles. It is about time that we pass a prescription drug bill for Medicare. It is about time that we strengthen and improve Medicare, as we have been telling the voters for three elections.

In the 2000 election, it was an issue. It was even an issue on the floor of the Senate last summer. It didn't pass last summer because the other party in this body wanted an issue for the election coming up last fall. The leader of the other party took it away from his own chairman of the committee, so there could not be a bipartisan bill put together.

In the Senate, nothing gets done that is not done in a bipartisan way. Maybe a lot of people don't like that about the Senate, but it has been that way for 214 years, and our country has functioned well. This is the only body in our political system where minority interests
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are protected. We are going to have broad, bipartisan support for this bill, and we are going to pass it because when Republicans won the last election, we won it because there were a lot of things buried in this body by the Republicans in charge of this body that they thought they would increase their strength in this body and get more of what they wanted this year than last year.

But they miscalculated. The people of this country put the Republicans in charge of this body. But they didn’t put the Republicans in charge of this body to do things just in a partisan way because we in the majority party know that nothing gets done here that doesn’t have some bipartisanship with it.

As chairman of the committee of jurisdiction over Medicare, taxes, international trade, and a lot of other social programs, I have the privilege of having a relationship with the former chairman of this committee, the now ranking Democrat, Senator Baucus. We started out on Medicare prescription drugs, like we did on some other issues this year, to put a bipartisan approach on doing things that we could deliver on the promises of the last several elections—not just the last election, but the last several elections. Both political parties have been saying that we are going to strengthen Medicare, and one of those strengthenings and improvements is going to be a universal and comprehensive and voluntary prescription drug program.

We are about to deliver on it, and people on the other side don’t like it because they had an opportunity and they lost that opportunity because they wanted to do something in a partisan way. Previous speakers on the other side have raised this point about bipartisan. They are saying they are caving in to political pressure.

It seems as though, as far as the other side is concerned, the only time the AARP is political, in the eyes of the Democratic Party, is when AARP agrees with the Republican Party.

Senator Baucus and I have been working together, and we will bring to the Senate, after the House passes it tonight, a bicameral, bicameral compromise, where we will deliver on the promises of the bipartisan way, where the Republicans had won control of the Senate, as we had won control of the House, and we are going to deliver on the promises of the last three elections. We are even going to deliver on the promises of the Democratic Party, where they were going to provide prescription drugs for seniors.

The only thing I can think is that they regret it. They had an opportunity a year ago, when they were in the majority and when our President wanted to work with them, to do it, and they didn’t take advantage of it.

I want to speak about this product that we have before us. It was just yesterday, after 4 months of conferencing, that the conferees agreed to a bipartisan breakthrough on a conference report that will make comprehensive prescription drug coverage a reality for our 40 million Medicare beneficiaries, both seniors and disabled. After 4 months of hard work, the conferees approved a sweeping package of new prescription drug programs and improvements that makes good on our commitment to our seniors.

I am urging all my colleagues to support it. Since 1965, seniors have had health insurance prescription drugs. By reaching agreement yesterday, the conferees came one step closer to changing that. The Senate can make history by improving this compromise report.

This important breakthrough came because of the tireless work of our committee members, both Democrats and Republicans, over the last 5 years. Senators Frist and Breaux led the way on prescription drugs before any of the Senate. We, in fact, had that meeting, that conference agreement, that was going to be the new chairman of the Finance Committee, but also because we wanted to do things in a bipartisan way. We called it a bipartisan way because Senator Jeffords lists himself not as a Republican or Democrat but as an Independent. That is an effort we have exceeded in the bill, but it was an effort that somewhat blazed the trail to where we are today, and I am glad to have been a part of it.

Finally, this breakthrough came because of the President’s unyielding commitment to getting something done for seniors for all. Last December 10, I had an opportunity to meet with the President, as he knew I was going to be the new chairman of the Senate Finance Committee after the Republicans had won control of the Senate. In fact, had that meeting, anticipating all this time we had to work to get ready, a long time before Congress even convened. At that meeting, the President said two things that I remember. I did not take notes, but I remember very well that he committed political capital to this effort and that he was willing to put money in his budget for that effort.

The President delivered on both of those statements because his budget put $400 billion in over 10 years for this bill. That is exactly what we in the Senate wanted. We approved that last March. By June, the Senate Finance Committee had reported out a strong bipartisan bill by a vote of 15 to 6. This conference report provides additional funding upon the agreement with the President and the agreement of the Senate for $400 billion for the budget.

The Senate, as you know, passed S. 1 on strong bipartisan grounds in June. The House passed H.R. 1, that same time. I believe the committee report is measurably better than either S. 1 or the House bill, H.R. 1. It contains improvements, refinements, and changes that are better for seniors and better for the doctors and the hospitals that serve them.

We have come a very long way in getting to this point, and I am proud of where we have ended up. I will do everything I can to ensure successful passage of this conference report over the next few days.

Of course, the conference report can’t and won’t be all things to all people. There are aspects of this conference report that everyone is not going to be perfectly happy. That probably means that the conference committee came out just about at the right place. I urge all my colleagues to go beyond the perfect and to focus on the good that the conference agreement accomplishes. The greatest good of this conference report is a comprehensive prescription drug benefit that will give immediate assistance starting next year and continuing as a permanent part of Medicare to every senior. Not only is it comprehensive, it is universal, and if nobody wants to participate in it, they don’t have to. It is voluntary as well.

The conference report provides affordable comprehensive prescription drug coverage on a voluntary basis to every senior in America. The coverage is stable, it is predictable, and it is secure. Most importantly, the value of the coverage does not vary based on where you live and whether you have decided to join a drug plan. For Iowans and others in rural America who have been left behind by most Medicare private health plans, this is an important accomplishment that I insisted on way back as early as January of this year. I am proud on that commitment and that protection is in this conference agreement.

Overall, the conference agreement relies on the best of the private sector to deliver drug coverage, supported by the best of the public sector to secure consumer protection and important patient rights. This combination of public and private resources is what stabilizes the benefit and helps keep costs down.

Keeping costs down is essential not just for seniors but for the program as a whole. Throughout this bill, we have targeted our resources very carefully, giving additional help to the poorest of our seniors. Consistent with the policy of targeted policymaking, we have worked hard to keep existing sources of prescription drug coverage, such as employer-sponsored benefits, and to do it in a viable way.

This conference agreement goes great distances to keep employers in the game providing drug coverage, as they do now, to their retirees under those plans that were promised to people after retiring from their employment.

We all worried very much when we passed this bill in June that, as CBO scored our Senate bill, it might cause 37 percent of the corporations to drop their employees on the Government plan. The House bill had a 32-percent drop rate, according to the Congressional Budget Office. As a result of the conference activity and what we have done to shore up existing retiree plans, that percentage is now much less than
20 percent due to the substantial investment made by conferees to ensure that employers can continue offering the good coverage they have for a long period of time.

The conference report includes additional regulatory flexibility that will do more to help, rather than threaten, employer-sponsored coverage for those who currently receive it.

Still, we all must acknowledge that decisions about scaling back coverage or dropping it altogether are bound to be made regardless of whether we pass this conference report. But I am confident that the balanced policies before us are a very good deal for employers and their retirees.

I want to make it very clear to people listening who might be worrying about corporation retirees losing their health coverage because of something we are doing here, we are doing our darn best to never could and never will be able to—say they have to provide health care coverage and prescription drug coverage for their retirees. But Congress cannot pass a law that says corporations X, Y, or Z, some day, if they decide they want to dump them, might be dumped. That could be happening in some corporation in America today. This law is not even on the books. That happened in my State earlier this year and last year and the year before, not because Congress was talking but just because that was the policy of that corporation in trying to save money. As many know, hospitals, home health agencies, and ambulance companies in rural America lose money on every Medicare patient they see. Rural physicians are penalized by bureaucratic formulas that reduce payments below those of their urban counterparts for the same service. The conference report takes historic steps toward correcting geographic disparities that penalize rural health care providers. Providers in rural areas do not provide the same care as their urban counterparts for the same cost.

It is very clear in informing the people of my State that Iowa is 50th in reimbursement in Medicare on a per beneficiary basis over a year, 50th of the 50 States, but yet under indices we are fifth or sixth in quality of care. Over at the other end, there is Louisiana, No. 1 in reimbursement, about $7,000 per beneficiary per year compared to about $3,400 for Iowa, the lowest of the 50 States. More money to be spent means higher quality care does not guarantee quality of care because Louisiana is listed 50th in quality of care. So we want to make sure that where one is getting high-quality delivery of health care, there is reimbursement that takes that into consideration. So the conference report begins to reverse that trend.

It also includes long overdue pilot programs that will test the concept of paying for performance and making bonus payments for high-quality health care. This benefits taxpayers and, most of all, patients.

Beyond prescription drugs and beyond rural health care, the conference report goes at great length to give better benefits and more choices—the right to choose is very basic in this bill—available to our seniors. It specifically authorizes preferred provider organizations—we call them PPOs—to participate in Medicare, something the current law does not fully allow. The conference report recognizes that many managed care plans more closely resemble the kinds of plans that we in the Federal Government have and close to 50 percent of working Americans have. Baby boomers then, when they go into retirement, will be able to compare fee-for-service 1965 model Medicare with these new PPOs. I think they are going to find new PPOs closer to what they had in the workplace than traditional Medicare. We want people to choose. We think they ought to have that right, too, because traditional Medicare has not kept up with changes in the practice of medicine like the private health plans employees have in the workplace.

PPOs have the advantage of offering the same benefits of traditional Medicare, including prescription drugs, but they do that on an integrated, coordinated basis. So this creates new opportunities for chronic disease management and access to innovative new therapies. Unlike Medicare+Choice, we set up a regional system where plans will bid in a way that does not allow them to choose the most profitable cities and towns. They cherry picking. Systems like this work well for Federal employees as the postmaster in my hometown of New Hartford, IA. He has a choice of several plans. We want to give that same choice to his parents, who today have only Medicare and nothing else.

Are PPOs right for everyone? It is the right to choose that is important about this bill. Let the seniors decide. Our bill sets up a playing field for them to compete for them. We believe PPOs can be competitive and offer a stronger, more enhanced benefit than traditional Medicare. But let me be clear, no senior has to choose PPOs. My policy has been to let seniors keep what they have, if they like it, with no change. All seniors, regardless of whether they choose a PPO, can still get prescription drugs. They do not have to choose that, but they can choose that as an add-on to traditional Medicare if they want.

I hope I have protected all of my colleagues, and maybe my colleagues do not need any protection, insisting on the voluntariness of this and the right to choose. I think it is pretty essential for people who are older, who do not want change in their life, not to have to make a change in their life.

I fear maybe, as the Senator from Iowa, that somebody is going to come up to me someday and say: GRASSLEY, just let my Medicare go. They do not follow Congress closely, but they read here and there and they get nervous: What Senator is taking away their Medicare? I can say to Mary Smith in Columbus Junction, IA: You do not have to worry about anything. If you are satisfied with the Medicare you have, you can keep it. If you want to join a prescription drug program to add to it, you can do that, but do you not have to worry about Medicare. If you like it the way it has been all your life, we are leaving it alone.

I think that sounds like protection for Senator GRASSLEY, but I am concerned about the cynicism my seniors
have about Government, maybe because they do not study it as much as we do or understand it as much as we do. I want to reduce that cynicism, but I want them to have confidence in their Medicare as well. I think this right to choose gives them that confidence.

The conference report also includes other important policies that I believe make Medicare stronger, better, and more secure. First, we make wealthier people pay a slightly higher premium. Why should someone who makes $30,000 a year or more pay exactly the same price for coverage as someone who makes $30,000 a year? The conference report makes wealthy seniors pay slightly more and this is a very important and rational step toward stabilizing Medicare's growth.

The conference report also injects new and transparent accountability rules into Medicare, making the trustees show in a comprehensive way what all of Medicare's assets and liabilities truly are. There are also expedited procedures for committee consideration of legislation that addresses any future Medicare funding crisis without changing the Senate.

Finally, and in my view most importantly, the conference agreement authorizes health savings accounts. I have been a long-time supporter of health savings accounts. They are good for health care. These tax-favored accounts encourage responsible utilization of health care services. They offer low-cost insurance to farmers and other self-employed people. For too long, medical savings accounts have languished under regulatory inflexibility. The provisions in the conference report go to great length to make medical savings accounts a stronger, more accessible option for more Americans, and Medicare's assets and liabilities.
Civil aviation generates more than $900 billion in GDP every year, and we all know that it has faced very difficult economic times. Since September 11, 2001, Congress has passed a number of bipartisan aviation bills to aid the industry. A key priority was to ensure that the air traveling public could continue to rely on this vital transportation mode. Among the many bills enacted, we established the Transportation Security Administration (TSA) to oversee security; appropriated and provided grants and loans to help the airline industry through their difficult economic times; and we extended terrorism insurance to the aviation industry.

Without these important measures, the aviation industry would be in far worse condition.

The Conference Report pending before us is as important to the health of our aviation system as any of the other bills I just mentioned. This multi-year FAA authorization legislation is needed because airport construction projects don’t come to a halt and cause layoffs in the construction sector. It is needed by aviation manufacturers and by the airline industry. Above all, it is needed by our air travelers for a safe and secure air transportation system.

The Conference Report on H.R. 2115 authorizes over $60 billion in aviation spending over the next four years to improve our Nation’s aviation system. It includes funds for security, safety and capacity projects for the Airport Improvement Program (AIP)—over 50 percent of this funding is likely to be spent on safety projects. In fiscal year 2004 alone, this funding will create approximately 162,000 direct and indirect jobs. However, the AIP funding only becomes available if this Conference Report is signed into law—the passage of the transportation appropriations bill is not sufficient to make the money available. The bill authorizes $13.3 billion to modernize the air traffic control system; $31 billion to operate the FAA’s air traffic control system and to support the FAA’s safety programs; $1.6 billion for aviation research and development; $2 billion for airport security projects, and, $500 million for the Essential Air Service program. The majority of this funding will come from the Aviation Trust Fund, which is supported by taxes paid by the users of the system.

Although this Conference Report provides a great boost for the modernization of the aviation system and for increasing capacity and efficiency, there are also numerous provisions in the Conference Report that will improve aviation security and safety.

In support of improving safety, the Conference Report strengthens FAA enforcement against the users of fraudulent aircraft parts; increases penalties that the FAA may impose for safety violations; and has not been justified since 1947, and as such, are sometimes simply treated as the cost of doing business by the entity being fined; and requires the FAA to update and improve its airline safety oversight program.

In support of improved aviation security, the Conference Report includes $500 million per year to finance security projects that are of national importance, including the installation of explosive detection systems. After September 11, almost $500 million per year in AIP funds were diverted to security projects from safety and capacity projects. Although this may have been justifiable immediately after September 11, in the long run, a continuation of such diversion could be detrimental to the aviation system; extends the Secretary of Transportation’s authority to provide War Risk insurance to airlines against terrorism; expands the armed pilot program to include cargo pilots; requires the TSA to improve the security at foreign repair stations that conduct work on U.S. aircraft; authorizes compensation to general aviation professionals resulting from security mandates; and provides for certification and better security training for flight attendants.

In order to improve air transportation service, especially to smaller communities, the Conference Report contains a number of provisions. The report reauthorizes the Essential Air Service (EAS) at current funding levels; establishes a number of EAS pilot programs to give communities flexibility in how they receive the EAS service; makes permanent the Small Community Air Development Program; establishes a National Commission on Small Community Air Service to make recommendations on how to improve air service to such communities; and includes a Sense of Congress that airlines should provide the lowest possible fare for all active duty members of the Armed Forces.

Further, for large airports in Western States, the Conference Report, in the East, it frees up more takeoff and landing slots at Reagan National Airport.

The Conference Report addresses numerous environmental issues. It streamlines environmental reviews of projects to increase airport capacity and improve aviation safety and security; authorizes grants to airports to permit them to purchase or retrofit low emission vehicles at airports; and authorizes projects that improve air quality and give airports emission credits for undertaking such projects.

I want to recognize all the hard work that Senator LOTT, as Chairman of the Aviation Subcommittee, has put into the bill this year. Last winter, many in the administration predicted that Congress would not enact an aviation reauthorization bill this year. Senator LOTT would not even consider such a scenario and kept us on a schedule where the Conference Report was actually completed on the Senate floor with unanimous support and cooperation on developing the bill from the FAA Reauthorization bill, Democrats were cut out of the process. This was an unacceptable development that violated the spirit of this body, and ultimately it led to the creation of flawed legislation.

For three months after it was filed, there was a lack of will in Congress to pass the FAA Conference Report in the form that the Republican leadership demanded. As a result, FAA projects were authorized for the last year ended, and in an effort to end the stalemate they had created the House Leadership was forced to recommit the legislation on October 28, 2003. At this time, they stripped out the most troubling provision in the bill—language that allowed for the immediate privatization of 69 of FAA’s air traffic control (ATC) towers and the entire ATC system in 2007. However, the Senate remained unsatisfied with the bill’s lack of protection for the Nation’s ATC system after it was recommitted, and we voted against cloture 45-43 on November 17, 2003.

Prior to the vote, I worked with Senators MCCAIN, ROCKEFELLER, and LOTT and its Aviation Subcommittee, Senators HOLLINGS and ROCKEFELLER.

I also wish to thank Senator DORGAN for his work in brokering the compromise that allowed us to move forward with this Conference Report today. And I want to thank the administration, especially Secretary Mineta of the FAA Administration, in working long and hard with us to get a final compromise on the issue of privatization.

I urge my colleagues to support final passage of the Conference Report and send it to the President.

Mr. HOLLINGS. Mr. President, I rise today to express my support for passage of H.R. 2115, Vision 100—Century of Aviation Reauthorization Act. I am pleased that we have finally reached agreement on this important legislation and can now move forward on enacting this bill into law. This comprehensive reauthorization will provide $60 billion in funding for FAA operations, including some $14.2 billion for airport grants that will create an estimated 600,000 jobs and support for key aviation projects in communities across the country.

Achieving consensus on the conference report has not been easy, and while I think all of us should be encouraged by the results of these efforts, we should take this opportunity to fully consider and appreciate the critical role that compromise has played in achieving this agreement. Colleagues on both sides of the aisle have expressed their concerns about the process by which the FAA Conference Report was deliberated and produced. FAA reauthorization bills have always been moved out of Congress with little controversy, but after passing a bill on the Senate floor with unanimous support and cooperation on developing the bulk on the FAA Reauthorization bill, Democrats were cut out of the process. This was an unacceptable development that violated the spirit of this body, and ultimately it led to the creation of flawed legislation.

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to seek commitment from the Bush administration to impose a 1-year moratorium on the contracting out or privatization of any ATC functions so that the Senate Commerce Committee can properly conduct its oversight responsibilities of this matter. The Committee held hearings, but no action was taken. This subject next year, and we will also request detailed analyses from the Government Accounting Office and the Department of Transportation Inspector General (DOT IG) in an effort to determine how the air traffic control functions should be managed.

The written testimony includes much of the text of the legislation, which has been submitted for the record. The Committee developed a bipartisan consensus by holding a series of hearings on this issue, and we will be closely monitoring the administration’s actions in this area.

The authorization of the FAA is a vitally important piece of legislation. It would be the first genuine economic stimulus bill that the Senate has passed this year.

No question exists that since the tragic events of September 11, aviation in this country has been permanently changed. Over the last 2 years, we have seen a decrease in the demand for air travel, hundreds of thousands of aerospace and aviation employees have lost their jobs and the economic pain has rippled through the economy. We cannot have a sustained economic recovery in this country until we have a healthy and vibrant aviation industry.

This bill provides the foundation for the resurgence of an essential sector of our economy.

I cannot emphasize the importance of a vibrant and strong aviation industry. It is fundamental to our nation’s long-term economic growth. It is also vital to the economic future of countless small and local communities that are linked to the rest of the nation and world through aviation.

Just as the aviation industry is a catalyst of growth for the national economy and growth for local communities, so too has it become a key driver of our local economic growth and development. In my State of West Virginia, aviation represents $3.4 billion of the state’s gross domestic product and directly and indirectly employs over 51,000 people.

Aviation also links our Nation’s small and rural citizens and communities to the national and world marketplace. My home State of West Virginia has been able to attract firms from Asia and Europe because of reliable access to their West Virginia investments.

Without access to an integrated air transportation network, small communities can not attract the investment necessary to grow or allow home grown businesses to expand. A modern and adequately funded aviation network is fundamental to making sure that all Americans can participate in the global economy. This bill makes sure the United States will continue to have the best air traffic control system in the world.

This legislation builds upon our commitment to improving the aviation infrastructure of the nation that started with the landmark Aviation Investment and Reform Act for the 21st Century, but it also recognizes that the challenges facing the FAA and the aviation industry in the years ahead.

The $60 billion bill focuses on improving our Nation’s aviation system and air service development, and aeronautical research. While my distinguished colleagues have provided an excellent overview of the bill, I would like to highlight some areas for the bill that I believe are particularly important.

One of the most important provisions in this bill is the establishment of a $500 million fund to assist airports with capital security costs. This fund is intended to stop the diversion of airport development funds meant for safety and capacity enhancements. We will be able to pay for new security requirements while simultaneously improving safety and expanding capacity.

In order to facilitate airport development, I am pleased that the bill includes a provision of Section 2201 that is critical to expanding airport development. The bill also contains language (Section 2201) to stop the privatization of the air traffic control system.
Senator LOTT, developed the Small Community Air Service Development grants to communities who received Small Community Air Service Development grants have indicated that they are very concerned that air carriers are abandoning small and rural markets. We cannot let these communities go without adequate and affordable air service—their future depends upon it.

I am enormously pleased that the bill extends and expands the Small Community Air Service Development Program, which I fought for in AIR 21. In West Virginia, Charleston used funding from the program to attract a new service to Houston, which has been a huge success. Parkersburg was recently awarded a grant and already working on implementing its initiatives to improve air service to new hubs. This program is an innovative and flexible tool for communities to address air service needs.

Many of our most isolated and vulnerable communities whose only service is through the Essential Air Service Program have indicated that they would like to develop innovative and flexible programs similar to those communities who received Small Community Air Service Development grants to improve the quality of their air service.

It is for this reason that I, along with Senator LOTT, developed the Small Community and Rural Air Service Revitalization Act of 2003. The FAA conference report incorporates the basic provisions of that legislation. Specifically, the conference report reauthorizes the Essential Air Service, EAS, program and creates a series of new innovative pilot programs for EAS communities to participate in to stimulate passenger demand for air service in their communities.

By providing communities the ability to design their own air service proposals, a community has the ability to develop a plan that meets its locally determined needs, improves air service choices, and gives the community a greater stake in the EAS program.

Small and rural communities are the first to bear the brunt of bad economic times and the last to see the benefits of good times. The general economic downturn and the dire straits of the aviation industry have placed exceptional burdens on air service to our most isolated communities. The Federal Government must provide additional resources and tools for small communities to help themselves attract and maintain air service. The Federal Government must make sure that our most vulnerable towns and cities are linked to the rest of the nation. This legislation authorizes the tools and resources necessary to attract air service, related economic development, and most importantly expand their connections to the national and global economy.

This bill meets the challenges facing our aviation system—increasing security, expanding airport safety and capacity, and making sure our smallest communities have access to the network. We can all be proud of this bill.

Mr. ROCKEFELLER. I thank the Chairman. Is it the Chairman's understanding that section 808 only addresses international cargo and does not address the carriage of cargo which first originates in Alaska?

Mr. LOTT. That is correct. Section 808 will allow carriers to interline cargo in Alaska so long as the cargo has an ultimate origin and/or destination outside of the United States. It does not allow foreign carriers to carry or transfer cargo with an ultimate origin or destination both in the United States.

Mr. ROCKEFELLER. I thank my colleagues for explaining that this important provision allows carriers to interline cargo in Alaska, with an ultimate origin and/or destination outside of the United States, but does not allow foreign carriers to carry or transfer cargo with an ultimate origin or destination both in the United States.

Mr. LOTT. I am happy to answer the Senator's question. This provision was adopted in the Senate after being offered by the Senator from Alaska.

Mr. STEVENS. I thank my colleagues for explaining that this important provision allows carriers to interline cargo in Alaska, with an ultimate origin and/or destination outside of the United States, but does not allow foreign carriers to carry or transfer cargo with an ultimate origin or destination both in the United States.

Mr. LOTT. I am happy to answer the Senator’s question. This provision was adopted in the Senate after being offered by the Senator from Alaska.

Mr. ROCKEFELLER. I am still extremely unsupportive of this legislation. While this provision does not affect my Montana EAS communities, I am extremely supportive of that level. As you know, the EAS program provides subsidies to underserved areas. The second issue is the Essential Air Service Program, EAS. As you know, the EAS program provides subsidies to carriers for providing service between small communities and hub airports and is, no pun intended, essential to the small communities and hub airports. This report includes approximately $500 million for EAS, and I am extremely supportive of that level.

Unfortunately, the conference report also contains a provision, which directs the DOT to establish a pilot program for up to 10 EAS communities located within 100 miles of a large hub, and those communities will be required to pay 10 percent match of the EAS subsidy. While this provision does not affect my Montana EAS communities, I am still extremely unsupportive of this provision. If any communities were asked to pay this match, there is no way they could come up with the funds. I want this body to know I will
fight expansion of this pilot program in future authorizations. While we need to work on possible alternatives to EAS, we cannot ask small communities across the Nation to fork out funds they do not have for a service they deserve and need.

Finally, this report contains language based on two amendments I offered on the Senate floor during debate earlier this year. The first asks for a report from the Secretary of Transportation on actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry. The second amendment authorizes compensation to General aviation businesses for losses incurred after the attacks of 9/11. General aviation is an extremely important piece of this country’s aviation backbone and we need to keep their perspective in mind whenever any aviation legislation is addressed whether it deals with security or overall aviation policy.

In summation, we have crafted a fair and necessary piece of legislation that needs immediate passage. I ask my colleagues to support final passage of this critical piece of legislation that will aid all aviation sectors across this Nation.

Mr. JEFFORDS. Mr. President, I have serious concerns about several provisions found in the FAA reauthorization conference report. Before the Senate passed S. 824, the FAA reauthorization bill, we expressly prohibited additional privatization of air traffic controllers. We also eliminated a proposed cost-sharing requirement for local communities that participate in the essential air service program. This requirement would have placed an insurmountable burden on many remote communities struggling to maintain commercial air service. While I understand Administrator Blakey’s stated desire to privatize certain aspects of our national aviation enterprise, we need to address whether it deals with security or overall aviation policy.

I remain concerned about the provisions in this bill affecting the National Environmental Policy Act, NEPA. As I discussed in my statement of November 17, 2003, the legal obligations of Federal agencies to evaluate aviation projects under Federal environmental laws have not been repealed by the language in this bill, nor should they be. If better cooperation is the intent of this legislation, there is ample authority contained in the existing NEPA statute and regulations to secure cooperation among Federal agencies in performing required environmental reviews of these projects. The confusing statutory directions contained in this bill are both unnecessary and counterproductive if the desired result is efficient project completion.

I am disappointed that this conference report contains these provisions, and I will work to ensure that the FAA scrutinizes the potential consequences of privatization of air traffic controllers if that issue arises next year. In addition, as the ranking member of the Environment and Public Works Committee, I will continue to work on both sides of the aisle to advance the implementation of environmental laws for these and other Federal projects.

Mr. THOMAS. Mr. President, as the Senate considers the final conference report to the FAA reauthorization bill, I would like to take this opportunity to thank Chairman MCCAIN and subcommittee Chairman TRENT LOTT, for their assurance regarding a provision that is very important to my home State.

For years, I have been working with the FAA and the Jackson Hole Airport to reduce the noise that is produced by older private jets. As some of my colleagues know, the Jackson Hole Airport is the only commercial airport that is located in a national park. Since 1983, the Jackson Hole Airport has operated under a “land use agreement” with the Secretary of the Interior. This agreement requires the airport to implement technological advances that reduce aircraft noise.

However, the FAA has prevented the airport from instituting a Stage 2 restriction on older “noisy” private jets even though the Air Noise Capacity Act of 1990 includes a provision that authorizes limited use of noise standards and procedures to reduce aircraft noise when there is overflight of public land. Currently, only a small portion, 2.6 percent, of the airport’s operations are conducted by older noisy jet aircraft. However, these older noisy jets have a disproportionately high noise impact on Grand Teton National Park and the National Elk Refuge. Because the FAA has failed to recognize the grandfathered status of the Jackson airport, I offered an amendment to the Senate version of the FAA reauthorization bill.

On June 12 the Senate unanimously agreed to my amendment. I am thankful for Senator McCAIN’s and House Chairman DON YOUNG’s understanding regarding the need to protect Grand Teton National Park and the National Elk Refuge from the high levels of noise that older private jets produce. The provision is supported by the Jackson Airport Board, Grand Teton National Park, the Town of Jackson, Teton County, and U.S. Department of the Interior.

Mr. President, the Jackson Hole Airport is a commercial service airport located on Federal land within Grand Teton National Park. It operates under a long-term lease agreement with the Department of the Interior. That agreement contains noise control measures, including cumulative and single event noise limits, and requirements for an airport-adopted noise control plan.

Section 825 of the conference report authorizes a commercial service airport that does not own the airport land and is a party to a long-term lease with a Federal agency, such as the Department of the Interior, to restrict or prohibit Stage 2 aircraft weighing less than 75,000 pounds, to help meet the noise control plan contained in its lease.

I am disappointed in my understanding that the conference did not intend to limit application of section 825 to only those noise control measures that are expressly referred to as “plans,” but intended the term to refer to the range of noise control requirements and standards imposed by these Federal lease agreements.

Mr. MCCAIN. The Senator from Wyoming is correct. The conference intended “plan” to refer to the range of requirements and standards contained in a Federal lease, which together constitute its plan to limit airport-generated noise. Section 523 of the Senate bill, introduced by the Senator from Wyoming, would have given similar authority to the Jackson Hole Airport Board. The conference bill will permit the Jackson Hole Airport, and others if subject to similar Federal lease requirements, to adopt these measures.

Mrs. MURRAY. Mr. President, I rise in strong support of the Vision 100-Century of Aviation Reauthorization Act. This bill authorizes critical aviation infrastructure and operations spending for the fiscal years 2004 through 2007. The bill also makes important legislative adjustments for our aviation security program at the Transportation Security Administration.

I represent a State with tens of thousands of aviation workers. I appreciate the essential contribution that our Nation’s aviation industry makes to our national economic prosperity. As the former chairman and now ranking member of the Transportation Appropriations Subcommittee, I spend a considerable amount of my time seeing to it that the needs of our national aviation enterprise are adequately funded.

As my colleagues are aware, consideration of this FAA authorization bill has been delayed for an extraordinary period of time over the issues surrounding the Bush administration’s stated desire to privatize certain aspects of our Nation’s air traffic control system.

At one time, this legislation included language that specifically authorized the FAA Administrator to privatize the controller workforce at scores of air traffic control towers, including the air traffic control tower at Boeing Field in Seattle. Senators who are not familiar with the geography of the greater Seattle area may not be aware that Boeing Field sits right between Seattle-Tacoma International Airport and downtown Seattle. It is extraordinarily close to our port, our central business district, our major sporting venues—Safeco Field, the Seahawks Stadium. It is also a major installation for the Boeing Company and a busy general aviation airport.
In the wake of the events of September 11, 2001, I cannot support a proposal to contract out the air traffic control function to the lowest bidder in the heart of this critically important corridor.

Immediately after September 11, this Congress passed legislation to take the air passenger screening function out of the hands of private bidders and place it in the hands of a federalized screening force. For the life of me, I do not understand why the Bush administration wants to take the exact opposite approach when it comes to the highly skilled personnel that actually control the movement of our aircraft.

The administration has also cited an interest in privatizing other aspects of our Nation’s national air traffic control enterprise, including the employees at our Nation’s flight service stations and the technicians that maintain our Nation’s air traffic control equipment. These privatization ideas have not been adequately explained or adequately justified to the Congress or to the public. It has not been determined that such contracting out activities would actually improve upon the exemplary service that we currently enjoy with our air traffic control system. I, along with many of my colleagues, have deep-seated doubts about the safety ramifications, the security ramifications and whether there will be any real financial benefit to the tax-payer as a result of such a privatization scheme. It was for these reasons that I and 42 of my Senate colleagues, both Democrats and Republicans, were required to vote against bringing debate on this bill to a close on November 17, and why I joined 55 of my colleagues in support of a measure to explicitly exclude privatization of our air traffic control towers during the initial debate on the Senate bill. At that time, we did not know what I considered to be adequate assurances from the FAA that they would not be launching into these privatization schemes in the very near future.

I am pleased that we have now overcome this hurdle and the administration has given us assurances that they will not engage in any competition studies or outsourcing activities for air traffic controllers or for maintenance and technician personnel during fiscal year 2004. This will give the Congress some time to review the administration’s plans in detail, which I intend to do during next year’s appropriations’ hearings process. Also, with the written assurance now in hand that no outsourcing activities related to our air traffic control system will take place in 2004, we can, if need be, work on putting sufficient safeguards in the 2005 Transportation Appropriations Act if we feel that the administration is heading in the wrong direction when it comes to protecting safety and security.

It is for these reasons that I am relieved by the administration’s new letter on this topic which I understand has already been put into the RECORD. I am glad that we have overcome this hurdle.

This bill will provide investments in critical infrastructure and operations at our Nation’s airports, and it will allocate needed funding to continue our efforts to improve the security of aviation system.

For these reasons, I support this important conference report today.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Maine is so ordered.

The conference report was agreed to.

Ms. COLLINS. Madam President, I see the Senator from North Dakota. If the Senator has a very brief comment to make, I yield to him.

Mr. DORGAN. Madam President. I appreciate the courtesy of the Senator from Maine. Let me say with respect to the unanimous consent she just offered to pass the FAA conference report, I would like to say that Senator LAUTENBERG has led the fight in this Chamber to try to prevent the privatization during this coming fiscal year of those who work for the FAA. That fight required us to go through one cloture vote and the majority did not invoke cloture. As a result, the FAA conference report was not passed.

Since that time, I and Senators LAUTENBERG, HOLLINGS, LOTT, ROCKEFELLER and others have engaged in discussions with the administration. I want to make it clear that the FAA’s letter just printed in the RECORD by unanimous consent is from Marion Blakey. She says:

During this fiscal year we have no plans to initiate additional competitive sourcing studies, nor will we displace FAA employees by entering into binding contracts to convert to private entities any existing FAA position directly related to our air traffic control system.

I point out that the reason we were able to move this conference report tonight was because the administration has agreed they will not, during this fiscal year, privatize those positions in the FAA. That is a very important position, one that my colleague, Senator LAUTENBERG, from New Jersey, fought very hard for. We have achieved that commitment from the administration.

For that reason, we were able to move that FAA reauthorization. Let me say how pleased I am because I considered it to be so important to virtually every region of this country. The investment in the Airport Improvement Program and the other things that provide strength to the FAA system is very important to our country.

Let me thank my colleague from Maine. I wanted to explain the circumstances that have led to this point and especially say I have been pleased to work with Senator LOTT, in many contacts over recent days, to try to achieve the PRESIDING and again say that my colleague from New Jersey, Senator LAUTENBERG, deserves a pat on the back for forcing this result.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

NATIONAL WOMEN’S HISTORY MUSEUM ACT OF 2003

Ms. COLLINS. Madam President, I ask unanimous consent the Senate now proceed to consideration of Calendar No. 404, S. 1741, a bill to provide a site for the National Women’s History Museum in the District of Columbia.

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

The assistant legislative clerk read as follows:

A bill (S. 1741) to provide for the National Women’s History Museum in the District of Columbia.

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

Ms. COLLINS. Madam President, I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 1741) was read the third time and passed, as follows:

S. 1741

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 “National Women’s History Museum Act of 2003”.

SEC. 2. FINDINGS.

Congress finds that—

(1) the National Women’s History Museum, Inc., is a nonprofit, nonpartisan, educational institution incorporated in the District of Columbia;

(2) the National Women’s History Museum was established—

(A) to research and present the historic contributions that women have made to all aspects of human endeavor; and

(B) to explore and present in a fair and balanced way the contributions that women have made to the Nation in their various roles in family and society;

(3) the National Women’s History Museum will collect and disseminate information concerning women, including through the establishment of a national reference center for the collection and preservation of documents, publications, and research relating to women;

(4) the National Women’s History Museum will foster educational programs relating to women and contribute to society by women, including promotion of imaginative educational approaches to enhance understanding and appreciation of historic contributions by women;

(5) the National Women’s History Museum will publicly display temporary and permanent exhibits that illustrate, interpret, and demonstrate the contributions of women;

(6) the National Women’s History Museum requires a museum site near the National Mall to accomplish the objectives and fulfill the ongoing educational mission of the museum;

(7) the 3-story glass enclosed structure known as the “Pavilion Annex” is a retail shopping mall built next to the Old Post Office in 1992 by private developers using no Federal funds on public land in the Federal
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Ms. MURKOWSKI. Madam President, I now ask unanimous consent to engage in a colloquy with the Senator from Alaska, and I yield to the Senator from Alaska for that purpose.

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

Ms. MURKOWSKI. Madame President, I appreciate the opportunity to speak today and engage in this colloquy with the Senator from Maine. I thank the Presiding Officer for the opportunity to speak about opening a National Women's History Museum near the National Mall.

Currently, the National Women's History Museum is without a home. It is accessible online, but Americans need a physical location for the National Women's History Museum. So a history from every State can be collected, viewed, and analyzed.

Recognizing the Senator from Maine and this Senator from Alaska have a connection, both of us having ties from Northern States, both of us coming from States with populations that are relatively small, both States have a history that demonstrates a history of pioneering women. Alaska and Maine have historically afforded opportunities that might not be available to women in other States.

Throughout Alaska's and Maine's history, women have had perhaps more opportunities because our populations are isolated, and you are forced to be a little more self-sufficient.

Women of Alaska and Maine, as their male counterparts, are enfranchised with the ability to make do with what we have. I ask the Senator from Maine if she would agree with some of my statements?

Ms. COLLINS. Madam President, I certainly do agree with the distinguished Senator from Alaska. Both of us have had the opportunity to serve in public office. Both of us come from States that are small but large in the impact that women have had on our Nation's history. We are from States with rich histories of accomplishments by women of all backgrounds and cultures.

For example, the legendary Senator Margaret Chase Smith was the first woman in history to serve in both the U.S. House and the Senate.

Pauline Elizabeth Hopkins, who has been called the dean of African-American Women Writers, who has been considered one of the most prolific black female writers in the beginning of the 1900s, was born in Portland, ME.

Mary Gabriel, of the Passamaquoddy Tribe, was a famous Native-American basket weaver, largely credited with reviving the art in the State of Maine.

Brenda Commander is the first woman to be elected as chief of Maine's Maliseet Indian Tribe.

Is the Senator from Alaska aware of similar accomplishments by Alaskan women?

Mr. MURKOWSKI. We have a history, as I have said, of pioneering women, women who perhaps have done the unexpected, who have reached out into areas that we would not anticipate, at a time we would not anticipate, women such as Kate Carmack, who is especially important in Alaska's history. Kate was an Athabascan woman who married an American trader. She is actually credited with discovering the first gold in Bonanza Creek, which started the Alaska gold rush in 1896.

As the story is told, when Kate first discovered the gold, it was frozen in the ground. Three appraisers were appointed to determine the fair market value, and they all valued the property at $3.

The first appraiser was a man named John. The second appraiser was a man named John. The third appraiser was a man named John. The Governor called up these individuals. The Governor was quite upset because these men were not able to determine the fair market value of the gold. He said, 'Well, if you can't come to an agreement, I will just have the gold appraised by the third appraiser.'

He told the third appraiser to say that the fair market value was $3,000,000. The Governor was very angry but finally accepted the valuation.

In this section, I now ask unanimous consent to enter into an occupancy agreement to make the Pavilion Annex available to the Museum Sponsor for use as a National Women's History Museum in accordance with this section.

Before the date of occupancy of this Act, a fair market value of the property shall be determined by three appraisers. The first two appraisers shall be selected by the Museum Sponsor. The third appraiser shall be selected by the Administrator in accordance with this section.

If there is no Government use as of the date of enactment of this Act, the Administrator shall enter into an occupancy agreement to make the Pavilion Annex available to the Museum Sponsor for use as a National Women's History Museum in accordance with this section.
the mud. Kate and her husband did not have the grub stake, if you will. They did not have the cash necessary to do the digout that winter. So they literally were sitting on the largest gold discovery in history. Kate’s resourcefulness as a skin sower and her skill as an outdoorsman earned enough for the family to pull together that grub stake to hit “pay dirt” when the ground thawed the next spring.

When we think of women like Kate Carmack in Alaska, who braved some pretty tough, some pretty difficult conditions, I ask the Senator from Maine if she has any similar stories from her State?

Ms. COLLINS. I certainly do. That is a wonderful story of a truly courageous woman.

We have many women such as that throughout Maine’s history. Josephine Peary was one such woman. She was married to the great explorer, Robert E. Peary, who was the first to reach the North Pole in 1909, not that far from Alaska. They lived together on Eagle Island in Casco Bay, ME. Josephine began exploring when she accompanied her husband to Greenland on a journey sponsored by the Academy of Natural Sciences the year before he left for Alaska. They were the first female in history to be a member of an Arctic exploration team.

I understand that women in Alaska also have been pioneers in expanding opportunities for women to work outside of the home. I wonder if the Senator from Alaska might expand on that.

Ms. MURKOWSKI. We have a lot of firsts that, again, when we look at Alaska’s history and recognize we did not become a State until 1959, it is a very recent history, but yet women’s involvement in some very important firsts have gone back so many years prior to statehood it really gets your attention.

Historically, Alaskan women were employed in jobs that women in other areas of the country could only dream about. In 1915, Anchorage employed its first female principal in the Anchorage School District, our largest community now, 3 years before World War I and 5 years before women’s suffrage was ratified.

A year later, 1916, and still 4 years before national women’s suffrage passed, Lena Morrow Lewis is believed to be the first woman to campaign for Alaska’s territorial seat in the U.S. Congress. She did not win, but she was certainly followed by other pioneering women in the workforce.

Marvel Crosson was the first female licensed pilot in Alaska in 1927. Mildred Herman became the first woman to serve in the Alaska State legislature in 1934. And Barbara Washburn was the first woman to climb Mount McKinley, the tallest mountain in North America.

This is all long before Alaska became a State. Other opportunities for women, as we flip through the history books, become very apparent. A woman by the name of Nell Scott became the first woman to serve in the Alaska State legislature in 1937. This was a year before the National Fair Labor Standards Act of 1938 was passed, which made it illegal for employers to hire children under 16.

Blanche McSmith was the first Black woman to serve in the Alaska State legislature. Sadie Neakok was the first Native Alaskan woman to serve as a magistrate in Alaska in 1960, during a time when the struggle for civil rights was raging in the South. Blanche and Sadie began serving in Alaska in very prominent roles 4 years before the Civil Rights Act was passed.

Could the Senator from Maine describe for me some of the pioneering women in her State?

Ms. COLLINS. I would love to share that information with the Senator from Alaska. It is just fascinating to hear these stories. Women from her State have established.

The Senator from Alaska obviously has a great deal of pride in the history of women in her State.

In Maine, too, we have women who have played influential roles throughout history, but especially in the field of literature.

I am sure all of my colleagues know well the story of Harriet Beecher. She wrote “Uncle Tom’s Cabin” in 1850 while pregnant with her seventh child. She began writing the book while residing in Brunswick, ME. Her deep religious faith and dedication to bringing to light the problems with slavery encouraged “Hattie” to write with such passion that she quickly finished and continued to write an average of a book a year to support her family.

Another famous Mainer, Martha Ballard, also made important contributions. She lived in Hallowell, ME, and was a midwife and a healer. She faithfully maintained a diary from 1785 to 1812, and her meticulous records have provided us with a rare glimpse into the daily life in Maine in the late 1700s and the early 1800s. Her contributions and life were only recently highlighted when Laurel Ulrich documented her work in a Pulitzer Prize winning book “The Midwife’s Tale.”

America’s first female novelist, Sally Seward Barrell, also known as Madame von Holst, was born in ME, in the southern tip of our State. She wrote five gothic novels, first under the signature of “A Lady of Massachusetts,” and then, later, under the signature of “A Lady of Maine” when Maine was granted statehood in 1820.

Another pioneering woman was Dorothy Dix. She was born in Hampden, ME, in 1802, and is considered a groundbreaking reformer in the area of treatment for individuals suffering from mental illness. She traveled the nation advocating a more compassionate, holistic approach to the treatment of those suffering from mental illness. She was truly ahead of her time. She also successfully lobbied Congress to establish the first and only national Federal mental health facility which would become a world premiere mental health and research center.

I ask my colleague to further expand on how Alaska has supported women and their accomplishments.

Ms. MURKOWSKI. Well, as the Senator has noted, her home State of Maine and Alaska both have a very rich history of groundbreaking women, women who have been pioneer women who have reached out. I think our States have demonstrated the very supportive nature of moving women forward in their prosperity.

In Alaska, as a for instance, since we are talking about “for instances and firsts,” the very first bill ever passed by the Territory of Alaska was the Shoup women’s suffrage bill in 1913.

That was our first bill as it related to women’s rights. Seven years before women’s suffrage was ratified in the rest of the country and 46 years before Alaska became a State, our territorial legislature’s first bill was related to women’s rights.

I ask the Senator from Maine, in terms of your role model throughout your political career, who would you cite as that role model, that individual?

Ms. COLLINS. I would reply to my friend and colleague from Alaska that my role model and inspiration was the great Senator Margaret Chase Smith. She served as Senator from Maine the entire time I was growing up. She served in the Senate from 1949 to 1972. I realize how fortunate I was to have as a role model this courageous, smart, and brave woman who did so much and set so many firsts for America. I have often thought that the path for my colleagues and myself to the Senate was paved by the remarkable Senator Margaret Chase Smith.

I remember very well my very first meeting with Senator Smith. I was a senior in high school. I was one of a group of a hundred girls who were chosen for a special program, and she spent nearly 2 hours talking with me. She talked about national defense, her service on the Armed Services Committee and, most of all, about her decision to speak out against the excesses of Joseph McCarthy. That was an extraordinarily brave thing to do, but it was typical of Senator Smith, who had a courageous and independent spirit.

I think the two of us do so many things. She was the first Republican Senator elected to the Senate. I would note that when I was elected to the Senate, Maine became the first State to send two Republican women to the Senate to serve at the same time. She was the first woman to serve in the Senate, the first woman to serve at the same time, both in the House and the Senate. She was the first woman to be backed by a major political party in a Presidential election. Long after it became commonplace for women to serve in the highest ranks of our Government, Senator Smith will always be acknowledged and remembered and honored in Maine for her dignity and her courage.
Although I didn’t realize it at the time, when I look back at her meeting with me, I realize that that was the first step in a journey that led me to run for her seat 25 years later. I am so proud to hold the seat once held by the legendary Senator Margaret Chase Smith.

Women such as those the Senator from Alaska has spoken of and whom I have talked about today are the reason we are proud to sponsor a bill that, at no cost to the taxpayers, directs that the Old Post Office Annex be made available to house the National Women’s History Museum. We need a place for our country to honor the contributions of women, particularly for the girls who are coming to Washington to be able to go to this museum and learn about some of the remarkable women who have changed American history, about whom the Senator from Alaska and I have heard. With history needs a place in our capital and in our collective American history.

I ask my colleague from Alaska if she would agree with that sentiment. She has been such a leader in getting this bill through.

Ms. MURKOWSKI. I couldn’t agree more with the Senator from Maine. Just in the discussion we have had this evening about some of the women from my State and their pioneering enterprises and hearing the stories about the women of Maine, I would love to be able to go somewhere and spend the time to do more research, to find out more about these pioneering women, not just in Alaska and Maine but all of the States in between. By having the women’s history museum here in Washington, DC, we will be able to do that.

Women have played such a crucial role in the development of my State, as you have heard, and certainly in the development of yours. By encouraging women’s history of all of our respective States, we can see and celebrate this common history from as far apart as Maine to the east and Alaska in the west.

Those frontier women, women of independent spirit, demonstrated self-reliance, themes that embody all American women and the American spirit. I, too, am most proud to be a co-sponsor of this bill and thank the Senator from Maine for her leadership in moving this forward so that we do have a place to house these great collections.

Ms. COLLINS. Madam President, I thank the Senator from Alaska for participating in this discussion tonight. She certainly continues that proud tradition in Alaska of women who have made a real difference. I am honored to serve with her. She does an extraordinary job. I also think we would be remiss in not recognizing the contributions of our Presiding Officer today, the Senator from North Carolina, Mrs. Dole, who also has established so many firsts in American history. I know that she, too, will be prominently featured in this museum once it comes about.

I think we can take great pride in being here tonight and knowing we have passed this legislation unani-

I yield the floor and suggest the adjournment.

The PRESIDING OFFICER. The senator from Alaska.

Mr. LAUTENBERG. Madam President, you have heard the overwhelming support and the Senate that the order of the day of the quorum call be rescinded.

The PRESIDENT PRO Tempore. Without objection, it is so ordered.

AIR TRAFFIC CONTROL

Mr. LAUTENBERG. Madam President, tonight we got some good news. I want to just say a few words about the FAA bill because we have resolved the issue on air traffic control. The good news is that tonight we scored a victory, a victory for safety and a victory for homeland security.

As many of my colleagues know, I held up the FAA traffic control bill in order to get assurance that the safety and security of the flying public would not be jeopardized by the privatization of the air traffic control system. I am pleased to announce that we have now received an assurance from the administration regarding fiscal year 2004. Until the end of this fiscal year, the administration has agreed not to privatize any components of our air traffic control system. The controllers are protected, the technicians are protected, the flight service station controllers—all of those units that make up the air traffic control system—are protected. We have a letter stating the administration’s assurance.

Some of my colleagues have asked why I was doing this: Why do you feel so strongly about it? I put it in personal terms. I told them: Because I don’t want my grandchildren or your grandchildren or the children of our constituents put in danger by a risky privatization scheme. That is what was at stake here.

I extend my thanks to many of my colleagues for their support in this fight, specifically our Commerce Committee ranking member, Senator Hollings, and the subcommittee ranking member, Senator Rockefeller, Senator Dorgan, and the leader and assistant leader of our caucus, Senators Daschle and Reid. They always stayed strong and said “safety first.”

Senator Lott has been an honest broker throughout this process. He kept the discussions alive.

It was a tough fight. But at the heart of this fight was the reality that it was a bipartisan decision. In June of this year, 11 Republicans voted to prevent privatization, to stand up for safety. I know we often get pressured to vote with our caucus or vote with our party’s President, but sometimes you just have to stand up for your constituents’ safety, and that is what my Republican friends did here.

Within days of returning to the Senate earlier this year, I learned that the administration intended, through this A–76 process, to privatize air traffic control. In my previous 18 years, I had an active interest in aviation and the air traffic control system. But the moment I learned of the White House’s actions, I knew I would spend much of this year fighting to prevent that action from taking place. We won a Senate vote to prevent privatization. We fought off the terrible first conference report. We fought off the conference report until we received the assurances that we got tonight.

But the fight is not over, and I will continue to push for a permanent prohibition. In the words of California’s current Governor, I’ll be back. We are going to fight this again, and we will keep fighting it until it goes away for good.

I am reminded, 700 million people fly in our skies every year, roughly 2 million a day. Our system is being pushed to the limits of capacity in these next couple of weeks in what will be the busiest travel day of the year. I hope travelers will rest assured knowing that control of the skies will be in the hands of professionals, not the government employees who make up the air traffic control system.

This is the greatest air traffic control system in the world, most safe, most efficient. There are 15,000 Federal air traffic controllers and thousands of professional systems specialists and flight service station controllers. These are the men and women who keep our skies safe and secure.

But there are some obvious lessons we need to heed, those of September 11, when the air traffic control system worked flawlessly to bring home safely some 5,000 airplanes in just a couple of hours. These are the lessons from other countries that have tried this. They have left us with just what could be expected: Less safety, more delays, and more cost in the end.

There are lessons from the space program.

I look forward to examining these issues during the policy debate to which our chairman is committed. I hope there can be an adequate discussion for the American people so they can learn how, after next year, the White House proposes to put their safety and security at risk and sell air traffic controllers and thousands, all for the benefit of the profit motive.

I would like to mention one other item in this bill that is of particular importance to the State of New Jersey. Our great State has a proud history of aviation with a number of public use airports. Certainly the occupant of the chair understands since aviation in Alaska is the lifeblood of that beautiful State. Our great State has a proud history with a number of public use airports, and now some of these air-ports are disappearing, giving way to urban sprawl and development. To help stem this problem, a key provision in this bill establishes a pilot program

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which offers additional tools to States to enable them to preserve these public use airports. I am hopeful this program will be used to keep these important facilities for general aviation, corporate, and agricultural uses, and the medevac and firefighting uses which depend on sufficient airport facilities to continue to operate.

I commend the chairman of the Commerce Committee, Chairman McCaIN, for working with me on this provision. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. EnSIGN). Without objection, it is so ordered.

OFFICE OF COMPLIANCE MEETING CANCELLATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the Office of Compliance be printed in the Record today pursuant to section 203(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1383(b)).

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


Hon. Ted Stevens, Speaker of the House, House of Representatives, Washington, DC.

Dear Mr. PRESIDENT: A Notice of Proposed Rulemaking (NPR) for amendments to the Procedural Rules of the Office of Compliance was published in the Congressional Record dated September 4, 2003. Subsequent to the publication of this notice, this office announced a hearing regarding the proposed amendments in the Congressional Record on October 15, 2003.

The Board of Directors of the Office of Compliance cancels the hearing regarding the proposed amendments to the Procedural Rules of the Office of Compliance which had been scheduled for December 2, 2003, at 10 a.m. in room SD–342 of the Dirksen Senate Office Building.

We request that this notice of cancellation be published in the Congressional Record. Any testimony or other public comment on the proposed amendments to the Procedural Rules of the Office of Compliance should be addressed to the Office of Compliance at our address below, or by telephone at 202–724–9250, TTY 202–226–1665.

Sincerely,

Susan S. Robfogel, Chair.

TRIBUTE TO CPL RODNEY "JIMMY" ESTES II

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a brave young man who just returned from a tour of duty in Iraq. Rodney "Jimmy" Estes II is from my hometown of Louisville, KY. A few months ago, Jimmy was dressed in fatigues fighting the war on terror in the Iraqi desert. But today, you can find him wearing red and white and playing football for the University of Louisville Cardinals—my favorite team.

Jimmy Estes, a 1998 graduate of St. Xavier High School, turned down a football scholarship to Georgetown College to follow in his grandfather’s footsteps—to serve in the U.S. Marine Corps. The day after graduation, he left Kentucky for boot camp at Parris Island. And on January 7, 2003, Jimmy was called to active duty.

As a member of Alpha Company, 8th Tank Battalion, Jimmy was on the frontline in An Nasiriyah, Iraq. During his time in the country, he experienced some of the war’s most intense fighting. In his tank, he worked as the loader and operated the 240-millimeter gun on top of the vehicle. Jimmy and his comrades are unsung heroes in one of our troops’ finest hours. They were the lead tank in the rescue mission of PVT Jessica Lynch.

To pass the long hours in Iraq, Jimmy played football with his fellow soldiers, reminding him of his lifelong dream—to play football for the University of Louisville Cardinals. Following his tour of duty, which ended this past May, Jimmy somehow enrolled at U of L. Determined to play football, Jimmy spent his summer preparing to try out for one of four walk-on positions. And just like on the battlefield, Jimmy succeeded. Not only is he a wide receiver on his university’s football team, he also continues to serve his Nation as a Marine reservist.

Jimmy’s bravery, humility, and determination should be commended. On behalf of this grateful Nation, I ask my colleagues to join me in thanking Corporal Estes for his dedicated service. As a proud U of L alum and most importantly, a football fan, I wish Jimmy and his teammates a winning season. Go Cards!

I ask unanimous consent that the article, "For Jimmy Estes, that was war; this is football" from my hometown paper, The Courier-Journal, be printed in the Record.

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

[From the Louisville Courier-Journal, Oct. 10, 2003]

FOR JIMMY ESTES, THAT WAS WAR; THIS IS FOOTBALL

(Excerpt From Feature)

The war wasn’t so bad until bedtime.

Jimmy Estes spent the dusty days in the company of his M1A1 Abrams tank crew or with the other members of Alpha Company, 8th Tank Battalion. On the dull days the Marines opened care packages or talked about family, sports and what they’d give for cold water and hot showers. On the deadly days they went out and killed Iraqis because it was their job, and when the battles around An Nasiriyah were done, the soldiers returned to their hot showers. Jimmy saw enough death in the desert to learn to shut off his emotions.

But at the end of the day, when Cpl. Rodney J. Estes II would lie down and stare up at the inky Arabian night, he was alone with the whole thing and all the horror: the dead women and children, the dogs tugging at corpses, the Iraqis he personally shot in combat, the bullets they shot at him that pinged off the tank’s armor.

It was just him and the heroism: Estes and his mates rode the lead tank on the famous Jessica Lynch rescue mission. On the way, they took down fire and securing the perimeter before Army Rangers and Navy SEALs went into Saddam Hussein General Hospital to retrieve America’s most famous POW.

He took all of it to bed with him.

"Those were some lonely nights," Estes said.

It was during those lonely nights that he made a vow: "If I get out of here and make it home alive, I’m going to do it."

As a member of Alpha Company, 8th Tank Battalion, Jimmy was on the frontline in An Nasiriyah, Iraq. During his time in the country, he experienced some of the war’s most intense fighting. In his tank, he worked as the loader and operated the 240-millimeter gun on top of the vehicle. Jimmy and his comrades are unsung heroes in one of our troops’ finest hours. They were the lead tank in the rescue mission of PVT Jessica Lynch.

"Absolutely, it changed me," said Estes, who hadn’t played organized football in six years. "I kind of piddled around at jobs here and there, not anything serious. If I hadn’t gotten deployed, to be honest, I don’t know where I’d be right now."

"We’re not going to get rich, but we’re going to have an opportunity. It’s just so great to be a part of this," Estes said.

Now his life is just restarting. He is a justice administration major in the classroom, with designs on becoming a football coach. On the field he is a humble freshman who hasn’t even dressed out for a game.

"This is the biggest hero in the U of L football program," said offensive lineman Will Rabatin, Estes’ friend since grade school. "I’m proud to know him."

"No more proud than Estes is to have this long-shot college football experience. Think of all the coddled athletes out there, complaining that a full ride isn’t enough. Then listen to Estes, who’s been through more than those guys can ever imagine and now cherishes the chance to pay his way through college and play on the 53-yard line."

"He’s just a great kid to have around," said offensive coordinator and wide receivers coach Paul Petrino. "Every day when we start doing ball drills, he has a lot of enthusiasm, a lot of fire. You can tell he loves being here."

"I look forward to going out there every day," Estes said. "I really appreciate the opportunity. It’s just so great to be a part of it."

In the weeks before the invasion of Iraq, the Marines played touch football in Kuwait all the time. Tankers against tank maintenance. In combat boots. In the desert.

"Somebody's gotta win that game," said Estes.

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He saw enough death in the desert to learn that dreams can come with an expiration date—probably not one of your choosing. A young man who had drifted along without plan or purpose since graduating from St. Xavier High School in 1998 had an epiphany in Iraq.

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Later on he played at St. Martha for Rabatin’s father, once catching the winning

Sincerely,

Susan S. Robfogel, Chair.
touchdown pass in the Toy Bowl. Then it was on to St. X, where he played little his final year after a disagreement with the coaches. "He just didn’t have a positive experience," his father said. "Part of that was his fault.”

Estes’ only football option was a partial scholarship to downtown Catholic. He turned it down to follow in his grandfather’s footsteps—into the Marine Corps and into a tank.

"That broke my heart when he didn’t take that scholarship to Georgetown," Rodney Estes said. "You know how you envision going down there on Saturdays to watch your grandparent play football. One day that’s over.

Instead, a day after graduation from St. X. Estes was off to Parris Island for boot camp as a member of the 240th Higher education—and football—flickered out of sight.

In 1999 he had talked to UofL assistant Greg Nord and then-coach John L. Smith about walking on, but he never followed through. He worked a job here and a job there and performed his duties with the reserves. Life was standing still.

"He kind of had his head up in—other words," said Lance Cpl. Nick Rassano, a 2000 Trinity graduate who was in the same tank in the Middle East with Estes.

Then last Jan. 7, the phone rang at Ruby Tuesday, where Estes was bartending. The order was expected but still jarring: Report for active duty.

He told his family the news at dinner that night. Two days later he was gone—but not without some prescient final words from his father.

"Remember," Rodney Estes told his oldest son, "the way you handle yourself out there probably will be all about how you’ll handle the rest of your life."

First stop was Camp Lejeune, N.C. Then he was on a ship 30 days to Kuwait, for a month of pre-touch football and the last decent meals for a long time.

Finally, after a month in Kuwait, Estes and the rest of the American military force invaded Iraq.

"I was a policeman 25 years, and I’m not the kind of guy who gets overly worried," Rodney Estes said. "But I tell you, that night he left I thought, ‘This could be the last night I ever see him.’ When your own kid goes off, that puts you through some changes.

‘I’d wake up in the middle of the night and watch CNN. I watched so much TV I was about to go to TV camp."

Over in Iraq, the A–8 Marines were pushing hard toward An Nasiriyah and what ultimately would be some of the most intense combat Estes faced. Estes' only football option was a partial scholarship to Kentucky, and he decided on West Point. Estes arrived in excellent physical condition, performed well in the fitness tests and was one of four walk-ons chosen for the team. After U of L upset Kentucky to open the season Aug. 31, he reported for his first practice as a Louisville Cardinal.

"It was awesome that first day, just putting on the equipment," Rassano said. "I was looking around saying, ‘I’m playing with a Division I football program. Four months ago I was shooting at Iraqis running around with AK-47s.’"

Today life is easy. The 18-hour days don’t pile up for weeks on end. The food is edible. There are no tank repairs, no missions, no imminent danger.

The load so many student-athletes find so difficult is like vacation to Jimmy Estes.

"All you’ve got to do is go to class and play football," Rassano said. "It’s got to be the easiest thing he’s done all year. After going through there, everything’s easier." Today life is easy. The 18-hour days don’t pile up for weeks on end. The food is edible. There are no tank repairs, no missions, no imminent danger.

A good many Cardinals have no idea what Estes was going through while they were in spring practice. But a few have seen the USMC tattoo on the 5-foot-11, 200-pound receiver’s left shoulder and inquired, and a few others have heard a story or two about the walk-on soldier.

He doesn’t hide his history, but he doesn’t broadcast it, either. He’s not looking for hero status in the locker room.

"The coaches can’t give me any special treatment, and I don’t want it," he said. "I’d always heard stories of people coming back (from a war) and thinking the world owed them something, but I just looked up mentally. I didn’t want that. I just wanted to make that experience a positive."

U of L will play Army tomorrow. Estes has been where none of the celebrated West Pointers has gone yet: into combat for his country.

He is a Cardinal worthy of a salute from the Cadets.

Yet he wasn’t even supposed to be at the stadium. Instead, he was scheduled for real military work: a reunion with Alpha Company in Fort Knox for the first weekend of reservist training since the war.

But at practice yesterday head coach Bobby Petrino informed Estes that he will be on the football team. Rodney Estes was thrilled.

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"He’s not exactly a sensitive kid by any means," said Jennifer Estes. He thought of her often when he was in Iraq."

"You get a sick feeling in the pit of your stomach. I didn’t freeze or tense up, but I definitely had butterflies."

"But it’s true. A death that materialized on lonely nights under an inky Arabian sky has come true."

"I was scared, excited, all those things. There is no late-night as-simulation—alone, lying on your back and staring at the sky in a strange and dangerous land."

"I can’t tell that I can’t describe the feelings you get. I can tell you what I saw, but in no way does it simulate what it was like." There is no late-night as-simulation—alone, lying on your back and staring at the sky in a strange and dangerous land."

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MILITARY SNIPER WEAPON REGULATION ACT

Mr. LEVIN. Mr. President, in the November 3, 2003 edition of Air Safety Week a connection was drawn between airline safety and gun safety. And, while some people may think there is no connection between airline safety and gun safety, I disagree. Attention has been paid to potential vulnerabilities of commercial aircraft to terrorists armed with shoulder-fired missiles. A more pedestrian but an equally deadly potential threat looms as terrorists armed with .50 caliber sniper rifles.

The .50 caliber sniper rifle is among the most powerful weapons legally available. These weapons are not only powerful, but they’re accurate. According to the House Government Reform staff report, the most common .50 caliber weapon can accurately hit targets a mile away and can inflict damage to targets more than four miles away. The thumb-size bullets, which come in armor-piercing and incendiary variants, can easily punch through aircraft fuselages, fuel tanks, and engines. These weapons pose a serious threat to planes both in the air and on the ground according to a recent Violence Policy Center report, aircraft landing are particularly vulnerable, as illustrated by the testimony of Ronnie G. Barrett, President of Barrett Firearms Manufacturing. As an expert witness during a 1999 criminal trial, Barrett was asked about the relative difficulty of hitting a stationary target and a moving target, such as a motorcycle or an airplane. He was asked about shooting at an airplane “coming in to land . . . descending over 120 miles an hour.” He testified: “If it is coming directly at you, it is almost as easy. Just like bird hunting. But yes, it is more difficult if it is horizontally, or moving from left to right . . . ” In other words, according to Barrett, shooting an airplane, or a moving object coming directly at one is “almost as easy” as a stationary target, and an answer that is consistent with detailed instructions given in a variety of U.S. Army manuals about engaging aircraft with small arms.

Despite these facts, long-range .50 caliber weapons are less regulated than handguns. Buyers must simply be 18 years old and submit to a Federal background check. In addition, there is no Fed law age requirement for possessing a .50 caliber weapon and no registration on second-hand sales. I believe the easy availability and the increased popularity of the .50 caliber sniper rifle poses a danger to air safety, as well as homeland security. That’s why last year I cosponsored Senator FEINSTEIN’s Military Sniper Weapon Regulation Act. This bill would change the way .50 caliber guns are regulated by placing them under the requirements of the National Firearms Act—also great pride, that I honor one such patriot today on the floor of the Senate, PVT Kurt Froshiezer.

Today we honor a fallen patriot, but we must also remember to pay tribute to the loved ones whose grief we share. My deepest sympathy goes out to the members of Private Froshiezer’s family, to his friends, and to all those who have been touched by his passing. May his mother, Jeannie, his father, Chris, his step father, Daniel, his sister, Erin, and his twin brother, Joel, be comforted with the knowledge that they are in the thoughts and prayers of many Americans and that they have the eternal gratitude of an entire nation.

Kurt Froshiezer did not die in vain. He died defending the country he loved. His life has been remembered as a true American hero.

GOT ROSS A. PENNANN

Mr. INHOFE. Mr. President, I rise to pay homage to Sergeant Ross Pennanen, who, in the words of his father, “gave the ultimate sacrifice for his country—his life.” Sergeant Pennanen, or “Penn,” as his friends called him, was a dedicated defender of America who learned the value of serving his country from his father’s example of the United States. For his service and his sacrifice, I am proud to honor him on the Senate floor today.

Sergeant Pennanen was assigned to C Battery, 2nd Battalion, 5th Field Artillery Regiment, III Corps Artillery at Fort Sill, OK. A native Oklahoman whose mother and father live in Ada and Midwest City, respectively, Sergeant Pennanen grew up in McLoud and joined the Army 2 years ago at the age of 34 in hopes of improving himself and emulating his father. He was himself a good father who spent a lot of time with his 7-year-old son, Gage.

Sergeant Pennanen died tragically on November 2 when a CH–47 Chinook helicopter in which he was riding crashed in Fallujah, Iraq. He was a good soldier; he received the Army Commendation Medal two days before his death. During the question about his age, Sergeant Pennanen proved a “gung-ho” example for his fellow soldiers. According to his stepmother, “He didn’t keep up with them. He set the pace out in front of them.”

On behalf of the U.S. Senate, I ask that we pay tribute to Sergeant Pennanen and the men and women like him, who know the true meaning of service and sacrifice. These men and women have tasted freedom, and wish to instill that feeling to those who have never experienced it. I honor the memory of our sons and daughters who have died for this noble cause.

We could not have asked for a better symbol of the spirit of humanity than Sergeant Ross Pennanen. I am proud of him, and proud of the commitment he showed to winning the freedom of those he did not know. My prayers are with his family for the loss of such a special man.

PVT JASON M. WARD

Mr. INHOFE. Mr. President, I rise today to honor the memory of a courageous young Oklahoman who died
Specialist McGaugh had a heart for the less fortunate. According to his fellow soldiers, he would leave the safety of his Jeep and give candy to the Iraqi children. Imagine an American soldier who truly cared for the least among us, and performed simple acts of kindness to his fellow humans. Imagine an American soldier who represented America with a noble heart, and reminded us all of the freedoms we take for granted. Specialist McGaugh was that soldier.

His compassion is a microcosm of the American spirit, the spirit that drives us to fight oppression around the world. The Iraqi people are an oppressed people, and Specialist McGaugh showed us how our inherent humanity can overcome even the broadest of differences. He refused to sit idly and watch the tyranny in Iraq take place any longer. It is for the sake of these broken, defeated people that Specialist McGaugh risked his life on a daily basis. It is for these people that he gave his life in the end. He was a true American hero.

His twin sister Windy said that her "kid brother" became her hero. Specialist McGaugh should not only be his sister's hero, but the Nation's hero as well. He set a high example of what it means to be an American and what it means to be human. It is for men like Specialist McGaugh that I am proud to be a part of this great country. He was a special soldier, but more importantly, a special man.

BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget through November 19, 2003. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the Budget, H. Con. Res. 95, as adjusted.

The effects of these actions are detailed on Table 2.

Sincerely,

DOUGLAS HOLTZ-EAKIN
Director.

Table 1.—Senate current-level report for spending and revenues for fiscal year 2004, as of November 19, 2003

<table>
<thead>
<tr>
<th>Budget authority</th>
<th>Outlays</th>
<th>Revenues</th>
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<tr>
<td>Revenues</td>
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<td>Appropriation legislation</td>
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1 Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations if the appropriations have not been enacted.

Source: Congressional Budget Office.
TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF NOVEMBER 19, 2003—Continued

(In millions of dollars)

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<th>Appropriations Acts</th>
<th>Budget Authority</th>
<th>Outlays</th>
<th>Revenues</th>
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<td>Clean Diamond Trade Act (P.L. 108–19)</td>
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<td>Federal Farmer Bankruptcy Relief Act of 2003 (P.L. 108–73)</td>
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<td>An act to amend Title XV of the Social Security Act (P.L. 108–74)</td>
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<td>An act to extend the Temporary Assistance for Needy Families block grant program (P.L. 108–89)</td>
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<td>An act to amend chapter 94 of title 5 of the United States Code (P.L. 108–92)</td>
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<td>An act to amend the Immigration and Nationality Act (P.L. 108–99)</td>
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<td>The Check Clearing Act for the 21st Century (P.L. 108–100)</td>
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<td>An act to amend Title 46 of the United States Code (P.L. 108–102)</td>
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<td>Second Continuing Resolution, 2004 (P.L. 108–104)</td>
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<td>Partial-Birth Abortion Act of 2003 (P.L. 108–105)</td>
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<td>Third Continuing Resolution, 2004 (P.L. 108–107)</td>
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<td>Total, authorizing legislation</td>
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<td>Appropriations Acts</td>
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<td>Passed Pending Signature</td>
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<td>Military Construction Appropriations (H.R. 2554)</td>
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<td>Energy and Water Appropriations (H.R. 2574)</td>
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<td>Homeland Security Appropriations (P.L. 108–90)</td>
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<td>Emergency Supplemental Appropriations Act for Defense and Reconstruction of Iraq and Afghanistan (P.L. 108–104)</td>
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<td>Interior Appropriations (P.L. 108–108)</td>
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<td>Total, appropriation acts</td>
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<tr>
<td>Total, enacted in previous sessions</td>
<td>715,233</td>
<td>1,033,868</td>
<td>1,466,370</td>
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<td>Total, enacted in previous sessions</td>
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<tr>
<td>Total, enacted in previous sessions</td>
<td>715,233</td>
<td>1,033,868</td>
<td>1,466,370</td>
</tr>
</tbody>
</table>

1 Excludes administrative expenses of the Social Security Administration, which are off-budget.
2 Per section 502 of H. Con. Res. 95, the concurrent Resolution on the Budget for Fiscal Year 2004, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes the following items: outlays of $262 million from funds provided in the Emergency Supplemental Appropriations for Disaster Relief Act of 2003 (P.L. 108–105); outlays of $456 million from funds provided in the Legislative Branch Appropriations Act, 2004 (P.L. 108–83); budget authority of $400 million and outlays of $67 million provided in the Interior Appropriations Act, 2004 (P.L. 108–108); and budget authority of $83,992 million and outlays of $35,970 million provided in the Emergency Supplemental Appropriations for Disaster Relief Act of 2003 (P.L. 108–105).

CONGRESSIONAL RECORD — SENATE
November 21, 2003

TERRORIST APPREHENSION ACT

Mr. LEVIN. Mr. President, earlier this week, an article in the Washington Post highlighted concerns about limits on the Federal Bureau of Investigation’s ability to pursue terrorists who try to buy guns. After September 11, 2001, the FBI launched an initiative to notify Federal law enforcement officials and other national security officials when suspects on the FBI’s terrorist watch list attempt to purchase a firearm. However, according to the Washington Post article, an interpretation of current law by the Attorney General has precluded Federal agents from obtaining any details about gun purchases unless the purchaser is identified by the National Instant Criminal Background Check System as a prohibited buyer.

The Post article cited situations in which law enforcement officials have not been able to pursue known terrorists armed with a firearm. According to the Washington Post, as many as 21 suspects on the FBI’s terrorist watch list have attempted to buy guns since the spring of 2003. According to Justice Department officials cited in the Post article, the rules established by the Attorney General prevent Federal officials from sharing information with investigators about legal gun buyers, even if these gun buyers are suspected terrorists.

Law enforcement officials told the Post that the FBI frequently does not know the whereabouts of suspected terrorists on its watch lists. In such cases, learning where a suspected terrorist bought a firearm and what address they provided could be extremely helpful to counterterrorism investigators.

To assist the FBI in monitoring and apprehending suspected terrorists, Senator LAUTENBERG introduced the Terrorist Apprehension Act. This bill would require NICS to alert the FBI, Department of Homeland Security, and local law enforcement officials any time an individual on a terrorist watch list attempts to buy a firearm.

I believe this is common sense homeland security legislation, and I hope the Congress will enact it quickly.


Mr. WYDEN. Mr. President, consistent with my policy of publishing in the RECORD a statement whenever I place a hold on legislation, I am announcing my intention to object to any unanimous consent request on S. 1896, the Tax Relief Extension Act, and to H.R. 1664, the Armed Forces Tax Fairness Act. I am doing because these bills are the only relevant amendable legislation expected to be taken up in the Senate before the end of the current session and, therefore, they provide the only opportunity to extend unemployment benefits before they expire at the end of the year.

Oregon currently has the highest unemployment rate in the Nation with an
unemployment rate of 8 percent. Extension of unemployment benefits is critical for many Oregonians who are in jeopardy of running out of benefits if they are not extended before the end of the year. In order to ensure unemployed workers in Oregon and many other states are not left without benefits, I am objecting to unanimous consent on S. 1896 or H.R. 1664, unless extension of unemployment benefits and reform of a lookback rule that affects Oregon and other high unemployment states is included as part of the legislation.

REPEALING THE MEDICARE PHYSICIAN FEE CUT

Mr. GRAHAM of South Carolina. Mr. President, I express my support for repealing the Medicare physician fee cut. The issue of reimbursements for physicians who treat Medicare patients has been an ongoing battle. Currently, these reimbursements are inadequate and inefficiently paid through a bureauocratic system. Some physicians have been even been forced to refuse Medicare recipients due to these inappropriate reimbursement levels. With so many recipients wanting access to medical services in South Carolina, the situation with low reimbursements poses a challenge to both physicians and patients.

I am supported updating and increasing the reimbursements physicians receive under the Medicare program. The schedule of fee cuts for these reimbursements has been temporarily suspended due to the actions of Congress. I supported legislation to repeal physician fee cuts for both fiscal year 2002 and 2003. However, in October 2003, the Centers for Medicare and Medicaid Services, CMS, reported that the physician fee cut for 2004 would be 4.5 percent. This necessitates a further repeal to ensure this fee cut does not move forward.

While annual repeals of the physician fee cuts are vital, I also support a substantive change to the reimbursement calculations so physicians are not held in limbo each year regarding their fee updates. I am hopeful that Congress will address this issue in a comprehensive manner.

Since I support legislative action to make sure this cut is repealed and to ensure physicians are dealt with effectively, I am exceedingly concerned that the most current repeal in the Medicare physician fee cut is contained within the mammoth Medicare prescription drug bill. This blocks me voting solely on the merit of the repeal.

I have many reasons as to why I plan to oppose the Medicare prescription drug bill conference report. None of my reasons are concerns with the Medicare physician fee cut repeal. Rather, my opposition stems from the lack of real cost containment of the program, exclusion of true Medicare reform, the weakening of the premium support issue, the treatment of “dual eligibles” coverage, and other issues related to oncology drugs, durable medical equipment, DME, and local pharmacies.

It frustrates me that this latest repeal is in a bill with literally dozens of other Medicare provisions in a $400 billion dollar Medicare prescription drug bill. I will continue to support the repeal of next year’s Medicare physician fee cut and addressing the ongoing issue of fee cuts in a comprehensive manner. I am hopeful that our leadership will give us a vehicle to straight up or down vote on this issue.

A TRIBUTE TO RALPH BUNCHE

Mr. SARBANES. Mr. President, it is difficult to know exactly how to pay tribute to Ralph J. Bunche for his extraordinary contributions to scholarship, diplomacy, civil rights, social justice and international cooperation and understanding. The Senate has approved H. Con. Res 71, “Recognizing the importance of Ralph Bunche as one of the great leaders of the United States . . . . The year-long centennial commemoration of his birth, which is now well underway, involves many more professors, scholars, educational institutions and public-policy organizations than it is possible to list; among them are the American Political Science Association, the Association of Black American Ambassadors, the American Library Association, the Council on Foreign Relations, Facing History and Ourselves, national foundation, the NAACP, the National Urban League, the New York Public Library, numerous United Nations Associations and dozens of colleges and universities in this country and abroad. At UCLA, Ralph Bunche’s alma mater, the African American Studies center has been renamed in his honor. I am especially pleased to note that the American Academy of Diplomacy has chosen to honor Ralph Bunche by sponsoring the two-year Philip Merrill Fellowship for the two-year M.A. program at the Paul H. Nitze School of Advanced International Studies of Johns Hopkins University.

Among his many accomplishments, Ralph Bunche received the first doctoral degree in government and international relations ever awarded by Harvard University, thereby earning the title of Dr. Bunche. The René Rivlin, who is Co-Chair of the Ralph Bunche Centenary Committee, has told us that he was specifically instructed to “cut out this doctor business” when as a young soldier he was assigned to work for Ralph Bunche in the OSS sixty years ago. The vast array of tributes now being paid to Ralph Bunche reflects just how extraordinary a person he was. Born in Detroit and orphaned at eleven, he went to live with his grandmother, Lucy Johnson, in what is today the Watts neighborhood of Los Angeles.

By all accounts, Lucy Johnson was as extraordinary as her illustrious grandson. Writing in the Reader’s Digest many years after her death, Dr. Bunche called her “My Most Unforgettable Character . . . . Caucasian ‘on the outside’ and ‘all black fervor inside.’” One of his teachers said of her, “I have never forgotten the emanation of power from that tiny figure.” Ms. Johnson’s remark to the principal of Jefferson High School, where Dr. John- son was valedictorian of his class and a varsity athlete, is especially memorable. She, a disappointed effort at flattery, the principal is reported to have said, “We never thought of Ralph as a Negro,” to which Ms. Johnson replied: “Why haven’t you thought of him as a Negro? He is a Negro and he is proud of it. So am I.”

From his grandmother Ralph Bunche learned the fundamental lessons of self-respect and respect for others. He also took from her a passion for education. It was she who insisted that he go to UCLA, where he majored in international relations and was valedictorian of the Class of 1927. Upon his graduation from UCLA, Bunche received a fellowship for graduate study in political science at Harvard. Shortly after enrolling he received a scholarship letter. Writing just a week before her death, she asked, “Will you finish at Harvard this year?”

Ralph Bunche did indeed receive his Master’s degree at the end of that year, but he did much more. In the small African American community at Harvard at that time he made lifelong friendships with, among others, the future Judge William Hastie and the future cabinet member Robert Weaver. He completed his Ph.D. in 1934, receiving the government department’s annual award for the best dissertation. And while working toward his degree he also taught at Howard University— America’s “black Athens”—where he organized the government department at a time when, according to Kenneth Clark, the distinguished psychologist who was a student at the time, “the seeds of a legal and constitutional attack on racial segregation were being sown in the intellectual soil of Howard University.”

Although bent on an academic career, Ralph Bunche postponed research in South Africa to work closely with Gunnar Myrdal on Myrdal’s historic but highly influential study in this country, “An American Dilemma.” With the outbreak of World War II he was brought into the newly-established OSS for his expertise on Africa, and in 1944 he moved on to the State Department. The following year he served as an advisor to the American delegation at the San Francisco Conference, where the Charter establishing the United Nations was signed, and in 1946 he joined the U.N. Secretariat, where he remained until shortly before his death. Mr. Harriet, who first went to work for Ralph Bunche in the U.N. Secretariat in 1954, later observed, “Public service had...
The buyouts under the bill would have increased spending. Because many of those accepting buyouts under the bill would result in higher-than-expect

Many employees who retire early would contribute to retire early results in higher-than-expect

The authorities provided by S. 1522 would allow GAO to create a performance-based compensation system. GAO would exercise its new authorities and on whether such provisions would depend on how GAO applies these two payments would be from the agency.

Unlike an increase in retirement benefits, these further GAO is required to follow perso

Ralph Bunche went on to become the Undersecretary-General, but he is probably best remembered as the recipient of the 1950 Nobel Peace Prize, which he was awarded for negotiating the armistice that ended military hostilities between the new State of Israel and its enemies. He was not only the first African American to receive the prize, he was also the first person of color; as an American, he joined the distinguished community of U.S. laureates that includes Presidents Theodore Roosevelt and Woodrow Wilson, Jane Adams and Nicholas Murray Butler.

In his own view, however, the Nobel Prize was not at all his most significant accomplishment, and his initial reaction upon being informed of the award was to decline it: “Peacemaking at the U.N. was not done for prizes,” he explained. He agreed to accept only when the argument was put to him that it would be good for the United Nations. Rather, Ralph Bunche gave a quarter-century of dedicated service to the United Nations, working day in and day out to build and secure harmonious relations among free and prosperous nations.

Ralph Bunche touched the life of everyone who knew him. He is remembered as “brilliant,” with “an uncanny ability to produce stupendous amounts of work over long sustained periods of application;” as someone who “played(ed) to win, not always and fair;” as “a man of extraordinary kindness and compassion (who) never turned his back on those in trouble;” as a person. Kenneth Clark has paid him an eloquent and enduring tribute as “above all the model of a human being who by his total personality demonstrated that disciplined human intelligence and courage were most effective instruments in the struggle for social justice.”

CBO SUMMARY OF S. 1522

Ms. COLLINS. I ask unanimous consent, the material to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE S. 1522—GAO Human Capital Reform Act of 2003 Summary: S. 1522 would authorize the General Accounting Office (GAO) to modify its personnel and workforce practices to allow greater flexibility in determining pay increases, pay retention rules, and other compensation matters. The bill would also permit GAO to offer separation (buyout) payments and early retirement to employees who voluntarily leave GAO. Finally, S. 1522 would rename GAO as the Government Accountability Office.

CBO estimates that enacting S. 1522 would increase direct spending for retirement annuities and related health benefits by about $1 million in fiscal year 2004, by $19 million over the 2004–2008 period, and by $48 million over the 2004–2013 period. Several provisions of S. 1522 could affect GAO employee compensation costs, but the net budgetary effect of such provisions would depend on how GAO exercises its new authorities and on whether any resulting savings or costs are included in the agency’s discretionary budget and are thus subject to appropriation. Since GAO’s current buyout authority was first authorized in October 2000, no one at the agency has received a buyout payment. As such, CBO expects that relatively few employees would receive a buyout payment over the next 10 years and that the cost of any buyout payments and required deposits toward the CS RDF would be negligible in any given year.

This intragovernmental or private-sector impact: S. 1522 contains no intragovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated costs to the Federal Government: The estimated impact of S. 1522 on direct spending is shown in the following table.

The costs of this legislation fall within budget function 800 (general government).

By fiscal year, in millions of dollars—
important that we do not lose sight of this world. It is well and good that all of the G–8 members are wealthy industrialized nations, but the real thing that binds us, the real thing that makes it a club worth joining is the fact that all of the participants are democracies. It is for this reason that China is not a member.

When President Clinton discussed Russia’s joining the G–8 back in 1997 when Russia participated in the summit, he attributed Russia’s participation to “President Yeltsin’s leadership and to the commitment of the Russian people to democracy and reform.”

But the actions of President Yeltsin’s successor, President Putin, over the past 3 years raise serious concerns about Russia’s continued commitment to democracy. This drift away from democratic practices cannot and should not be ignored. The list of offending actions is long and disturbing. Since President Putin has taken control of national television networks and otherwise limited the freedom of expression to the point that the group “Reporters without Borders” ranks Russia 121st out of 139 countries in its worldwide press freedom index. The recent arrest of Mikhail Khodorkovsky set off alarm bells because of its blatant political motives, despite claims otherwise. President Putin’s government has attempted to control the activities of nongovernmental organizations, religious organizations, and other pluralistic elements of Russian society in an attempt to mute criticism of the government. Russian troops in Chechnya have been allowed to suppress the rights of Russian citizens with impunity, including in the conduct of recent elections that fell far short of minimal international standards of freedom and fairness. And the list could go on.

Continued membership in the G–8 is very important to Russia and to President Putin personally. We should use this leverage to get Russia back on the democratic track. Allowing Russia to continue its involvement in the G–8 and to host the 2006 G–8 Summit while continuing to undermine democracy makes mockery of the very principles that bind the G–8 countries together. We need to take steps not to ensure that Russia lives up to the commitments it made when it joined this club of industrialized democracies. To do otherwise would be to shirk our responsibilities as a leader of the democratic world. I urge my fellow Senators to support this resolution.

NATIONAL RETIREMENT PLANNING WEEK

Mr. AKAKA. Mr. President, I rise today to illuminate the merits of National Retirement Planning Week, which starts today. National Retirement Planning Week is organized by a coalition of financial industry and advocacy organizations to raise the awareness of the importance of retirement planning. I applaud the coalition for its efforts to increase public awareness of this critical topic.

The need to adequately prepare for retirement has significantly increased due to the longevity and reduction in employer-provided retirement health benefits. In addition, increasing debt burdens confronting many families will make a comfortable retirement more difficult to achieve. Americans are living longer. According to the U.S. National Center for Health Statistics, in 1950, an individual 65 years of age was expected to live an additional 13.9 years. This grew to 17.9 years by 2000. These additional years, many or most in retirement, will require Americans to have saved and invested additional financial resources to help meet their living expenses in retirement. Furthermore, the fastest growing segment of the population is made up of those 65 years and older, according to the Bureau of Labor Statistics.

While Americans have been living longer, employers have been reducing the health benefits provided to retirees. According to the Kaiser Family Foundation, 40 percent of all large firms offer retirement benefits in 2003. This is a significant reduction from the 66 percent that offered retiree coverage in 1988. As employers continue to stop providing these health care costs continue to increase, proper planning is imperative for individuals to pay for healthcare expenses that may not be covered by Medicare.

In addition, another important component of preparing for retirement is to effectively manage and pay down debt. According to the Federal Reserve, consumer borrowing through auto loans, credit cards, and other debt increased by $15.1 billion in September, which brings the total to $2.97 trillion. Substantial consumer debt will likely result in individuals having to work additional years beyond their preferred retirement age in order to pay off their credit cards and other consumer debts. Obtaining home equity loans and refinancing mortgages to take cash out of homes may make it harder for working Americans to retire at the age and with quality of life they desire. Thirty-two percent of mortgage refinancings in the third quarter of this year involved cash-outs of additional money beyond the existing loan balance, according to Freddie Mac. Although this is significantly lower than the record 92 percent in 1989, the additional leverage brought by these refinancings can significantly extend the time and cost of paying off a mortgage.

There is a greater need for larger nest eggs to cover later debt management. Unfortunately, defined benefit pension plans have become much less common and are not available for most working Americans to help meet these increasing costs. According to the Congressional Research Service, 72 percent of pension plan assets were held by defined benefit plans in 1975. Unfortunately, by 1998, this percentage fell to 46 percent. Changes in the contributions to pension plans and benefits between 1975 and 1998 also reflect the significant shift towards defined contribution retirement plans. Defined contribution plans require that employers be much more involved in their preparation for retirement. Employees must be aware of their alternatives in participating in their employer’s plan. The matching contributions made by employers can provide employees with an immediate return on their investment. Employees must fully understand the importance of planning for retirement and the significance of participating in tax-advantaged employer plans and investment options that can be used in Individual Retirement Accounts, IRAs, to ensure that they will have sufficient resources for retirement. In addition, defined contribution plans require employers to manage these investments and make important asset allocation decisions. If employees do not have a sufficient level of financial literacy they will not be able to adequately manage their retirement portfolio.

Despite the need to ensure that employees have adequate resources for retirement, fewer employers are sponsoring plans and fewer employees are participating in employer-sponsored plans. According to a Congressional Research Service survey of the Census Bureau’s Current Population survey, the number of 25-to 64-year-old, full-time employees in the private sector whose employer sponsored a retirement plan fell from 45.1 million in 2001 to 42.8 million in 2002. The survey also indicated that, among this population, participation in an employer sponsored retirement plan fell from 55.8 percent in 2001 to 53.5 percent in 2002. Many employers have started offering plans and more employees need to participate in them. Working Americans will be in a better position to retire on their terms by starting to prepare for retirement early and utilizing investment vehicles that have preferential tax treatment such as 401(k) plans and Individual Retirement Accounts. A long-term time horizon allows investors to reap greater benefit from the compounding of their returns.

Ensuring that retirement security is financial and economic literacy, which should be at higher levels in our country. We must do more throughout the lives of individuals to ensure that they are financially literate and economically secure and can make informed financial decisions and participate effectively in the modern economy. Without a sufficient understanding of economics and personal finance, individuals will not be able to better manage their finances, evaluate their credit opportunities, and successfully invest for their long-term financial goals.
Starting with our youth, it is necessary to fund the Excellence in Economic Education, EEE, Act, which provides resources for teacher training, evaluations, research, and other activities in K–12 education. There is no better time to instill in individuals the knowledge and skills they need to make good decisions throughout their lives than during their years in elementary and secondary education. I have also introduced S. 1800, the College LIFE, or Literacy in Finance and Economics, Act, to address needs for this area for the college population. We must give students access to the tools that they need to make sound economic and financial decisions once they are on campus. Without an understanding of finance and economics, college students are not able to effectively evaluate credit alternatives, manage their debt, and prepare for long-term financial goals, such as saving for a home or retirement. I am working with my colleagues on both sides of the aisle to come up with a package based on S. 1800 that can be included in the Higher Education Act.

I also appreciate the work done by my colleague from New Jersey, Senator Corzine, in developing and introducing S. 386, the Education for Retirement Security Act of 2003. The legislation authorizes grants for financial education programs targeted towards mid-life and older Americans to increase financial and retirement knowledge and their vulnerability to financial abuse and fraud. I am a co-sponsor of this legislation which will help Americans prepare for retirement.

I look forward to continuing to work with my colleagues to improve economic and financial literacy. I also want to express my appreciation for the significant efforts made by Senators SARBANES, ENZI, CORZINE, ALLEN, STABENOW, and FITZGERALD to improve economic and financial literacy. Our efforts are underlined so that individuals will be able to make informed decisions and be able to pursue their long-term financial goals, particularly into their golden years of retirement.

NATIONAL ADOPTION MONTH

Mr. JOHNSON. Mr. President. As we approach this holiday season of Thanksgiving, I want to draw attention to National Adoption Month as we celebrate it this month. I am joining my colleagues on the Congressional Coalition for Adoption this month to increase awareness and knowledge of the obstacles that children in foster care face while waiting to be adopted and to encourage more families to consider adopting.

Currently, there are 580,000 children in the foster care system in America, 126,000 of whom are waiting to be adopted. Yet, only 20 to 25 percent of foster care children will ever find an adoptive family before aging out of government care. The foster care system has been extremely important in rescuing abused and neglected children. However, the foster care system was designed to be a temporary situation, but it is increasingly becoming a permanent guardian for many children. This is particularly true for children who are not adopted by the time they are 18, and find themselves in foster care at an older age. Of the 126,000 children waiting to be adopted approximately half are 9 years of age or older.

Every year an average of 100 children in South Dakota, and 25,000 children nationally, age out of the foster care system at the age of 18, often with very little if any support system in place. These children often face the challenges of homelessness, college non-completion, unemployment, and a lack of health care. Transitional living and mentoring programs can alleviate some of these concerns but programs face the strains of staff shortages and underfunding. I must commend the South Dakota Coalition for Children for working to secure Medicaid coverage for children that age out of the foster care system until they reach the age of 22. This eliminates one serious concern many former foster care youths face with they are no longer in government care, but do not replace the support of a loving family.

On November 22, 2003, courts across the country joined State agencies, children in foster care and hopeful parents to finalize adoptions and demonstrate the large number of children waiting for safe, stable, permanent homes.

As we approach the Thanksgiving holiday and gather with our families, we should not forget those children still waiting for a loving, permanent family to be thankful for.

ADDITIONAL STATEMENTS

HONORING ARVILLA "BILLIE" CAMPBELL ON HER 100TH BIRTHDAY

= Mr. CRAPO. Mr. President, I honor Arvilla "Billie" Campbell of Meridian, ID, who is approaching her 100th birthday on January 21, 2004. Arvilla’s impressive longevity is matched by her positive contributions to home and country. I am sure that her six children, 19 grandchildren, and 48 great-grandchildren will join me in paying tribute to this great woman.

Arvilla was born and raised in Preston, ID, where she attended high school at the Preston Academy. In 1923, she married Elgin Campbell, and the couple had six children together. Her children report that Arvilla set a great foundation for each of their lives through the principles she taught. Arvilla recognized the important of a strong work ethic, telling her children that you only get what you work for. Arvilla herself was a hard worker, doing all she could during the Great Depression to ensure that her family had what they needed. She was known to comment that though the family may have been broke, they were never poor. Arvilla taught her children to have pride in their appearance and made sure they had impeccable decorum and proper speech at all times. Arvilla was also active in the Church of Jesus Christ of Latter Day Saints, and she taught many children over the course of many years of service.

Arvilla also taught love of country, a fact reflected in the lives of her children. Remarkably, all six of her children have served on active duty in the Armed Forces. She encouraged them to serve in the military because she believes freedom is a privilege that deserves effort and sacrifice. All four of Arvilla’s sons have served in combat. E. Stewart Campbell served in the Pacific Theatre of World War II as a petty officer in the Navy. Bruce E. Campbell served in the Korean War as a corporal in the Army. Doug Campbell served in both the Korean and Vietnam wars as an Army platoon sergeant. Helen Campbell Harden, one of the Arvilla’s daughters, is married to John Harden, an Army warrant officer in the Army. Ruth Campbell Rivers, another daughter, is also closely connected to the military: her husband Gerald is a lance corporal in the Marine Corps. America has benefited from the efforts of each of these children and Arvilla, who is commended for her children’s unselfish service to the United States.

I wish Arvilla a Happy Birthday. She has been a great teacher, example, and citizen of Idaho. I wish her health and happiness on this exciting day, and join with family and friends in honoring her contribution to Idaho.

GENE BOYT

= Mr. INHOFE. Mr. President, I stand today to pay tribute to a great American and a great Oklahoman. Gene Boyt was a member of our Nation’s "Greatest Generation" and served his country during World War II in the United States Army. He died at the age of eighty-six in Chickasha, OK.

After being assigned to the Philippines as a lieutenant in the Engineering Corps, he was taken captive by the Japanese on April 9, 1942. As a prisoner of war, he was forced to march 90 miles in 6 days in what has become known as the Bataan Death March. The prisoners marched without food or water, and many were executed or died along the way from exhaustion and dehydration. After surviving the grueling journey, Lieutenant Boyt spent 3½ years in Japanese prisons.

Gene Boyt knew what persecution meant. He knew what it meant to stand up for the cause of freedom, for the honor and integrity of the United States. Gene Boyt knew what it meant to defend this country from enemies determined to destroy it. He knew
Republican majority in Congress voted to cut reservist pay by 40 percent for one year, the Republican majority in the Senate blocked efforts to extend health care benefits to Guard and Reserve members face a pay cut when they're called for active duty. Many of these reservists have no options other than waiting until they are deployed to work and replace them with a temporary employee. However, many small businesses are unable to offer a second paycheck or temporarily cover the reservist's duties.

The Federal Government has an obligation to help small businesses weather the loss of an employee to a call-up and a duty to protect small business owners from suffering a pay cut to serve our Nation. It is imperative that we help families of reservists maintain their standard of living while their loved one protects our country abroad. That is why I have proposed creating a Small Business Military Reserve Tax Credit, which does two things. First, it provides an immediate Federal income tax credit to any small business to help cover the loss of a reservist employee who has been called up to active duty. Second, it provides a tax credit to small businesses that pay any difference in salary for an employee who is called up. This tax credit is worth up to $12,000 to any small business and up to $20,000 for small manufacturers.

Small businesses employ over 50 percent of the Nation’s work force. Across the country, small businesses are currently creating 75 percent of new jobs. Furthermore, many of these small businesses provide quality goods and services that are a vital link in the supply chain for national defense. Many of these small companies need immediate help to keep their business going while their employees encounter tremendous financial sacrifice in service of our country.

This assistance will immediately help struggling entrepreneurs keep their small businesses running during the loss of an employee to temporary military service. It will also help the families of military reservists cope with the financial burden of their absence. In this way we ensure that we preserve our great tradition of citizen soldiers at such a critical time in the Nation’s history.

In his speech designating this week National Employer Support of the Guard and Reserve Week, President Bush recognized several large businesses for their support of the Guard and Reserve. I, too, commend these big corporations for their support of our reservists and guardsmen, but the President has again showed that he doesn’t understand the plight of our military reservists and their smaller employers. The fact is big businesses, like those the President recently honored, aren’t going out of business if one of their reservist employees is called up. Small businesses may not be able to provide a second paycheck or temporarily cover the reservist’s duties.

Today I stand in tribute to one of Oklahoma’s favorite sons, a great American hero and devoted family man. Gene Boyt sacrificed everything for his country, and I am sure that his family is proud of this great man, and the legacy he left behind. The thoughts and prayers of a grateful Nation are with them during this difficult time.

HONORING MILITARY RESERVISTS
AND THEIR SMALL BUSINESS
EMPLOYERS DURING NATIONAL
EMPLOYER SUPPORT OF THE
GUARD AND RESERVE WEEK

Mr. KERRY. Mr. President, as this is National Employer Support of the Guard and Reserve Week, it seems an appropriate time to speak on the honorable Americans serving in our National Guard and Reserve.

To fight our wars and to meet our military responsibilities, the United States supplements its regular, standing military with a capable band of citizen soldiers, reservists who serve nobly and continue to make the ultimate sacrifice for this country. At present, there are about 165,000 national guardsmen and reservists on active duty—more than half of the 300,000 called to active duty since September 11. They serve admirably around the world, performing critical wartime functions in Afghanistan and elsewhere. This country does not go into battle without members of the National Guard and Reserve, and we should be grateful for their service.

Instead of gratitude, members of the Guard and Reserve find the Bush administration’s military agenda leaving them behind. In addition, earlier this year, the Republican majority in the U.S. House of Representatives sought to cut reservist pay by 40 percent for normal training and temporary deployments. The Republican majority in the U.S. Senate blocked efforts to extend federal health care benefits to Guard and Reserve members. Just this month, the Republican majority in Congress voted against legislation by Senator Duren that would have provided supplemental income for Federal employees who are called up to active duty. These efforts are wrong and demonstrate the misplaced priorities of the Republican Party.

To make matters worse, the Bush administration recently announced that it would require thousands of National Guard and Army Reserve troops to extend their tours of duty up for an additional six months. This extension will cause significant economic difficulties for the reservists, their families, their employers, and our national economy.

Beyond the hardship of leaving their families, their homes and their regular employment, more than one-third of military reservists and National Guard members face a pay cut when they're called for active duty. Many of these reservists have no options other than waiting until they are deployed to work and replace them with a temporary employee. However, many small businesses are unable to offer a second paycheck or temporarily cover the reservist’s duties. The Federal Government has an obligation to help small businesses weather the loss of an employee to a call-up and a duty to protect small business owners from suffering a pay cut to serve our Nation. It is imperative that we help families of reservists maintain their standard of living while their loved one protects our country abroad.

That is why I have proposed creating a Small Business Military Reserve Tax Credit, which does two things. First, it provides an immediate Federal income tax credit to any small business to help cover the loss of a reservist employee who has been called up to active duty. Second, it provides a tax credit to small businesses that pay any difference in salary for an employee who is called up. This tax credit is worth up to $12,000 to any small business and up to $20,000 for small manufacturers.

It is common knowledge that small businesses continue to be our most effective tool at creating new jobs and spurring economic growth nationwide. Small businesses employ over 50 percent of the Nation’s work force. Across the country, small businesses are currently creating 75 percent of new jobs. Furthermore, many of these small businesses provide quality goods and services that are a vital link in the supply chain for national defense. Many of these small companies need immediate help to keep their business going while their employees encounter tremendous financial sacrifice in service of our country.

This assistance will immediately help struggling entrepreneurs keep their small businesses running during the loss of an employee to temporary military service. It will also help the families of military reservists cope with the financial burden of their absence. In this way we ensure that we preserve our great tradition of citizen soldiers at such a critical time in the Nation’s history.

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HONORING NOR-LEA GENERAL HOSPITAL

Mr. DOMENICI. Mr. President, today I recognize the outstanding achievement of a hospital in my home State of New Mexico. Nor-Lea General Hospital, which is located in Lovington, New Mexico, was recently honored as one of the Nation’s ''Top 100'' Hospitals by Solucient Corporation, a healthcare information company, in their 10th National Benchmarks for Success study. Nor-Lea was recognized because they have demonstrated superior clinical, operational, and financial performance in overall service.

I am proud to recognize Nor-Lea Hospital for its strong commitment to help the community. Too often we hear about hospitals that are struggling; hospitals asserting they can not save money and improve patient services and thus are not able to meet the needs of their communities.

Nor-Lea represents the exception. They represent the value of management not only to save money, but also to improve efficiency. Nor-Lea is demonstrating what kind of performance is possible when this is done and they are setting new targets for performance improvement across the industry.

Nor-Lea General Hospital is a 26-bed Medicare-certified facility. Medicare, Medicaid, private insurance and private pay are accepted for services rendered. Nor-Lea General Hospital offers comprehensive outpatient services, which include a state-of-the-art radiology facility with national lab affiliations, radiology services, MRI, bone densitometry, fluoroscopy, x-ray, ultrasound, and respiratory services.

Nor-Lea was recognized because they have demonstrated superior clinical, operational, and financial performance in overall service. I am proud to recognize Nor-Lea Hospital for its strong commitment to help the community. Too often we hear about hospitals that are struggling; hospitals asserting they can not save money and improve patient services and thus are not able to meet the needs of their communities.

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The hospital also has a newly enlarged emergency room which is open 24 hours a day, 7 days a week. Each month about 385 individuals utilize this emergency room.

Nor-Lea was recognized as a top performer in the community hospital category because of their higher survival rate and because they spend less money, release patients from the hospital faster, and have fewer employees. In short, Nor-Lea treats more of the sickest patients, while maintaining high customer service and preserving profits in a difficult marketplace.

Congratulations, Nor-Lea General Hospital. I hope that your success will be a catalyst for continuous hospital performance improvement.

HONORING LINDA BARKER

Mr. Johnson, President, today I wish to publicly commend Linda Barker, a resident of Sioux Falls, SD, on her selection as the recipient of the Sioux Falls Development Foundation’s annual Spirit of Sioux Falls Award.

The Spirit of Sioux Falls Award is given annually in memory of the eight people who were killed when a bomb was placed in a South Dakota Gov. George Mickelson’s plane crashed in 1993. This year, the recipient was Linda Barker, a member of the community who has shown leadership and commitment to the economic development in Sioux Falls. Dr.金属, President of the Sioux Falls Development Foundation, said that Linda, who is currently a member of the Board of Directors for the Development Foundation, was chosen because she “has been an incredibly valuable member of the Board of Directors. Not just because she has attended the meetings, but because she has been in our office on a weekly basis offering any kind of help the staff needed.”

During her service with the South Dakota Development Foundation, she was instrumental in a number of ways. In addition to her work with the Forward Sioux Falls program, her leadership helped the Development Foundation acquire enough land to serve as development parks for the next fifteen years. According to Mr. Scott, they are now well prepared to handle the needs in the development park arena for the future. She was also instrumental in serving as chairman of the membership committee, revitalizing and reenergizing their membership effort, raising the number from 350 to 400 members.

Linda’s involvement in the Sioux Falls area comes from her love of the community. In her thirteen years as part owner of Business Aviation Services in Sioux Falls, she was instrumental in helping the company more than quadruple its business, increasing sales from $1 million to $18 million annually. The company has also added 100 employees, compared with six in 1990, when Linda joined the ownership team. Dale Froehlich, president and chief executive officer of Business Aviation, said Linda’s success is “because of her unwillingness to give up, even in the dreariest of situations.” It is this type of hard work and dedication that led Linda to her success and her subsequent promotion with the Spirit of Sioux Falls Award.

This prestigious award is a reflection of her extraordinary leadership, skill and commitment to South Dakota. I am pleased that her success is being publicly recognized, and I am confident that she will continue to set herself as an exemplary model for talented South Dakotans throughout our state. People of all ages need to think more about how we, as individual citizens, can work together at the local level to ensure the health and vitality of our towns and neighborhoods. Citizens such as Linda Barker are examples to all of us. She is an extraordinary individual who richly deserves this distinguished recognition. I strongly commend her hard work and dedication, and I am very pleased that her efforts are being publicly honored and celebrated.

It is with great honor that I share her impressive accomplishments with my colleagues.

IN REMEMBRANCE OF THE REVEREND DR. AVERY ALDRIDGE

Mr. Levin, Madam President, I want to take this opportunity to come to the floor to pay tribute to the loss of one of the most influential civic and religious leaders in Flint, MI. Dr. Avery Aldridge, who passed away at the age of 78 on November 1, 2003. He is greatly mourned by his wife and family, his church community, and people in my home State of Michigan who knew and loved him as a man of great faith, devoted to his family, and a voice for justice and equality in the African American community.

Dr. Aldridge was born in Widener, AR on February 9, 1925, the fourth of nine children. He completed his secondary education in Memphis, TN, and from there he was inducted in the Army in 1943. He served as a Sergeant during World War II, defending the cause of freedom for his country until his honorable discharge in 1946. He then settled in Flint, MI where he married Mildred Light and had two children, Karen and Derrick. Dr. Aldridge and his wife were dedicated members of Antioch Baptist Church where he served as General Superintendent of the Sunday School and was later ordained into the ministry.

In December, 1956, Dr. Aldridge founded Foss Avenue Missionary Baptist Church with his wife, Mildred, and two others. The congregation has grown through the years to a congregation of two thousand families, with 50 auxiliaries and committees, an elementary and secondary school, a credit union, an activity center, and a free clothing center. Dr. Aldridge and led Foss Avenue to develop a training center to train youth for employment, provide food baskets to those in need, organize a prison ministry and annually provide Thanksgiving Day dinner to all incarcerated in the Genesee County Jail. Dr. Aldridge’s vision and leadership also supported four missionaries to Africa, and led to the founding of Concerned Pastors for Social Action (CPSA), a weekly community and religious publication, and Faith Access to Community Economic Development (FACED), a community development organization.

Dr. Aldridge was a lifelong learner and served as chairman of the South Dakota Development Foundation. He believed strongly in the value of education and supported black colleges across the country, as well as scholarships for local youth. Because of his hard work, he was awarded several honorary degrees through the years.

Dr. Avery was committed to serving the needs of people and improving the quality of community life. He rose to prominence in Flint during the civil rights movement of the 1960s, and was a calming influence in the city during tensions in the wake of the Detroit riots in 1967. He became known as ‘The Rev. Aldridge,’ a local, State, and national commissions, including the Flint Human Relations Commission, the Flint Housing Commission, the Michigan AIDS Policy Commission, and the National Holiday for Martin Luther King, Jr. Commission.

I know my colleagues join me in paying tribute to the life and ministry of Reverend Dr. Avery Aldridge who will be missed by the many people whose lives he touched. It gives me comfort to know that his legacy will stand as an inspiration for generations to come.

PRINCIPAL OF THE YEAR FINALIST

Mr. Corzine, Mr. President, it is my distinct honor and pleasure to recognize Richard Roberto of John F. Kennedy High School in NJ as one of six finalists for the National High School Principal of the Year.

The impact that Mr. Roberto has made on the students and faculty at John F. Kennedy High School cannot be overstated. His leadership has produced remarkable results for students—indeed, test scores are higher at John F. Kennedy, in part, I am sure, because he created an extended year program for journalism and established freshman houses to personalize the learning environment. He also administered the expansion of eight career academies. These academies provide small learning communities in which students can explore diverse interests. As you can see, students have thrived under Mr. Roberto because of his efforts to develop opportunities for their success.

Not only has his work affected students, but his staff development program, which includes a focus on core curriculum content, has fostered collaboration among all the teachers at
John F. Kennedy High School. Through newsletters, needs assessments, teacher surveys, and collaborative groups, Mr. Roberto has instituted whole school reform that concentrates on the needs of all members of his faculty.

I congratulate Mr. Roberto on his success in building a school environment that facilitates communication and creates a learning environment enabling student success. His dedication, innovation, and leadership are qualities that every principal in our Nation should have. It is with great admiration that I acknowledge Mr. Roberto as a 2003 Principal of the Year finalist.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer read the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 19:57 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. 189. An act to authorize appropriations for nanoscience, nanotechnology research, and for other purposes; and

S. 1959. An act 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.

The message also announced that the House has passed the following bill, with an amendment:

S. 666. An act to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

The message further announced that the House passed the following bills in which it requests the concurrence of the Senate:

H.R. 253. An act to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insuranc claim payments have been made; and

H.R. 3521. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

The message also announced that the House agreed to the amendments of the Senate to the bill (H.R. 1828) to halt Syrian support for terrorism, end its occupation of Lebanon, and stop its development of weapons of mass destruction, and by so doing hold Syria accountable for the serious international security problems it has caused in the Middle East, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the resolution (H. Con. Res. 209) commending the signing of the United States-Adriatic Charter; a charter among the United States, Albania, Croatia, and Macedonia.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 117. An act to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes;

S. 286. An act to revise and extend the Birth Defects Prevention Act of 1998;

S. 650. An act to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients;

S. 1685. An act to extend and expand the basic pilot program for employment eligibility verification, and for other purposes.

S. 1720. An act to provide for Federal court proceedings in Plano, Texas;

S. 1824. An act to amend the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation, and for other purposes; and

H.R. 3182. An act to reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 12:12 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 135. An act to establish the “Twenty-First Century Water Commission” to study and develop recommendations for a comprehensive water strategy to address future water needs.

At 3:17 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

At 5:20 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 bills, without amendment:

S. 1152. An act to reauthorize the United States Fire Administration, and for other purposes.

S. 1156. An act 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 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.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

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.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 21, 2003, she had presented to the President of the United States the following enrolled bills:

S. 117. An act to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes;

S. 286. An act to revise and extend the Birth Defects Prevention Act of 1998;

S. 650. An act to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients;

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S. 3182. An act to reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENNETT, from the Committee on Joint Economic Committee:

Special Report entitled “The 2003 Joint Economic Report” (Rept. No. 108–206). By Ms. COLLINS, from the Committee on Governmental Affairs, with amendments:

S. 1522. A bill to provide new human capital flexibility with respect to the GAO, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:
By Mr. WARNER for the Committee on Armed Services.  
By Mr. WARNER for the Committee on Armed Services.  
Air Force nominations beginning Colonel Paul F. Capasso and ending Colonel Robert M. Worley II, which nominations were received by the Senate and appeared in the Congressional Record on October 16, 2003.  
By Mr. WARNER for the Committee on Armed Services.  
Air Force nomination of Brigadier General Robin E. Scott.  
Army nomination of Maj. Gen. Larry J. Dodgen.  
Army nomination of Brig. Gen. Dennis E. Hardy.  
Army nominations beginning Brig. Gen. James R. Sholar and ending Col. Henry J. Ostermann, which nominations were received by the Senate and appeared in the Congressional Record on January 9, 2003.  
Navy nomination of Rear Adm. Walter B. Massenburg.  
Navy nominations beginning Rear Adm. (1h) Robert E. Cowley III and ending Rear Adm. (1h) John W. Waickwitz, which nominations were received by the Senate and appeared in the Congressional Record on March 19, 2003.  
Navy nomination of Capt. Brian G. Branman.  
Navy nomination of Capt. Raymond K. Alexander.  
Navy nominations beginning Rear Adm. (1h) Donald K. Bullard and ending Rear Adm. (1h) John J. Waickwitz, which nominations were received by the Senate and appeared in the Congressional Record on February 27, 2003.  
Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary’s desk for the information of Senators.  
The PRESIDING OFFICER. Without objection, it is so ordered.  
Air Force nomination of Gary H. Sharp.  
Air Force nomination of Jeffrey N. Leknes.  
Air Force nomination of Samuel B. Echaure.  
Air Force nominations beginning Thomas E. Jahn and ending Rodney D. Lewis, which nominations were received by the Senate and appeared in the Congressional Record on October 16, 2003.  
Air Force nominations beginning Samuel C. Fields and ending Kevin C. Zeeck, which nominations were received by the Senate and appeared in the Congressional Record on October 23, 2003.  
Air Force nomination of Robert G. Cates III.  
Air Force nomination of Mary J. Quinn.  

WITHDRAWALS  
Executive message transmitted by the President to the Senate on November 21, 2003, withdrawing from further Senate consideration the following nominations:  
April H. Foley, of New York, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007, which was sent to the Senate on April 10, 2003.  

DISCHARGED NOMINATIONS  
The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nominations and the nominations were:  
James McBride, of New York, to be a Member of the National Council on the Arts for a term expiring September 30, 2007.  
David E. Eisenhower, of Pennsylvania, to be Chief Executive Officer of the Corporation for National and Community Service.  
Read Van de Water, of North Carolina, to be a Member of the National Mediation Board for a term expiring July 1, 2006.  
Raymond Simon, of Arkansas, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.  
Jose Antonio Aponte, of Colorado, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.  
San德拉 Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004.  
Edward Louis Bertorelli, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.  
Carol L. Diehl, of Wisconsin, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.  
Allison Druin, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.  
Beth Fitzsimmons, of Michigan, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.  
Patricia M. Hines, of South Carolina, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.  
Colleen Ellen Huebner, of Washington, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.  
Stephen M. Kennedy, of New Hampshire, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.  
Edward L. Lamont, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.  
Mary H. Perdue, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.  
Herman Lavon Totten, of Texas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.  
Public Health Service nomination beginning with Vincent A. Berkley and ending with James H. Hubbell.  
Drew R. McCoy, of Massachusetts, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of four years.  
Carol Kinsley, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of four years.  
Susan K. Sclafani, of the District of Columbia, to be Assistant Secretary for Vocational and Adult Education, Department of Education.  
Laurie Susan Fulton, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.  
Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor.  
By Mr. MCCAIN, of Arizona.  
Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary’s desk for the information of Senators.  

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS  
The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:  
By Mr. JEFFORDS (for himself, Ms. SNOWE, and Mr. HATCH):  
S. 112. A bill to amend the Internal Revenue Code of 1986 to expand pension coverage and savings opportunities and to provide other pension reforms; to the Committee on Finance.  
By Mr. McCAIN (for himself and Mr. FRINGOLD):  
S. 113. A bill to amend the Internal Revenue Code of 1986 to reform the system of public financing for Presidential elections, to provide for other purposes; to the Committee on Finance.  
By Ms. STABENOW (for herself and Mr. LEVIN):  
S. 115. A bill to ensure that the Government fully accounts for both its explicit liabilities and implicit commitments and adopts fiscal and economic policies that enable it to finance and manage these liabilities and commitments, to honor commitments to the Baby Boom and subsequent generations with regard to social insurance programs, and to provide for the national defense, homeland security, and other critical governmental responsibilities; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committees have thirty days to report or be discharged.  
By Ms. LANDRIEU:  
S. 116. A bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 or older, to provide for a one-year open season under that plan, and for other purposes; to the Committee on Armed Services.  
By Mrs. HUTCHISON:  
S. 117. A bill to amend the Internal Revenue Code of 1986 to permit the issuance of tax-exempt bonds for certain air and water pollution control facilities, and to provide that the volume cap for private activity bonds shall not apply to facilities for the furnishing of water, sewage facilities, and air or water pollution control facilities; to the Committee on Finance.  
By Mr. SANTORO (for himself and Mr. FEINSTEIN):  
S. 118. A bill to amend the Internal Revenue Code of 1986 to provide that qualified downpayment assistance is a charitable purpose; to the Committee on Finance.
By Mr. ALLEN: S. 191. A bill to designate a portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Frederick Douglass United States Attorney's Building"; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself and Mr. BREAUX):

S. 192. A bill to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. LEAHY:

S. 193. A bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU-486 to be withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS
The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COLEMAN (for himself, Mr. CORZINE, Mr. VOINOVICH, and Mr. LAUTENBERG):

S. Res. 271. A resolution urging the President of the United States to urge the United Nations from supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly a more balanced and constructive approaches to resolving conflict in the Middle East; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself, Mrs. MURRAN, Mr. BREAUX, Mr. CRAPO, Mr. CONRAD, Mr. DASCHLE, Mr. EDWARDS, Mr. KENNEDY, Mr. JOHNSON, and Mr. GRASSLEY):

S. Res. 272. A resolution designating the week beginning November 16, 2003, as American Education Week; considered and agreed to.

By Mr. DASCHLE (for Mr. KERRY):

S. Con. Res. 84. A concurrent resolution recognizing the sacrifices made by members of the regular and reserve components of the Armed Forces, expressing concern about their safety and security, and urging the Secretary of Defense to take immediate steps to ensure that the components are provided with the same equipment as regular components; to the Committee on Armed Services.

By Mr. MCCAIN (for himself and Mr. LIEBERMAN):

S. Con. Res. 85. A concurrent resolution expressing the sense of Congress that the continued participation of the Russian Federation in the Group of 8 nations should be conditioned on the Russian Government voluntarily accepting and adhering to the norms and standards of democracy; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS
S. 665
At the request of Mr. GRASSLEY, the name of the Senator from Alaska (Ms. MURKOWSKY) was added as a cosponsor of S. 665, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fishermen, and for other purposes.

S. 1136
At the request of Mr. SPECTER, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1136, a bill to reauthorize the peace corps, and for other purposes.

S. 1245
At the request of Mr. SARBANES (for Mr. KERRY), the name of the Senator from New York (Mr. BINGAMAN) was added as a cosponsor of S. 1245, a bill to provide for homeland security grants for urban areas, to simplify, and for other purposes.

S. 1431
At the request of Mr. COCHRAN (for Mr. JOHNSON), his name was added as a cosponsor of S. 1431, a bill to reauthorize the Child Nutrition Act of 1965, and for other purposes.

S. 1586
At the request of Mr. DOMENICI (for himself and Mr. COCHRAN) was added as a cosponsor of S. 1586, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 1792
At the request of Mr. DAYTON, his name was added as a cosponsor of S. 1792, a bill to amend the Richard B. Russell National School Lunch Act to phase out reduced price lunches and breakfasts by phasing in an increase in the income eligibility guidelines for free lunches and breakfasts.

S. 1795
At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1795, a bill to authorize appropriation if the negotiations with the People's Republic of China regarding China's entry into the World Trade Organization are unsuccessful and for other purposes.

S. 1799
At the request of Mr. REED, his name was added as a cosponsor of S. 1799, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.
S15408

CONGRESSIONAL RECORD — SENATE

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(Mrs. Feinstein) was added as a cosponsor of S. 1825, a bill to amend title 18, United States Code, to provide penalties for the sale and use of unauthorized mobile infrared transmitters.

S. 1853

At the request of Mr. Kennedy, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. 1853, a bill to provide extended unemployment benefits to displaced workers.

S. 1858

At the request of Mr. Cochran, the names of the Senator from Kansas (Mr. Roberts), the Senator from Georgia (Mr. Miller) and the Senator from Michigan (Ms. Stabenow) were added as cosponsors of S. 1858, a bill to authorize the Secretary of Agriculture to conduct a loan repayment program to encourage the use of emergency services in shortage and emergency situations.

S. 1879

At the request of Mr. Coons, the name of the Senator from New Hampshire (Mr. Gregg) was added as a cosponsor of S. 1879, a bill to amend the Public Service Act to promote rural safety and improve rural law enforcement.

S. CON. RES. 77

At the request of Mr. Sessions, the names of the Senator from Utah (Mr. Hatch), the Senator from Iowa (Mr. Grassley), the Senator from Kentucky (Mr. Bunning), the Senator from Oklahoma (Mr. Inhofe) and the Senator from Georgia (Mr. Chambliss) were added as cosponsors of S. Con. Res. 77, a concurrent resolution expressing the sense of Congress supporting vigorous enforcement of the Federal obscenity laws.

S. CON. RES. 81

At the request of Mrs. Feinstein, the name of the Senator from Ohio (Mr. Voinovich) was added as a cosponsor 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. CON. RES. 83

At the request of Mr. Biden, the name of the Senator from Connecticut (Mr. Lieberman) was added as a cosponsor of S. Con. Res. 83, a concurrent resolution promoting the establishment of a democracy caucus within the United Nations.

S. RES. 120

At the request of Mr. Jeffords, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. Res. 120, a resolution commemorating the 25th anniversary of Vietnam Veterans of America.

S. RES. 233

At the request of Mr. Campbell, the name of the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. Res. 233, a resolution to recognize the evolution and importance of motorsports.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. Jeffords (for himself, Ms. Snowe, and Mr. Hatch):

S. 1912. A bill to amend the Internal Revenue Code of 1986 to expand pension coverage and savings opportunities and to provide other pension reforms; to the Committee on Finance.

Mr. Jeffords. Mr. President, today, together with Senators Hatch and Snowe, I am introducing, the Retirement Account Portability and Improvement Act of 2003. This legislation improves the portability of retirement savings by eliminating unnecessary complexities and barriers in the retirement savings system, and helps preserve retirement by giving American workers tools that will help them consolidate their retirement savings into one easily managed account.

In brief, this bill will make a number of improvements in the retirement system that preserves retirement assets. It will, for example, enhance the portability of retirement savings by expanding rollover options in traditional IRAs, Roth IRAs, and SIMPLE Plans. The bill also clarifies that when employees are permitted to make after-tax contributions to retirement plans, those after-tax amounts may be rolled over into other retirement plans eligible to receive such rollovers. This clarification will make it easier for workers to move all elements of their 401(k) or 403(b) savings when they change jobs and move between private sector and the tax-exempt sector.

In addition, the bill builds on defined contribution pension reforms enacted in 2001 by requiring a shortened vesting schedule for employer non-elective contributions, such as profit-sharing contributions, to defined contribution plans. As a result, employer contributions will become employee property more quickly, helping workers to build more meaningful retirement benefits. This new vesting schedule corresponds to rules for 401(k) matching contributions enacted in 2001.

Another provision in the bill would end an unfair tax penalty faced by non-spouse beneficiaries. Today, when an employee dies, the benefits in that employee’s retirement account are paid out to a non-spouse beneficiary in one payment. The beneficiary must pay tax on the amount and is often forced into a higher tax bracket as a result of the payment. A provision in this bill would allow non-spouse beneficiaries—siblings, children, domestic partners, parents—to roll over the money from the plan to an IRA. This will prevent an immediate tax bite to grieving beneficiaries and allow them to withdraw the money from their IRA over five years or over their own life expectancy.

The bill also helps preserve retirement savings by allowing plans to designate default IRAs or annuity contracts to which employee rollovers may be directed. Employers should be more willing to establish default IRA and annuity rollover options as a result, making it easier for employees to keep savings in the retirement system when they change jobs.

For workers who leave a job without claiming their retirement benefits, the bill improves on the automatic rollover provisions enacted in 2001, by allowing certain small distributions from retirement plans to be sent to the Pension Benefit Guaranty Corporation (PBGC), ensuring that participants are ultimately reunited with their earned benefits. The bill also expands the scope of the PBGC’s successful Missing Participants program that matches workers with lost pension plans.

Employees of state and local governments, including teachers, will benefit from a number of this bill’s technical corrections that will facilitate the purchase of service credits in public pension programs, allowing state and local employees to more easily attain a full pension in the jurisdiction where they conclude their career. The bill also contains provisions that would clarify eligibility rights of certain state and local employees who participate in a Section 457 deferred compensation plan.

Congress must take every opportunity to encourage American workers not only to save for retirement, but also to preserve their hard-earned retirement savings. These portability improvements offer one set of tools for making it easier to navigate the retirement savings system and reach retirement with an adequate nest egg. There are many pressing and complex retirement issues that demand attention, but I am hopeful that this legislation, narrowly focused on portability, can be considered quickly and on its own merits.

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

S. 1912

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; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Retirement Account Portability 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 continued to a section or other provision of the Internal Revenue Code of 1986.
FIDUCIARIES.—For purposes of this paragraph, paragraph (iv) thereof shall apply to such plan.

Section 707—EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2004.

SEC. 102. FACILITATION UNDER FIDUCIARY RULES OF CERTAIN ROLLOVERS AND TRANSFER TRACTORS.

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended by adding at the end thereof paragraph (4)(A): 

"(4)(A) In the case of a pension plan which makes a transfer under section 401(a)(31)(A) of the Internal Revenue Code of 1986 to an individual retirement plan (as defined in section 7701(a)(37) of such Code) in connection with a participant or beneficiary or makes a distribution to a participant or beneficiary of an annuity contract described in subparagraph (B), the participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the transfer or distribution if—

"(i) the participant or beneficiary elected such transfer or distribution, and

"(ii) in connection with such election, the participant or beneficiary was given an opportunity to elect any other individual retirement plan (as defined in section 4975(e)(7)) or any other annuity contract described in subparagraph (B) (in the case of a distribution).

(b) ANNUITY CONTRACTS.—An annuity contract is described in this subparagraph if it satisfies the requirements of clause (ii) or (iii).

(1) IN GENERAL.—In the case of a defined contribution plan, a plan satisfies the requirements of this clause if it satisfies the requirements of clause (ii) or (iii).

(2) EMPLOYER CONTRIBUTIONS.—With respect to employer contributions,

(i) IN GENERAL.—With respect to liability under a defined benefit plan, a plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

(ii) 3 TO 6 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee’s accrued benefit derived from employer contributions.

(iii) 7 OR MORE YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee’s accrued benefit derived from employer contributions.

(iv) DEFERRED CONTRIBUTIONS.—A plan satisfies the requirements of clause (ii) if the employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

(3) FORMS OF PAYMENT.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

(4) PROVIDING A DEFERRED BENEFIT.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

SEC. 103. FACILITATION OF NON-ELECTIVE CONTRIBUTIONS.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Paragraph (2) of section 411(a) (relating to employer contributions) is amended to read as follows:

"(2) EMPLOYER CONTRIBUTIONS.—

"(A) DEFINITIONS.—The term "employer contributions" means—

"(i) in the case of a deferred benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

(2) EMPLOYER CONTRIBUTIONS.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

(3) FORMS OF PAYMENT.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

(4) PROVIDING A DEFERRED BENEFIT.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

(5) DEFERRED CONTRIBUTIONS.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

(6) PROVIDING A DEFERRED BENEFIT.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

SEC. 104. ALLOW ROLLOVERS BY NONSPOUSE BENEFICIARIES OF CERTAIN RETIREMENT PLAN DISTRIBUTIONS.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) QUALIFIED PLANS.—Section 402(c) (relating to rollovers from exempt trusts) is amended by adding at the end thereof the following new paragraph:

"(9) In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

(2) EMPLOYER CONTRIBUTIONS.—With respect to employer contributions,

(i) IN GENERAL.—With respect to liability under a defined benefit plan, a plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

(ii) 3 TO 6 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee’s accrued benefit derived from employer contributions.

(iii) 7 OR MORE YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee’s accrued benefit derived from employer contributions.

(iv) DEFERRED CONTRIBUTIONS.—A plan satisfies the requirements of clause (ii) if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

(v) PROVIDING A DEFERRED BENEFIT.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

(3) FORMS OF PAYMENT.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

(4) PROVIDING A DEFERRED BENEFIT.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.
(ii) January 1, 2004; or (iii) January 1, 2006.

(2) SERVICE REQUIRED.—With respect to any plan, the amendments made by this section shall not apply to any employee before the date on which the employee has 1 hour of service under such plan in any plan year to which the amendments made by this section apply.

SEC. 104. ALLOW ROLLOVER OF AFTER-TAX AMOUNTS IN ANNUITY CONTRACTS.

(a) IN GENERAL.—Subparagraph (A) of section 402(c)(2) (maximum amount which may be rolled over) is amended by striking paragraph (6) and redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL. —Except as provided in paragraph (2), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2003.

(2) COLLECTIVE BARGAINING AGREEMENTS. —In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereafter on or after such date of the enactment); or

(ii) January 1, 2004; or

(B) January 1, 2006.

(3) SERVICE REQUIRED. —With respect to any plan, the amendments made by this section shall not apply to any employee before the date on which the employee has 1 hour of service under such plan in any plan year to which the amendments made by this section apply.

TITLE II—EXPANDING RETIREMENT PLAN COVERAGE TO EMPLOYEES OF SMALL BUSINESSES

SEC. 201. ELIMINATION OF HIGHER PENALTY ON CERTAIN SIMPLE DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (t) of section 402 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by striking paragraph (6) and redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 72(c)(2)(E) is amended by striking “paragraph (7)” and inserting “paragraph (6).”

(2) Section 72(c)(2)(F) is amended by striking “paragraph (8)” and inserting “paragraph (7).”

(3) Section 408(b)(3)(G) is amended by striking “applicable” and inserting “applied on the day before the date of the enactment of the Retirement Account Portability Act of 2003”.

(4) Section 457(a)(2) is amended by striking “section 72(t)(9)” and inserting “section 401(h)(6).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2003.

SEC. 202. SIMPLE RETIREMENT PLAN PORTABILITY.

(a) REPEAL OF LIMITATION. —Paragraph (3) of section 408(d) (relating to rollover contributions), as amended by this Act, is amended by striking subparagraph (G) and redesignating subparagraph (H) as subparagraph (G).

(b) Section 402(c)(8)(B) is amended by adding at the end the following new sentence: “Individual retirement accounts and individual retirement annuities described in clauses (i) and (ii) shall be treated as eligible retirement plans if—

(i) they are part of a simplified employee pension (within the meaning of section 408(k)(3)), or

(ii) they are part of a simplified retirement savings account (within the meaning of section 408(p))”.

(c) EFFECTIVE DATE. —The amendment made by this section shall apply to years beginning after December 31, 2003.

TITLE III—EXPANDING RETIREMENT SAVINGS FOR TAX-EXEMPT ORGANIZATION AND GOVERNMENT EMPLOYEES

SEC. 301. CLARIFICATIONS REGARDING PURCHASE OF PERMISSIVE SERVICE CREDIT.

(a) IN GENERAL.—Subparagraph (A) of section 457(e)(17) (relating to employee transfers to qualified retirement plans) and subparagraph (A) of section 403(b)(13) (relating to employer transfers to qualified retirement plans) are both amended by striking “section 415(n)(3)(A)” and inserting “section 415(n)(3)(B)” (without regard to subparagraphs (i) and (ii))

(b) DISTRIBUTION REQUIREMENTS. —Section 457(e)(17) and section 403(b)(13) are both amended by adding at the end the following requirement: “Amounts transferred under this paragraph shall be distributed solely in accordance with section 401(a) (as applicable to such defined benefit plan).”

(c) SPECIAL RULE. —(i) Paragraph (4) of section 415(n)(3)(A) is amended to read as follows: “(ii) which relates to benefits with respect to which such participant is not otherwise entitled, and”.

(d) EFFECTIVE DATE. —The amendments made by this section shall take effect as if made by section 401 of the American Job Creation Act of 2004.

SEC. 302. ELIGIBILITY FOR PARTICIPATION IN RETIREMENT PLANS.

An individual shall not be precluded from participating in an eligible employer retirement plan by reason of having received a distributive benefit, for purposes of determining the income tax treatment relating to transfers to the Pension Benefit Guaranty Corporation in accordance with section 4062(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by redesignating subparagraph (C) as subparagraph (B) and by inserting at the end the following new sentence:

“(ii) the distribution of such amounts from the Pension Benefit Guaranty Corporation shall be treated as a distribution from an individual retirement plan to employer fiduciaries.”

(c) MISSING PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 6047 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1367) is amended by redesignating subsection (c) as subsection (f) and by inserting after subsection (b) the following new subsections:

“(c) MULTIELDERY PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multielectoral plans covered by this title that terminate before section 4014A. PLANS NOT OTHERWISE SUBJECT TO TITLE.—

“(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer the benefits of a missing participant or beneficiary to the corporation upon termination of the plan.

“(2) INFORMATION TO THE CORPORATION.—To the extent provided in this title, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation with information relating to benefits of any participant or beneficiary if the plan transfers such benefits.

“(A) To the corporation.

“(B) To an entity other than the corporation or a plan described in paragraph (4) (B) (i)."

SEC. 303. YIELDING INTESTATE DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (e) of section 408A (defining qualified rollover contributions) is amended to read as follows:

“‘(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term ‘qualified rollover contribution’ means a rollover contribution—

“(1) to a Roth IRA from another such account,

“(2) from an eligible retirement plan, but only if—

(A) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

(B) in the case of a plan maintained pursuant to collective bargaining agreements, such rollover contribution meets the requirements of section 402(c)(8)(B) other than clauses (i) and (ii) thereof, such rollover contribution meets the requirements of section 402(c)(8)(B), or 457(e)(16), as applicable.

For purposes of section 408(d)(3)(B)(iii), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.

(b) CONFORMING AMENDMENTS.—

(1) Section 408A(c)(3)(B) is amended—

(A) in the text by striking “individual retirement plan” and inserting “eligible retirement plan” (as defined by section 402(c)(8)(B)), and

(B) in the heading by striking “IRA” and inserting “ELIGIBLE RETIREMENT PLAN”.

(2) Section 408A(d)(3) is amended—

(A) in subparagraph (A) by striking “section 408(d)(3)” inserting “sections 402(c), 403(b)(1), 408(d)(3), and 457(e)(16),”

(B) in subparagraph (B) by striking “individual retirement plan” and inserting “eligible retirement plan (as defined by section 402(c)(8)(B))”,

(C) in subparagraph (D) by striking “or 404A”.

(3) In subparagraph (D) by striking “or both” and inserting “persons subject to section 6011, or all of the foregoing persons,”

(C) in the heading by striking “IRA” and inserting “ELIGIBLE RETIREMENT PLAN”.

(4) EFFECTIVE DATE. —The amendments made by this section shall apply to distributions after December 31, 2003.

SEC. 402. TRANSFERS TO THE PBGC.

(a) MANDATORY DISTRIBUTIONS TO PBGC.—

Clause (i) of section 401(a)(31)(B) (relating to general rule for certain mandatory distributions) is amended by adding paragraph (5) after paragraph (4) of section 401(a)(31)(B) and redesignating paragraph (5) as paragraph (6) of such subsection.

(b) TAX TREATMENT OF DISTRIBUTIONS.—

(1) Section 401(a)(31)(A) is amended to read as follows:

“(A) to the corporation, or

(B) to an entity other than the corporation or a plan described in paragraph (4) (B) (i)."
"(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant or beneficiary were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—
  "(A) in a single sum (plus interest), or
  "(B) in such other form as is specified in regulations of the corporation.

(4) PLANS DESCRIBED.—A plan is described in this paragraph if—
  "(A) the plan is a pension plan (within the meaning of section 3(2))—
    "(i) which provisions of this section do not apply (without regard to this subsection), and
    "(ii) which is not a plan described in paragraph (2) of section 4021(b), and
  "(B) at the times the assets are to be distributed upon termination, the plan—
    "(i) has one or more missing participants or beneficiaries, and
    "(ii) has not provided for the transfer of assets to pay the benefits of all missing participants and beneficiaries to another pension plan (within the meaning of section 3(2)).

(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).

(e) IN VOLUNTARY CASHOUTS.—
  "(1) PAYMENT BY THE CORPORATION.—If benefits of the type described in paragraph (2) were transferred to the corporation under section 401(a)(31)(B) of the Internal Revenue Code of 1986, the corporation shall, upon application filed by the participant or beneficiary with the corporation in such form and manner as may be prescribed in regulations of the corporation, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—
    "(A) in a single sum (plus interest), or
    "(B) in such other form as is specified in regulations of the corporation.

(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (3) shall, upon transferred to the corporation under section 401(a)(31)(B) of such Code, provide the corporation with information with respect to benefits of the participant or beneficiary so transferred.

(3) PLANS DESCRIBED.—A plan is described in this paragraph if the plan is a pension plan (within the meaning of section 3(2)).

(A) For mandatory distributions under section 401(a)(31)(B) of the Internal Revenue Code of 1986, and
(B) which is not a plan described in paragraph (2) through (11) of section 4021(b).

(4) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).

(2) CONFORMING AMENDMENTS.—Section 206(f) of such Act (29 U.S.C. 106(f)) is amended—
  "(A) by striking "title IV" and inserting "section 4050"; and
  "(B) by striking "the plan shall provide that,".

(d) EFFECTIVE DATE.—
  "(1) INTERNAL REVENUE CODE OF 1986 PROVISIONS.—The amendments made by subsections (a) and (b) shall take effect as if included in the amendments made by section 657 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

(2) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 PROVISIONS.—The amendments made by subsection (c) shall apply to distributions made after final regulations implementing subsections (c), (d), and (e) of section 401(a)(31) of the Employee Retirement Income Security Act of 1974 (as added by subsection (c)), respectively, are prescribed.

(3) REGULATIONS.—The Pension Benefit Guaranty Corporation shall issue regulations necessary to carry out the amendments made by subsection (c) not later than December 31, 2004.

By Mr. McCAIN (for himself and Mr. FEINGOLD): S. 1316. To amend the Internal Revenue Code of 1986 to reform the system of public financing for Presidential elections, and for other purposes; to the Committee on Finance.

Mr. MCCAIN. Mr. President, along with Senator RUSS FEINGOLD, I am proud today to introduce the Presidential Funding Act of 2003. This legislation will improve and reform the presidential public financing system. With major presidential candidates opting out of public financing for their 2004 primary campaigns, reform of the system of financing presidential nominations is needed more than ever.

The presidential public financing system has been in place for decades and has achieved broad public acceptance. From 1976 to 2000, every major party presidential nominee has accepted public financing for the general election. Most nominees have also accepted it for their primary elections. A total of 46 Demo- crats and 29 Republicans have accepted public financing for the presidential primaries during this period.

Since its creation, the presidential fi- nancing system has worked non-ideologically, with victories for three Re- publicans and two Democrats. It has also provided for competitive elections. In the five races that have been run under the system, including the incumbent president, challengers have won in three of those elections. This system of voluntary spending limits in exchange for public funding has been a non- partisan success.

Last year’s enactment of a ban on soft money addressed what had become a basic problem for the effectiveness and credibility of the presidential system. For the system to continue serving the aims of remain- ding problems now must be solved. This legislation will repair and revitalize the presidential campaign finance system in the following ways.

First, our legislation increases the overall spending limit for the presi- dential primaries and provide more public matching funds for presidential primary candidates.

The overall spending limit in the primary has not changed since the current one-to-one match to a four-to-one match for up to $250 of each individual contribution. This would greatly in- crease the value of smaller contribu- tions in the presidential nominating process, as was intended in the presi- dential financing system. It would de- crease the reliance on larger contribu- tions, provide more public funds to meet the higher spending limit, and improve the ability of publicly fi- nanced candidates to run competitive elections.

When the $1000 individual contribu- tion limit was doubled last year, in- creasing the potential role of private contributions in the presidential fi- nancing system was created in 1974. As was intended when the system was made to increase the role of public matching funds. A new four-to-one multiple match for up to $250 of each individual contribution would accom- plish that goal.

In addition, the threshold for qualifi- cation for matching public funds in the primary has not changed since the system was established. Our legislation in- creases the qualifying threshold should be increased by more than the $250 to $500 threshold to require candidates to raise $15,000 in each of 20 states in amounts of no more than $250 per individual donor. Although the existing threshold has worked well during the history of the current system, a higher qualifying amount is appropriate for the future, especially since candidates would now be eligible to receive greater amounts of matching funds.

Second, our legislation requires a candidate to opt in or out of the public financing system for the entire presi- dential election, including both the primary and general election.
The purpose of the presidential public financing system is to allow candidates to run competitive races for the presidency without becoming dependent on or obligated to campaign donors. That purpose is undermined when a candidate who is out of the system raises large amounts of private money for a primary or general election race. Such candidates should not be able to reject public financing and then get the system’s benefits when it suits their tactical advantage, and should not be able to game the system or the system for the whole election.

Third, our legislation repeals the state-by-state primary spending limits and allows publicly financed primary candidates to receive their public matching funds before January 1st of the presidential election year. The State-by-State primary spending limits have not worked. The limits have proven to be ineffective and have served precisely to micromanage presidential campaigns.

Under current law, primary candidates can begin to raise private contributions eligible to be matched beginning on January 1 of the year before a presidential election year. They are not eligible, however, to receive any of the matching public funds until January 1 of the presidential election year. With the current “front-loaded” primary system, and with the nomination likely to be decided in the early months of a presidential election year, primary candidates need to be able to spend more funds at an earlier period than before. As a result, under our legislation, presidential primary candidates will be eligible to start receiving matching public funds on July 1 of the year before a presidential election year.

Fourth, our legislation provides additional public funds in the presidential general election for a publicly financed candidate facing a privately financed candidate who has substantially outspent the combined primary and general election spending limits.

As more wealthy individuals decide to spend their personal wealth to run for public office, the potential grows for an individual to spend an enormous amount of personal wealth to seek the presidency. There already have been candidates for the U.S. Senate and in mayoral races, for example, who have spent personal wealth on their races as each major party presidential nominee received in public funds in 2000 to run their general election campaign.

In addition, with the increased individual contribution limit, a presidential candidate could decide to forgo public funding and raise and spend private contributions far in excess of the spending limits for publicly financed candidates. To address this potential problem, our legislation makes a publicly financed major party nominee eligible to receive an additional $75 million for the general election race, when a privately financed general election candidate has spent more than 50 percent above the total primary and general election spending limit for the publicly financed candidate.

In other cases, once a presidential general election candidate has spent more than a total of $225 million to seek the presidency, a publicly financed major party nominee, subject to a spending limit of $75 million for the primaries and $75 million for the general election, would be eligible for an additional $75 million for the general election race.

Fifth, our legislation increases the funds available to finance the presidential public financing system. Currently, the public financing system is funded by a voluntary $3 check-off available to taxpayers on their tax forms on an annual basis. This mechanism will not raise sufficient resources in the long term to finance the costs of a revised presidential public funding system.

The $3 tax check-off is increased to $6 and indexed for inflation to help ensure there are sufficient funds available for future presidential elections. In addition, the Federal Election Commission is authorized to conduct a public education campaign to explain to citizens why the check-off exists and how it works, including the fact that it does not increase the tax liability of taxpayers.

The current presidential public financing law creates a priority system that allocates available public funds from the check-off to the nomination conventions, the presidential general election and the presidential primaries in that order. This order of priority does not make sense.

Our legislation revises the order of priority for use of public funds to make funding of the general election candidates the first priority, funding of the overall race the second priority, and funding of the nomination conventions the third priority.

Furthermore, a U.S. Department of the Treasury ruling prohibits taking into account the tax check-off revenues that will be received in April of the presidential election year in determining at the start of each presidential election year the total amount of funds available to be given to eligible candidates from the fund. This has had the effect of artificially lowering the amount of funds available and creating temporary shortfalls for primary candidates during the opening months of the presidential election year at the time when they need the funds the most.

Our legislation revises the law to require the U.S. Department of the Treasury (as it used to do) to estimate at the end of the year prior to a presidential election year the amount of check-off funds that will be received in the presidential election year and to take these funds into account in determining the total amount of funds available under the presidential system.

Finally, our legislation implements the soft money ban to ensure that the parties and federal officeholders and candidates do not raise or spend soft money to connect with the presidential nominating conventions.

Despite the passage of the new campaign finance law and its ban on soft money, federal officeholders and national party officials have continued to raise soft money to influence the national nomination conventions on the fictional premise that such funds are not in connection with a “federal election” but rather are for municipal or civic purposes.

The reality is that a presidential nominating convention is defined as a “federal election” under the campaign finance law. Furthermore, federal officeholders and candidates and national party officials who raise soft money for the conventions are subject to precisely the same problems of corruption and the appearance of corruption that the new law prevents by banning soft money.

To reaffirm that the soft money ban applies to the presidential nominating conventions, our legislation prohibits the national parties and federal officeholders and candidates from raising and spending soft money to pay for the presidential nominating conventions, including for a host committee, civic committee or municipality.

The highly expensive, front-loaded, nationalized, primary system requires that we more than ever fix the presidential public funding system. We must continue to promote competition in order to give voters choices. Our legislation not only saves the existing system but improves it as well. It not only shores up the financial foundations of the system but it would also bring more donors into the system, making financial participation more democratic. It would give our citizens a stake in their government. It is our hope that with the enactment of this legislation, candidates will no longer take small donors for granted and finally hear their voices. In return, all of our citizens will feel reconnected to the presidential financing process that at times, has left them behind.

Mr. FEINGOLD. Mr. President, it is possible to join my friend and colleague Senator McCain in introducing a bill to repair and strengthen the presidential public financing system. The Presidential Funding Act of 2003 will ensure that this system that has served our country so well for over a generation will continue to fulfill its promise in the 21st century.

The presidential public financing system was put into place in the wake of the Watergate scandals as part of the Federal Election Campaign Act of 1974. It was held to be constitutional by the Supreme Court in Buckley v. Valeo. Every major party nominee for President since 1976 has participated in the
system for the general election. The system, of course, is voluntary, as the Supreme Court required. In the last election, then-Governor George W. Bush opted out of the system for the presidential primaries, but elected to take the taxpayer funded grant in the general election. He appears ready to make the same choice in this election, and so far two of the Democratic presidential candidates have decided not to seek federal matching funds in the primaries. Before 2000, almost all serious candidates for President had participated in the system.

It is unfortunate that the matching funds system for the primaries is becoming less viable. The system reduces the fundraising pressures on candidates and levels the playing field between candidates. It allows candidates to run viable campaigns without becoming overly dependent on private donors. It makes candidates to run viable campaigns without becoming overly dependent on private donors. The system has worked well in the past, and its advantages for candidates and for the country make it worth repairing so that it can work in the future. If we don’t repair it, the pressures on candidates to opt out because their competitors are opting out will continue until the system collapse from disuse.

At the outset, I want to emphasize that this bill is not designed to have any impact on the ongoing presidential race. It will take effect only after the 2004 elections. Therefore, there is no partisan purpose here. Once again, Senator MCCAIN and I are working together to try to improve the campaign finance system, regardless of any partisan impact that these reforms might have. Second, we do not expect Congress to take action on this bill during an election year. Instead, our hope is that by introducing a bill now we can begin a conversation with our colleagues and with the public that will allow us to take quick action beginning in 2005 so that a new system can be in place for the 2008 election.

The changes to both the primary and general election system to address the weaknesses and problems that have been identified by both participants in the system and experts on the presidential election financing process. First and most important, it eliminates expensive by-state spending limits in the current law and substantially increases the overall spending limit from the current limit of approximately $45 million to $75 million. This should make the system more viable for serious candidates facing opponents who are capable of raising significant sums outside the system. The bill also makes available significantly more public money for participating candidates by increasing the match of small contributions from 1:1 to 4:1. Thus, significantly more public money will be available to those candidates who choose to participate in the system.

One very important provision of this bill ties the primary and general election systems together and requires candidates to make a single decision on whether to participate. Candidates who opt out of the primary system and decide to rely solely on private money cannot return to the system for the general election. And candidates must commit to the system in the general election if they want to receive federal matching funds in the primaries. The bill also increases the spending limits for participating candidates in the primaries who face a non-participating opponent if that opponent raises three times more than the spending limit. This provides some protection against being far outspent by a non-participating opponent.

The bill also sets the general election spending limit at $75 million, indexed for inflation, which is about what it is projected to be in 2006. And if a general election candidate does not participate in the system and spends more than 33 percent more than the combined primary and general election spending limits, a participating candidate will receive a grant equal to twice the general election spending limit. This bill also addresses what some have called the “gap” between the primary and general election seasons. Presumptive presidential nominees have emerged earlier in the election year because of the life of the public financing system. The political contributions some nominees being essentially out of money between the time that they nail down the nomination and the convention where they are formally nominated and become eligible for the general election grant. For a few cycles, soft money raised by the parties filled in that gap, but the Bipartisan Campaign Reform Act of 2002 thankfully has now closed that loophole. This bill doubles the amount of hard money that parties can spend in coordination with their candidates, allowing them to fill the gap once the party has a presumptive nominee.

Fixing the presidential public financing system will obviously cost money, but our best calculations at the present time indicate that the changes to the system in this bill can be paid for by doubling the income tax check-off on an individual return from $3 to just $6. The total cost of the changes to the system is projected to be around $175 million over the four-year election cycle. Of course, these projections may change as we get more data from the 2004 elections. But even a somewhat larger cost would be a very small investment to make to protect the health of our democracy and integrity of our presidential elections. The American people do want to see a return to the pre-Watergate days of unburdened and honest presidential elections and candidates entirely beholden to private donors. We must act now to preserve the crown jewel of the Watergate reforms and assure the fairness of our elections and the confidence of our citizens in the process.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 1914. A bill to prohibit the closure or realignment of inpatient services at the Aleda E. Lutz Department of Veterans Affairs Medical Center in Saginaw, Michigan, as proposed under the Capital Asset Realignment for Enhanced Services initiatives; to the Committee on Veterans’ Affairs.

Ms. STABENOW said. President, I rise today to introduce legislation that would prevent the closure of the Saginaw Veterans Administration Medical Center in Saginaw, MI.

As of August 2003, there were almost one million veterans in lower Michigan and Northwestern Ohio. These one million veterans are served by four V.A. Medical Centers—Saginaw, Detroit, Ann Arbor and Battle Creek—and 12 Community Based Outpatient Clinics (CBOCs), all located in lower Michigan or Toledo, OH.

Regrettably, the Department of Veterans Affairs’ Capital Asset Realignment for Enhanced Services (CARES) Commission is recommending closing all acute care beds at the Aleda E. Lutz Department of Veterans Affairs Medical Center in Saginaw, MI. The geographic range for the acute services in Saginaw is vast. The facility essentially covers half of Michigan’s Lower Peninsula. Therefore, closing these inpatient beds in Saginaw would have a devastating impact on veterans who live in Central and Northern Michigan.

If the Saginaw facility were to close, a veteran who lived in Mackinaw City would have to drive 281 miles to the Detroit facility or 272 miles to the Ann Arbor facility for medical care. Under ideal conditions these trips would take six hours instead of the current two hour trip that it would take to reach the existing Saginaw facility. Asking a veteran to go from Mackinaw City to Detroit is like asking a veteran to go from southeast Michigan to Buffalo, New York to get acute care.

How can we ask veterans, many of whom are sick and frail, to travel six hours to get necessary inpatient services? Going through a major illness is tough enough for our veterans. The closing of this hospital would add insult to injury.

This bill seeks to stop this closure and ensure that the thousands of veterans who live in central and northern Michigan have access to the medical services they deserve. I urge my colleagues to support this bill.

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. 1914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
sets the total amount of tax-exempt bonds. Even if they could, the cost of water treatment, and other infrastructure improvements are extremely expensive. According to the Texas Water Development Board estimates this could save 30 percent in financing costs for water projects.

For example, this bill would allow tax-exempt debt to be used to finance private systems along the Gulf Coast that desalinate seawater and brackish groundwater, and to install air pollution facilities on electric utility plants. States and communities would have an important new tool for addressing air and water pollution control needs.

Pollution control is a problem for all of us. It is to everyone’s benefit to develop ways to promote public and private partnerships which can finance projects to improve air and water quality. I hope my colleagues will support this effort.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

SEC. 1. SHORT TITLE.
This Act may be cited as the “Clean Air and Water Investment and Infrastructure Act.”

SEC. 2. TAX-EXEMPT BONDS FOR AIR AND WATER POLLUTION CONTROL FACILITIES.

(a) In General.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (dealing with the term “qualified facility bond”) is amended by striking “or” at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting “; or”, and by adding at the end the following new paragraph:

“(14) air or water pollution control facilities.”

(b) AIR OR WATER POLLUTION CONTROL FACILITIES.—Section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by adding by striking “or” at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting “; or”, and by adding at the end the following new paragraph:

“(14) air or water pollution control facilities.”

(c) EFFECTIVE DATE.—Section 142 of the Internal Revenue Code of 1986 (dealing with the term “qualified facility bond”) is amended by striking “or” at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting “; or”, and by adding at the end the following new paragraph:

“(14) air or water pollution control facilities.”

SEC. 3. EXEMPTION FROM VOLUME CAP FOR FACILITIES FURNISHING WATER, SEWER, SEWER FACILITIES, AND AIR OR WATER POLLUTION CONTROL FACILITIES.

(a) In General.—Paragraph (3) of section 146(c) of the Internal Revenue Code of 1986 (relating to exemption for certain bonds) is amended by striking “(4), (5),” after “(2),”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

By Mr. SANTORUM (for himself and Mrs. FEINSTEIN):

S. 1918. A bill to amend the Internal Revenue Code of 1986 to provide that qualified homeowner downpayment assistance is a charitable purpose; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I am pleased to introduce this bill along with my colleague from California, Senator FEINSTEIN, legislation that will further one of the most important public policy goals we have as a Nation—the goal of homeownership. Homeownership is a significant part of the American dream. It has been called the backbone of our economy. It is widely considered the primary means by which American families create middle-class wealth and build financial security.

Homeownership is all those things and more. It is the cornerstone of healthy communities across our Nation. It is good for families, good for our schools, good for our neighborhoods. Equity in homes is the leading source for collateral for small business start-up borrowing, and home equity loans are the leading provider of funds for a college education. Some experts estimate that home owners are more likely to vote.

Despite the many benefits, there are still too many Americans for whom the
American dream of homeownership is unreachable. There are too many American families who pay rent month after month, never accumulating equity, never experiencing the joy of raising their children in a home they own, and look forward to passing along to future generations. That is especially true among Americans from minority populations. Though nationwide nearly 70 percent of Americans own their own home, homeownership rates among African-Americans and Hispanics is less than half that number.

There are any number of obstacles to homeownership, but there is one problem that is widely considered the single biggest obstacle: the lack of funds for a down payment. Again, this is disproportionately true among minority families, which frequently have less accumulated wealth that can be used for a down payment.

President Bush has proposed creating the American Dream Down Payment Fund that would provide down payment assistance to 40,000 families every year. I support that effort, and I applaud President Bush for proposing this bold new initiative. The President has set a goal of increasing the number of minority homeowners by at least 5 million by the end of this decade, which the Department of Housing and Urban Development estimates would create $256 billion in economic activity. I believe that is an important goal for us as a Nation. I also believe that as we work to find ways for the Federal Government to increase homeownership, we need to encourage the private sector to do the same. There are a number of non-profit organizations in our country doing just that by providing a gift of down payment assistance to potential homeowners. These gifts of down payment assistance go to families and individuals who have the income to afford a mortgage, but who would otherwise be prevented from buying a home because they lack funds for a down payment. Last year non-profit organizations provided gifts of down payment assistance to over 85,000 home buyers—and the number will likely be much higher this year. One organization alone has helped over 160,000 individuals and families become homeowners, by providing a gift of funds for a down payment. And all without collecting a single dime of government funding.

That is why I am so pleased to be introducing this legislation today. I want to be sure the private sector can continue playing such a vital role in increasing homeownership by providing down payment assistance. Although many charities holding tax exemptions under section 501(c)(3) of the Internal Revenue Code provide down payment assistance, IRS regulations do not clearly address down payment assistance programs.

Our legislation will clarify that, under certain circumstances, the provision of down payment assistance to American families for use in purchasing low or moderate price homes constitutes charitable activity. Rather than developing our own standard for eligible home purchases, we have relied on the National Housing Act rule for FHA-insured loans. Our provision applies to purchases of a principal residence where the mortgage amount eligible for FHA insurance in the geographic area in which the home is located. That will ensure that a charitable down payment assistance program helps to purchase the purchase of rental properties or expensive homes.

Our legislation also includes one other provision designed to protect the Treasury. Home sellers often contribute to charitable down payment assistance programs, in connection with the sale of a home. Those contributions are used to replenish the pool to make available gift assistance for other home buyers. Although the contributions are charitable in nature, they are expenses of selling a home. The legislation clarifies that a party to a home sale transaction may not claim a charitable contribution deduction for a contribution to a down payment assistance provider made in connection with the sale.

Although IRS regulations do not clearly address down payment assistance programs, our legislation merely codifies current practice. As a result, I do not anticipate that the legislation will result in a significant change in tax revenues.

Non-profit providers of down payment assistance help tens of thousands of Americans every year become homeowners. These organizations are changing lives, changing families, changing our communities—and they are doing it all without a single dime of taxpayer funds. I am pleased my colleague from California, Senator FEINSTEIN, and I, together with the distinguished Senator from Pennsylvania, Senator SANTORIUM, to introduce legislation that will promote the American dream of homeownership.

Our legislation will specify that providing homeownership down payment assistance to American families constitutes a charitable activity under the regulations of the Internal Revenue Service. As the cornerstone of middle-class wealth in our nation, we should be doing everything possible to promote broad investment in owner-occupied housing. Today, we have that chance. It should not be a surprise that homeownership among low to moderate income families is lower than for those with higher incomes. The single biggest obstacle to achieving this dream is the lack of a downpayment.

Across America there are organizations that assist low to moderate income families with that first important step toward homeownership. In California, one of these groups, the Ne-hemiah Corporation, helps literally thousands of families each year by providing down payments.

While the Federal Government provides tax incentives for increased homeownership, we should make it easier for the private sector to provide their own brand of incentives. Importantly, this legislation will do several things to ensure that the private sector continues to have the tools it needs to provide this important assistance.

Our legislation will clarify that homeownership down payment assistance to American families constitutes a charitable activity. Currently, Internal Revenue Service regulations do not clearly address the special circumstances of those organizations that provide downpayment assistance to families.

Two, our bill is structured to ensure that the down payment assistance program is not used to support the purchase of rental properties or expensive homes.

Three, our legislation is designed so that the taxpayers do not pick-up the tab for homes that are not used for the purpose of encouraging homeownership. Home sellers often contribute to charitable down payment assistance providers in connection with the sale of a home, those contributions are not charitable in nature; they are an expense related to selling a home.

This legislation clarifies that a party to a home sale transaction may not claim a charitable contribution deduction for a contribution to a down payment assistance organization made in connection with the sale.

And, although Internal Revenue Service regulations do not specifically address down payment assistance programs, our legislation merely codifies current practice.

This legislation will ensure the continued growth of this essential segment of the financial services market at no cost to the taxpayers.

And, as my friend from Pennsylvania has said, equity in homes is the leading source for collateral for small business start-up borrowing. At a time when the economy still fails to produce jobs, the expansion of small business and the employment they provide is essential to the health of our economy.

It is a win-win situation in the truest sense of the term and I urge my colleagues to support it.

By Mr. SMITH (for himself and Mr. BREAUX):
S. 1922. A bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves manufacturing jobs and production activities in the United States, and for other purposes; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce The American Manufacturing Jobs Bill of 2003—which will
provide a tax rate cut for all manufacturers who employ American workers. I am pleased to be joined in this effort by Senator JOHN BREAUX. On October 1, 2003, the Senate Finance Committee approved on a bipartisan basis S. 1673, the centerpiece of which resolves the FSC/ETI issue by replacing the export tax benefit with a reduction in the tax burden on domestic manufacturing companies.

I applaud S. 1673, a balanced piece of legislation by Chairman CHARLES GRASSLEY, R–IA, and ranking member Senator MAX BAUCUS, D–MT. I am, however, concerned that the domestic manufacturing benefit in S. 1673 is not applied equally to all U.S. manufacturers. This bill includes a provision—a “haircut”—that provides less of a benefit to companies that also manufacture abroad.

For example, a company that has 55 percent of its manufacturing in the United States and 45 percent abroad will receive a benefit under S. 1673 and then reduce that benefit by a fraction—the numerator of which is the gross receipts from domestic manufacturing over the same derived from worldwide manufacturing. The company thus suffers twice.

First, the domestic manufacturing benefit in S. 1673 is less valuable than the benefit currently provided under FSC/ETI. Second, this company’s manufacturing benefit is further reduced by the “haircut” because it also has overseas manufacturing operations in order to be closer to their markets. The “haircut” is a discriminatory measure that hurts both foreign-owned and U.S.-owned companies alike. It is structured so that the more a company manufactures abroad, the less a benefit it can receive. The “haircut” makes the United States a less competitive location for current and future investment because multinational companies will believe they are being “cheated” and discriminated against.

At a time when American manufacturing jobs are leaving our country in record numbers, Congress should support all companies that employ Americans. U.S. companies with global operations employ more than 23 million Americans—9 million of which are in manufacturing jobs—this is tantamount to three out of every five manufactured jobs in the country. Also, U.S.-owned companies with U.S. operations employ more than 2 million manufacturing workers in the United States. It is these many millions of manufacturing workers who will suffer if the “haircut” remains and companies are therefore discouraged to invest in the United States.

Moreover, the “haircut” is inconsistent with historic tax and trade policies to encourage U.S. companies to open up facilities outside the United States. In fact, there is an entire domestic department—the Department of Commerce—set up to assist U.S. companies going global and then to promote and facilitate those same companies’ efforts once they have established themselves in-country. I am also concerned that the “haircut” invites mirror legislation in other countries and may invite another WTO challenge to this legislation.

I believe we have a duty to encourage the retention and creation of manufacturing jobs in the United States. We must not treat U.S. jobs created by multinational companies as “less worthy” than U.S. jobs created by strictly domestic manufacturers. Congress should be in the business of rewarding all well-paid, manufacturing jobs that are created in the United States, not just those created by domestic manufacturers. I believe that by eliminating the “haircut” and providing a tax rate cut for all manufacturers who employ American workers, we can help to revitalize the U.S. manufacturing sector. I ask unanimous consent that the full text of this important legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

SEC. 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the “American Manufacturing Jobs Act of 2003”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(2) The table of subparts for such part III is amended by striking the item relating to subpart E.

(3) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract.

(A) which is between the taxpayer and a person who is not a related person (as defined in section 267(b) of such Code, as in effect on the date before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the date before the date of the enactment of this Act),

(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment,

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(i) of paragraph (1) shall not apply to any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of a person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term “current FSC/ETI beneficiary” means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 and against which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) PHASEOUT PERCENTAGE.—

(1) IN GENERAL.—The phaseout percentage, for the taxable year using the calendar year as its taxable year, is 80 percent.

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The phaseout percentage shall be determined under the following table:

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(ii) SPECIAL RULE FOR 2003.—The phasetout percentage for 2003 shall be the amount that bears the same ratio to 100 percent as the number of days after the date of the enactment of this Act or 366 days, whichever is less.

(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phasetout percentage for 2003 shall be the weighted average of the phasetout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

"(C) SHORT TAXABLE YEAR.—The Secretary shall prescribe guidance for the computation of the transition amount in the case of a short taxable year.

(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the FSC/ETI benefit for the taxpayer's taxable year.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term "FSC/ETI benefit" means—

(a) amounts excludable from gross income under section 114 of such Code, and

(b) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of enactment of the FSC and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be added any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) SPECIAL RULE FOR AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes for this subsection shall be carried out in a manner similar to section 116(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements, procedures as the Secretary may prescribe.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(c) of such Code shall apply for purposes of this paragraph.

(8) COORDINATION WITH RENTING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phasetout percentage of any FSC/ETI benefit realized for the taxable year by reason of section 43(b)(2) or section 5(c)(1)(B) of the FSC and Extraterritorial Income Exclusion Act of 2000, except that for purposes of this paragraph the phasetout percentage for 2003 shall be treated as being equal to 100 percent.

(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under section 43(a)(2) to any current FSC/ETI beneficiary shall be no event—

(A) 100 percent of such beneficiary's base period amount for calendar year 2003, reduced

(B) the FSC/ETI benefit of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

SEC. 3. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

(a) In General.—Part VI of chapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

"SEC. 199. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to 9 percent of the qualified domestic production income of the taxpayer for the taxable year.

"(2) PHASEIN.—In the case of taxable years beginning in 2003, 2004, 2005, 2006, 2007, or 2008, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>The transition percentage is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003 or 2004</td>
<td>1</td>
</tr>
<tr>
<td>2005</td>
<td>2</td>
</tr>
<tr>
<td>2006</td>
<td>4</td>
</tr>
<tr>
<td>2007 or 2008</td>
<td>6</td>
</tr>
</tbody>
</table>

"(b) DEDUCTION LIMITED TO WAGES PAID.—

"(1) IN GENERAL.—For purposes of subparagraph (a)(1), the amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W-2 wages of the employer for the taxable year.

"(2) W-2 WAGES.—For purposes of paragraph (1), the term 'W-2 wages' means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer's taxable year.

"(C) SPECIAL RULES.—

"(A) PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the limitation under this subsection shall apply at the entity level.

"(B) ACQUISITIONS AND DISPOSITIONS.—The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

"(D) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

\(\text{"(1) IN GENERAL.—}\) Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

\(\text{"(A) any tangible personal property,}\)

\(\text{"(B) any computer software, and}\)

\(\text{"(C) any property described in section } 168(b) \text{ (3) or } (4), \text{ including any underlying copyright or trademark.}\)

"(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

\(\text{"(A) consumable property that is sold, }\)

\(\text{"leased, or licensed by the taxpayer as an integral part of the provision of services,}\)

\(\text{"(B) oil or gas,}\)

\(\text{"(C) electricity,}\)

\(\text{"(D) water supplied by pipeline to the consumer,}\)

\(\text{"(E) utility services, or}\)

\(\text{"(F) any film, tape, recording, book, magazine, newspaper, or similar property the margin of which is primarily topical or otherwise essentially transitory in nature.}\)

"(3) SPECIAL RULES FOR DETERMINING COSTS.—

\(\text{"(A) IN GENERAL.—For purposes of determining}\)

\(\text{"costs under clause } (i) \text{ of paragraph } (4), \text{ any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately before it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.}\)

\(\text{"(B) EXPORTS FOR FURTHER MANUFACTURE.—}\)

\(\text{"In the case of any property described in clause } (i) \text{ of paragraph } (4), \text{ any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately before it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.}\)

\(\text{"(C) DOMESTIC PRODUCTION GROSS RECEIPTS.—}\)

\(\text{"For purposes of this section—}\)

\(\text{"(1) IN GENERAL.—}\) The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

\(\text{"(A) any sale, exchange, or other disposition of,}\)

\(\text{"(B) any lease, rental, or license of,}\)

\(\text{"(C) any property described in subsection } (f)(1)(C).}\)

\(\text{"(D) any property described in subsection } (f)(1).}\)

\(\text{"A property shall be treated for purposes of }\)

\(\text{"(A) a film, tape, recording, book, magazine, newspaper, or similar property the margin of which is primarily topical or otherwise essentially transitory in nature.}\)

\(\text{"(B) any property described in section } 168(b) \text{ (3) or } (4), \text{ including any underlying copyright or trademark.}\)

\(\text{"(C) any property described in section } 168(b) \text{ (3) or } (4), \text{ including any underlying copyright or trademark.}\)

\(\text{"(D) any film, tape, recording, book, magazine, newspaper, or similar property the margin of which is primarily topical or otherwise essentially transitory in nature.}\)
“(a) subject to the provisions of paragraph (2) and subsection (b)(3)(A), this section shall be applied at the shareholder, partner, or similar level, and

“(b) The Secretary shall prescribe rules for the application of this section, including rules relating to—

“(i) restrictions on the allocation of the deduction to taxpayers at the partner or similar level, and

“(ii) additional reporting requirements.

“(2) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

“(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385(a)—

“(i) is received by a person from an organization which its patrons have so

“manufactured, produced, grown, or extracted in the course of their trade or business, and

“(ii) is allocable to the portion of the qualified production activities income of the organization which is deductible under subsection (a) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

then such person shall be allowed an exclusion from gross income with respect to such amount.

“The taxable income of the organization and the patrons shall be determined—

“(1) as if the organization were not an affiliated group as defined in section 1504(a), and

“(2) under a separate determination of minimum taxable income for the taxable year, and without regard to any exclusion under section 340(a)(8) for re-

“muneration paid for services performed in a jurisdiction described in subparagraph (A), and

“(D) in determining the amount of any credit allowable under section 340(a)(8) for re-

“muneration paid for services performed in a jurisdiction described in subparagraph (A), and

“(iii) the limitation under subsection (b) for any tax-

“able year—

“(1) as if they were changes in a rate of tax.

“(2) and subsection (b)(3)(A), this section shall apply to the amendments made by this section, and

“(3) Special Rule for Affiliated Groups.—

“(A) IN GENERAL.—All members of an ex-

“panded affiliated group shall be treated as a single corporation for purposes of this section.

“(B) Expanded Affiliated Group.—The term ‘expanded affiliated group’ means an affiliated group as defined in section 1504(a), determined

“(i) by substituting ‘50 percent’ for ‘80 percent’

“each place it appears, and

“(ii) without regard to paragraphs (2) and

“(4) of section 1594(b).

“(C) Coordination with Minimum Tax.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alter-

“native minimum taxable income shall be taken into account in determining the de-

“duction under this section.

“(6) Ordering Rule.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

“(6) Trade or Business Requirement.—

“This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

“(7) Final Rule.—

“(A) IN GENERAL.—For purposes of sub-

“sections (d) and (e), the term ‘United States’ includes the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

“(B) Special Rules for Applying Wage Limitation.—For purposes of applying the limitation under subsection (b) for any tax-

“able year—

“(i) the determination of W-2 wages of a taxpayer shall be made without regard to any exclusion under section 340(a)(8) for re-

“muneration paid for services performed in a jurisdiction described in subparagraph (A), and

“(ii) in determining the amount of any credit allowable under section 340(a)(8) for re-

“muneration paid for services performed in a jurisdiction described in subparagraph (A), and

“(iii) the limitation under subsection (b) for any tax-

“able year—

“(1) as if they were changes in a rate of tax.

“(2) by adding at the end the following:

“(c) Coordination of Program with Other Collection, Preservation, and Accessiblility Activities.—In carrying out the comprehensive national film preservation program for motion pictures established under the National Film Preservation Act of 1992, the Librarian, in consultation with the Board established pursuant to section 194, shall—

“(1) carry out activities to make films included in the National Film registry more broadly accessible for research and educational purposes, and to generate public awareness and support of the Registry and the comprehensive national film preservation program.

“(2) review the comprehensive national film preservation plan, and amend the title of the National Film Preservation Act of 2003 so that America’s past can survive in our dreams, and our aspirations. The extraordinary record of our history, our cultures are an important part of our ways more illuminating on the ques-

“tion of who we are as a society than the Hollywood sound features kept and preserved by major studios. What is more, in many cases only one copy of these “orphaned” works exists. As the Librarian of Congress, Dr. James H. Billington, has noted, “Our film herit-

“age is America’s living past.” I encour-

“age my colleagues to support the

“Film Preservation Act of 2003” so that America’s past can survive in order to enlighten and entertain future generations.

“I ask unanimous consent that the text of this bill be printed in the

“Congressional Record hereafter.
extensive necessary to ensure that it addresses technological advances in the preservation and storage of, and access to film collections in multiple formats; and

"(3) the Board shall have the authority to undertake expanded initiatives to ensure the preservation of the moving image heritage of the United States, including film, videotape, television, and born digital moving image formats, by supporting the work of the National Audio-Visual Conservation Center of the Library of Congress, and other appropriate nonprofit archival and preservation organizations.

(b) National Film Preservation Board.—Section 104 of the National Film Preservation Act of 1996 (2 U.S.C. 179n) is amended—

(1) in subsection (a)(1) by striking "20" and inserting "22";

(2) in subsection (a)(2) by striking "three," and inserting "five";

(3) in subsection (d) by striking "11" and inserting "12"; and

(4) by striking subsection (e) and inserting the following:

"(e) Reimbursement of Expenses.—Members of the Board shall serve without pay, but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) Responsibilities and Powers of Board.—Section 151703 of the National Film Preservation Act of 1996 (2 U.S.C. 179o) is amended by adding at the end the following:

"(3) Review and Approval of Special Projects.—The Board shall review special projects submitted for its approval by the National Film Preservation Foundation under section 151711 of title 36, United States Code.

(d) National Film Registry.—Section 106 of the National Film Preservation Act of 1996 (2 U.S.C. 179q) is amended by adding at the end the following:

"(e) National Audio-Visual Conservation Center.—The Librarian shall utilize the National Audio-Visual Conservation Center of the Library of Congress at Culpeper, Virginia, to ensure that preserved films included in the National Film Registry are stored in a proper manner, and disseminated to researchers, scholars, and the public as may be appropriate in accordance with—

"(1) title 17 of the United States Code; and

"(2) the terms of any agreements between the Librarian and those who hold copyrights to such audiovisual works.

"(e) Use of Seal.—Section 107 of the National Film Preservation Act of 1996 (2 U.S.C. 179r) is amended by adding at the end the following:

"(f) Effective Date.—Section 113 of the National Film Preservation Act of 1996 (2 U.S.C. 179s) is amended by striking "7" and inserting "11".

title II—Reauthorization of the National Film Preservation Foundation

sec. 201. Short Title.

This title may be cited as the "National Film Preservation Foundation Reauthorization Act of 2003."


(a) Moving Images.—Section 151703 of title 36, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking "nine" and inserting "12"; and

(2) by striking the second sentence and inserting "There shall be no limit to the number of terms to which any individual may be appointed.''

(b) Title 36, United States Code, is amended in subsection (b) by striking "District of Columbia" and inserting "the jurisdiction in which the principal office of the corporation is located".

(c) Principal Office.—Section 151706 of title 36, United States Code, is amended by inserting in the place reserved for "the corporation" by the board of directors" after "District of Columbia".

(d) Authorization of Appropriations.—Section 151711 of title 36, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

"(a) Authorization of Appropriations.—There are authorized to be appropriated to the Library of Congress amounts necessary to carry out, to exceed $500,000 for each of the fiscal years 2004 and 2005, and not to exceed $1,000,000 for each of the fiscal years 2006 through 2013. These amounts are to be available to the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

"(b) Limitation Related to Administrative Expenses.—Amounts authorized under this section may not be used by the corporation for management and general or fundraising expenses as reported to the Internal Revenue Service as part of an annual information return under the Internal Revenue Code of 1986.

(e) Cooperative Film Preservation.—

"(1) In General.—Chapter 151 of title 36, United States Code, is amended by adding at the end the following:

"(2) Matching.—The amounts made available under this section may not be used by the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

"(g) Authorization of Appropriations.—

"(1) In General.—There are authorized to be appropriated to the Library of Congress amounts to not exceed $1,000,000 for each of the fiscal years 2006 through 2013, to carry out the purposes of this section.

"(2) Matching.—The amounts made available under this section may not be used by the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

"(h) Limitation Related to Administrative Expenses.—Amounts authorized under this section may not be used by the corporation for management and general or fundraising expenses as reported to the Internal Revenue Service as part of an annual information return under the Internal Revenue Code of 1986."

Title II—Reauthorization of the National Film Preservation Foundation

By Mr. JEFFORDS:

S. 2194. A bill to provide for the coverage of milk production under the H-2A nonimmigrant worker program; to amend title 26, United States Code, to authorize appropriations; and to provide for the use of the proceeds of taxes and duties levied thereon to promote the welfare of the rural poor, to aid small farms, and to the rural way of life in many parts of the country. The funds support the rural economy by supporting the local tax base and many local businesses. The working landscape created by our farms, especially a patchwork of small farms, is also the best antidote for the urban sprawl that is overtaking so much of the country. And, of course, the availability of fresh, locally produced milk is an amenity that we have come to take for granted. To support our rural economies, the working landscape and our local food supply systems, we need to help small family dairy farms survive and thrive.

The most difficult challenge to the family dairy farm, after the volatility in milk price, is finding and hiring workers. In my home State of Vermont, dairy farms are not only an important part of our economy; they are an institution that has come to define the rural landscape. Vermont’s beauty lies in the green fields, the red barns and the cows grazing on the hillside. When a farm family sells their land, which in many cases may have been worked by them and their ancestors for one or more generations, the decision is often driven by the non-stop, 7 day a week, 365 days a year work schedule. As fewer rural residents choose to work in agriculture, these farmers have been forced to take on more themselves. The whole family can end up working without end, with no days off, and no harvesting weekends off. Although dairy farming might not seem seasonal, the burden becomes particularly heavy during the growing season when planting, haying, harvesting and storage of feed must all occur.

Dairy farmers are being forced to explore other options to find a predictable source of qualified labor. While other agricultural businesses in the country benefit from the temporary workers to take on for the H-2A Work Visa Program, dairy farms do not. The job of milking cows on dairy farms has been judged under the current H-2A program to not meet the definition of temporary or seasonal and is thus excluded. The largest labor need on dairy farms during the growing season, remains the need for assistance with milking. The cows must be milked two or three times a day by hired help so the farmer is able to take on the more complex and specialized work of operating the milking machine and harvest. While the work of milking is not seasonal or temporary, the need for additional labor to accomplish the
work is seasonal and temporary. I believe the exclusion of dairy farming under the H2A program is an unintended problem in definitions, and our legislation is designed to fix that glitch. We must do this out of fairness, so that dairy farms can benefit from the same labor that other farms have, and more importantly to help our farms survive.

Recently, I heard from a farmer who owns and operates, along with his wife, a small dairy farm in central Vermont. The couple is nearing retirement age and have no children of their own. They had attempted to find a farm hand that could live on the farm and help with milking and some of the heavier chores. After placing ads in the paper and working with the state of Vermont’s Department of Employment and Training, it became clear that their best option was to hire a family friend who had a strong desire to learn farming. Since the young man was from a farming family, they began the visa process only to have their request for certification by the U.S. Department of Labor denied because their need was considered neither temporary nor seasonal. This farm plays such an important role in their rural Vermont community that I heard from several constituents who asked for my assistance on this family’s behalf. The couple continues to work their land but in doing so they are straining their health and pushing themselves harder than they should. They continue to operate their farm because they do not want to sell it since it is land that has been farmed for generations.

The legislation I am introducing today would allow this family farm, and so many others like it, to avail themselves of a labor source that exists for virtually every other farm in this country. By creating a period based on the summer growing season, dairy farms will be able to bring on extra help during the busiest part of the year, providing much-needed relief for our farm families. I urge my colleagues to join me in supporting dairy farms across the United States by cosponsoring this important legislation. 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. 1926

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 “Dairy Farm Workers Fairness Act”.

SEC. 2. COVERAGE OF MILK PRODUCTION UNDER H2A NONIMMIGRANT WORKER PROGRAM.

(a) IN GENERAL.—For purposes of the administration of the H2A nonimmigrant worker program under this Act, the term “H2A nonimmigrant worker program” means the program for the admission to the United States of H2A nonimmigrant workers.

(b) DEFINITIONS.—In this section:

(1) H2A NONIMMIGRANT WORKER PROGRAM.—The term “H2A nonimmigrant worker program” means the program for the admission to the United States of H2A nonimmigrant workers.


By Ms. STABENOW (for herself, Mr. GRAHAM of Florida, Mrs. CLINTON, Mrs. MURRAY, Mr. LEAHY, Mr. DASCHLE, Mr. PRYOR, Mr. LEVIN, Mr. SCHUMER, and Ms. CANTWELL):

S. 1926. A bill to amend title XVIII of the Social Security Act to restore the Medicare program and for other purposes; to the Committee on Finance.

Ms. STABENOW. Mr. President, I rise today to introduce legislation that would allow us to help our providers and patients now.

If we immediately pass this bill, we can make our providers whole and then go back to the drawing board to get a better Medicare prescription drug benefit bill.

The bill includes all of the provider givebacks in the Conference Report accompanying H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003.

It includes all adjustments, word for word, for the rural provisions, physicians updates, graduate medical education, GME, and home health services. It does not add new language.

It does not include any provider cuts or premium increases in H.R.1.

Congress should pass these provisions on their own to help hospitals, physicians, and patients and not hold them hostage to a prescription drug bill that privatizes Medicare and provides a mediocre benefit to most seniors.

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. 1926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE, AMENDMENTS TO SOCIAL SECURITY ACT, REFERENCES TO BIPA AND SECRETARY, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Support Our Health Care Providers Act of 2003”.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, wherever in Parts A and B of this Act an amendment 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 the section or other provision of the Social Security Act.

(c) BIPA; SECRETARY.—In this Act:

(1) BIPA.—The term “BIPA” means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106-554.

(2) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

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

Sec. 1. Short title; table of contents.

TITLE I—RURAL PROVISIONS

Subtitle A—Provisions Relating to Part A Only

Sec. 101. Equalizing urban and rural standards for payment of amounts under the medicare inpatient hospital prospective payment system.

Sec. 102. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.

Sec. 103. Adjustment to the medicare inpatient hospital prospective payment system wage index in order to revise the labor-related share of any such index.

Sec. 104. More frequent update in weights used in hospital market basket.

Sec. 105. Improvements to critical access hospital program.

Sec. 106. Medicare inpatient hospital payment adjustment for low-volume rural hospitals.

Sec. 107. Treatment of missing cost reporting periods for sole community hospitals.

Sec. 108. Recognition of attending nurse practitioners as attending physicians to serve hospice patients.

Sec. 109. Rural hospice demonstration project.

Sec. 110. Exclusion of certain rural health clinic and federally qualified health center services from the prospective payment system for skilled nursing facilities.

Sec. 110A. Rural community hospital demonstration program.

Subtitle B—Provisions Relating to Part B Only

Sec. 111. 2-year extension of hold harmless provisions for small rural hospitals and sole community hospitals under the prospective payment system for hospital outpatient department services.

Sec. 112. Establishment of floor on work geographic adjustment.

Sec. 113. Medicare incentive payment program improvements for physician claims.

Sec. 114. Payment for rural and urban ambulance services.

Sec. 115. Providing appropriate coverage of rural air ambulance services.

Sec. 116. Treatment of certain clinical diagnostic laboratory tests furnished to hospital outpatient patients in rural areas.

Sec. 117. Extension of telemedicine demonstration project.

Sec. 118. Report on demonstration project permitting telehealth facilities to be originating telehealth sites; authority to implement.

Subtitle C—Provisions Relating to Parts A and B

Sec. 121. 1-year increase for home health services furnished in a rural area.

Sec. 122. Redistribution of unused resident positions.

Subtitle D—Other Provisions

Sec. 131. Providing safe harbor for certain collaborative efforts that benefit medicare beneficiaries.

Sec. 132. Office of rural health policy improvements.
Sec. 133. MedPac study on rural hospital payment adjustments.

Sec. 134. Frontier extended stay clinic demonstration project.

**TITLE II—PROVISIONS RELATING TO PART A**
Subtitle A—Inpatient Hospital Services

Sec. 201. Revision of acute care hospital payment updates.

Sec. 202. Revision of the indirect medical education (IME) adjustment percentage.

Sec. 203. Recognition of new medical technologies under inpatient hospital prospective payment system.

Sec. 204. Increase in Federal rate for hospitals in Puerto Rico.

Sec. 205. Wage index adjustment reclassification reform.

Sec. 206. Limitation on charges for inpatient hospital contract health services provided to Indians by Medicare participating hospitals.

Sec. 207. Clarifications to certain exceptions to Medicare limits on physician referrals.

Sec. 208. 1-time appeals process for hospital dollar index.

Subtitle B—Other Provisions

Sec. 211. Payment for covered skilled nursing facility services.

Sec. 212. Coverage of hospice consultation services.

Sec. 213. Study on portable diagnostic ultrasound services for beneficiaries in skilled nursing facilities.

**TITLE III—PROVISIONS RELATING TO PART B**
Subtitle A—Provisions Relating to Physicians’ Services

Sec. 301. Revision of updates for physicians’ services.

Sec. 302. Treatment of physicians’ services furnished in Alaska.

Sec. 303. Inclusion of podiatrists, dentists, and optometrists under private contracting authority.

Sec. 304. GAO study on access to physicians’ services.

Sec. 305. Collaborative demonstration-based review of physician practice expense geographic adjustment data.

Sec. 306. MedPac report on payment for physicians’ services.

Subtitle B—Preventive Services

Sec. 311. Coverage of an initial preventive physical examination.

Sec. 312. Coverage of cardiovascular screening blood tests.

Sec. 313. Coverage of diabetes screening tests.

Sec. 314. Improved payment for certain mammography services.

Subtitle C—Other Provisions

Sec. 321. Hospital outpatient department (HOPD) payment reform.

Sec. 322. Limitation on application of functional equivalence standard.

Sec. 323. Payment for renal dialysis services.

Sec. 324. 2-year moratorium on therapy capitation provisions relating to reports.

Sec. 325. Waiver of part B late enrollment penalty for certain military retirees and dependents, special enrollment period.

Sec. 326. Payment for services furnished in ambulatory surgical centers.

Sec. 327. Payment for certain shoes and inserts under the fee schedule for orthotics and prosthetics.

Sec. 328. 5-year authorization of reimbursement for all Medicare part B services furnished by certain Indian hospitals and clinics.

**Subtitle D—Additional Demonstrations, Studies, and Other Provisions**

Sec. 341. Demonstration project for coverage of certain prescription drugs and biologicals.

Sec. 342. Extension of coverage of intravenous immune globulin (IVIG) for the treatment of primary immune deficiency diseases in the home.

Sec. 343. MedPac study of coverage of surgical first assisting services of certified registered nurse first assistants.

Sec. 344. MedPac study of payment for cardio-thoracic surgeons.

Sec. 345. Studies relating to vision impairment.

Sec. 346. Medicare health care quality demonstration programs.

Sec. 347. MedPac study on direct access to hospital case management services.

Sec. 348. Demonstration project for consumer-directed chronic outpatient services.

Sec. 349. Medicare care management performance demonstration.

Sec. 350. GAO study and report on the propagation of concierge care.

Sec. 351. Demonstration of coverage of chiropractic services under Medicare.

**TITLE IV—PROVISIONS RELATING TO PARTS A AND B**
Subtitle A—Home Health Services

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Sec. 601. Medicaid disproportionate share hospital (DSH) payments.

Sec. 602. Clarification of inclusion of inpatient drug costs charged to certain public hospitals in the best price exemptions for the medicare drug rebate program.

Sec. 603. Extension of moratorium.

Subtitle A—Provisions Relating to Part A Only

SEC. 101. EQUALIZING URBAN AND RURAL STANDARDIZED PAYMENT AMOUNTS UNDER THE MEDICARE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1886(d)(9)(A)(iv) (42 U.S.C. 1395ww(d)(9)(A)(iv)) is amended—

(1) by striking ``(iv)'' For discharges and inserting ``(iv)(I) Subject to subclause (II), for discharges'', and

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

``(II) For discharges occurring in a fiscal year beginning after fiscal year 2004, the Secretary shall compute a standardized amount for hospitals located in any area within the United States and within each region equal to the standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in the previous fiscal year) increased by the applicable percentage increase under subsection (b)(3)(B)(i) for the fiscal year involved.

Sec. 102. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.

(a) DOUBLING THE CAP.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at the end the following new clause:

``(xv)(I) In the case of discharges occurring on or after April 1, 2004, subject to subclause (II), there shall be substituted for the disproportionate share adjustment percentage otherwise determined under clause (iv) (other than subclause (I)) or under clause (vii), (x), (xii), or (xiii), the disproportionate share adjustment percentage determined under clause (vii) (relating to large, urban hospitals),''.

Conforming amendments—Section 1886(d)(2) (42 U.S.C. 1395ww(d)(2)) is amended—

(1) in paragraph (5)(F), (A) in each of subclauses (II), (III), (IV), (V), and (VI) of clause (iv), by inserting subject to clause (xiv) and before for discharges occurring;

(2) in clause (vi), by striking The Formula and inserting Subject to clause (xiv), the formula; and

A new section is added to this section, the term subsection (d) Puerto Rico hospital means a hospital that is located in Puerto Rico and that would be a subsection (d) hospital as defined in paragraph (1)(B) if it were located in one of the 50 States.

(2) Application of Puerto Rico standardized amount based on large urban areas.—Section 1886(d)(9)(C) (42 U.S.C. 1395ww(d)(9)(C)) is amended—

(A) in clause (i)—

(i) by striking `(i) The Secretary' and inserting `(i) The Secretary for discharges occurring in a fiscal year after fiscal year 1998 and before fiscal year 2004, the Secretary;' and

(ii) by adding at the end the following new subclause:

``(II) for fiscal year 2004 and thereafter, the average standardized amount after each of the average standardized amounts' before 'for hospitals located in an urban area, respectively.''

(d) IMPLEMENTATION.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c)(1) of this section shall have no effect on the authority applies with respect to the extension of provisions equalizing urban and rural standardized inpatient hospital payments under subsection (a) of such section 402.

(2) Application of Puerto Rico standardized amount based on large urban areas.—The authority of the Secretary referred to in paragraph (1) shall apply with respect to the amendments made by subsection (a) of such section 402, except that any reference in subsection (b)(2)(A) of such section 402 is deemed to be a reference to April 1, 2004, for hospitals located in any area for such discharges, adjusted in the manner provided in paragraph (3)(E) for different area wage levels.

(2) Application of Puerto Rico standardized amount based on large urban areas.—The authority of the Secretary referred to in paragraph (1) shall apply with respect to the amendments made by subsection (c)(2) of this section in the same manner as that authority applies with respect to the extension of provisions equalizing urban and rural standardized inpatient hospital payments under subsection (a) of such section 402.

(a) DOUBLING THE CAP.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at the end the following new clause:

``(xv)(I) In the case of discharges occurring on or after April 1, 2004, subject to subclause (II), there shall be substituted for the disproportionate share adjustment percentage otherwise determined under clause (iv) (other than subclause (I)) or under clause (vii), (x), (xii), or (xiii), the disproportionate share adjustment percentage determined under clause (vii) (relating to large, urban hospitals),''.

Conforming amendments—Section 1886(d)(2) (42 U.S.C. 1395ww(d)(2)) is amended by adding at the end the following new clause:

``(II) Under subclause (L) the disproportionate share adjustment percentage shall not exceed 12 percent for a hospital that is not classified as a rural referral center under subparagraph (C).''
(vii), (x), (xl), or (xil), the disproportionate share adjustment percentage determined under clause (vii) (relating to large, urban hospitals).

(II) paragraph (I), the disproportionate share adjustment percentage shall not exceed 12 percent for a hospital that is not classified as a rural referral center under subsection (d)(10). (b) CONFORMING AMENDMENTS.—Section 1886(d)(4)(A) (42 U.S.C. 1395ww(d)(4)(A)) is amended—

(1) in paragraph (5)—

(A) by striking (I) and (2) the provisions made by paragraphs (1) and (2) of subsection (d)(3) of section 1834(g) of the Social Security Act (42 U.S.C. 1395g) are each amended by inserting such provisions.

(II) IN GENERAL.—Subject to the following:

(i) the Secretary shall ensure, to the extent feasible, that the provisions of the amendments made by paragraph (1) shall apply to those physicians and practitioners who have not assigned such billing rights; and

(ii) the amendments made by paragraph (1) shall apply with respect to costs incurred for services furnished on or after January 1, 2004.

(b) AUTHORIZATION OF PERIODIC INTERIM PAYMENT.—Section 1815(e)(2)(D) (42 U.S.C. 1395d(e)(2)(D)) of the Social Security Act (42 U.S.C. 1395d) is amended—

(1) IN GENERAL.—Section 1815(e)(2)(D) (42 U.S.C. 1395d(e)(2)(D)) is amended—

(i) by striking ‘‘payable’’ and inserting ‘‘payable’’

(ii) by striking ‘‘after subsection (D);’’ and

(iii) by striking ‘‘and subparagraph (B)’’ and inserting ‘‘and subparagraph (D);’’ and

(iv) by striking ‘‘and subparagraph (C)’’ and inserting ‘‘and subparagraph (D);’’ and

(v) by striking ‘‘and subparagraph (D)’’ and inserting ‘‘and subparagraph (D);’’ and

(vi) by striking ‘‘and subparagraph (E)’’ and inserting ‘‘and subparagraph (D);’’ and

(vii) by striking ‘‘and subparagraph (F)’’ and inserting ‘‘and subparagraph (D);’’ and

(viii) by striking ‘‘and subparagraph (G)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(ix) by striking ‘‘and subparagraph (H)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(x) by striking ‘‘and subparagraph (I)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(xi) by striking ‘‘and subparagraph (J)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(xii) by striking ‘‘and subparagraph (K)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(xiii) by striking ‘‘and subparagraph (L)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(xiv) by striking ‘‘and subparagraph (M)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(xv) by striking ‘‘and subparagraph (N)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(xvi) by striking ‘‘and subparagraph (O)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(xvii) by striking ‘‘and subparagraph (P)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(xviii) by striking ‘‘and subparagraph (Q)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(xix) by striking ‘‘and subparagraph (R)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(xx) by striking ‘‘and subparagraph (S)’’ and inserting ‘‘and subparagraphs (D) and (E);’’ and

(II) for the first time in a fiscal year.

(c) A UTHORIZATION OF PERIODIC INTERIM PAYMENT.—Section 1815(e)(2)(E) (42 U.S.C. 1395d(e)(2)(E)) of the Social Security Act (42 U.S.C. 1395d) is amended—

(1) IN GENERAL.—The amendments made by this subsection shall apply to costs incurred for services furnished on or after January 1, 2004.

(d) I N GRESSION OF EXPLANATION IN RULES.—The Secretary shall include in the publication of the final rule for payment for inpatient hospital services under section 1886(d)(4) of the Act U.S.C. 1395ww(d)(4) for fiscal year 2006, an explanation of the reasons for, and options considered, in determining frequency established under subsection (c).

SECTION 105. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

(a) INCREASE IN PAYMENT AMOUNTS.—

(1) IN GENERAL.—Except as provided in subparagraph (B), the application of this subclause would result in lower payments to a hospital than would otherwise be made.’’. (b) INCORPORATION OF EXPLANATION IN RULES.—The Secretary shall include in the publication of the final rule for payment for inpatient hospital services under section 1886(d)(4) of the Act U.S.C. 1395ww(d)(4) for fiscal year 2004, the explanation of the reasons for, and options considered, in determining frequency established under subsection (c).

(b) RULE OF APPLICATION.—In the case of a critical access hospital that made an election under section 1834(g)(2) of the Social Security Act (42 U.S.C. 1395g) before November 1, 2003, the amendment made by paragraph (1) shall apply with respect to costs incurred for services furnished on or after July 1, 2004.

(c) REVISION OF BED LIMITATION FOR HOSPITALS.—

(1) IN GENERAL.—Section 1834(g)(2)(B)(ii) (42 U.S.C. 1395i–4(g)(2)(B)(ii)) is amended by striking ‘‘15 (or, in the case of a facility under an agreement described in subsection (f), 25)’’ and inserting ‘‘25’’.

(b) CONFORMING AMENDMENT.—Section 1834(g)(2)(B)(iii) (42 U.S.C. 1395i–4(g)(2)(B)(iii)) is amended by striking ‘‘beds’’ and inserting ‘‘15 (or, in the case of a facility under an agreement described in subsection (f), 25)’’.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after January 1, 2004, but no election made pursuant to regulations promulgated to carry out such amendments shall apply prospectively.

SECTION 106. PROVISIONS RELATING TO FLEX GRANTS.—

(a) ADDITIONAL 4-YEAR PERIOD OF FUNDING.—Section 1820(j) (42 U.S.C. 1395t(j)) is amended by inserting before the period at the end the following:

‘‘the number of beds used at any time for acute care inpatient services does not exceed 15 beds’’.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to costs incurred for services furnished on or after January 1, 2004.

SECTION 107. PAYMENT METHODS OF PERIODIC INTERIM PAYMENTS.—

(a) IN GENERAL.—Except as provided in subsection (b), the application of this subclause would result in lower payments to a hospital than would otherwise be made.’’. (b) PAYING BUDGET NEUTRALITY.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(1) IN GENERAL.—The amendments made by this subsection shall apply to costs incurred for services furnished on or after January 1, 2004.

(b) RULE OF APPLICATION.—The Secretary shall include in the publication of the final rule for payment for inpatient hospital services under section 1886(d)(4) of the Act U.S.C. 1395ww(d)(4) for fiscal year 2003, an explanation of the reasons for, and options considered, in determining frequency established under subsection (c).

SECTION 103. ADJUSTMENT TO THE MEDICARE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM WAGE INDEX TO REFLECT THE LABOR-RELATED SHARE OF THE WAGE INDEX.

(a) ADJUSTMENT.—

(1) IN GENERAL.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(A) by striking ‘‘WAGE LEVELS.—The Secretary’’ and inserting ‘‘WAGE LEVELS.—Subject to clause (xiv), for purposes of subparagraph (C),’’; and

(B) by inserting ‘‘12 percent’’ for the proportion described in the first sentence of clause (i), unless the application of this clause would result in lower payments to a hospital than would otherwise be made.’’. (b) WAIVING BUDGET NEUTRALITY.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(1) IN GENERAL.—The amendments made by this subsection shall apply to costs incurred for services furnished on or after January 1, 2004.

(2) RULE OF APPLICATION.—The Secretary shall include in the publication of the final rule for payment for inpatient hospital services under section 1886(d)(4) of the Act U.S.C. 1395ww(d)(4) for fiscal year 2003, an explanation of the reasons for, and options considered, in determining frequency established under subsection (c).

SECTION 105. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

(a) INCREASE IN PAYMENT AMOUNTS.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subparagraph, a critical access hospital may establish—

(i) a psychiatric unit of the hospital that is a distinct part of the hospital; and

(ii) a rehabilitation unit of the hospital that is a distinct part of the hospital.
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if the distinct part meets the requirements (including conditions of participation) that would otherwise apply to the distinct part if the distinct part were established by a sub-section (y) of section 1861(aa)); and

(ii) The applicable percentage increase for purposes of subparagraph (B) and clause (i), the term ‘discharge’ means an inpatient acute care discharge of an individual regardless of whether the individual is entitled to benefits under part A.”.

(b) Judicial Review.—Section 1886(b)(7)(A) (42 U.S.C. 1395ww(d)(7)(A)) is amended by inserting “after to subsection (e)(1) the following: “or the determination of the applicable percentage increase under subparagraph (D)(A)(I)”.

(iii) The applicable percentage increase shall be determined based upon such relationship in a manner that reflects, based upon the number of such discharges for a subsection (d) hospital, such additional incremental costs.

(ii) In no case shall the applicable percentage increase exceed 25 percent.

(i) Low-volume Hospital.—For purposes of this paragraph, the term ‘low-volume hospital’ means, for a fiscal year, a subsection (d) hospital established under clause (i) that the Secretary determines is located more than 25 road miles from another subsection (d) hospital and has less than 800 discharges during the fiscal year that is equal to the applicable percentage increase for purposes of subparagraph (B) for the hospital involved) in the fiscal year that is equal to the applicable percentage increase for purposes of subparagraph (D)(A)(I)”.

(3) Effective Date.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 2004.

(b) Waiver Authority.—Section 1820(c)(2)(B)(i)(I) (42 U.S.C. 1395f–4(h)) is amended by adding at the end the following new clause:

(f) Definitions.—

(i) Low-volume Hospital.—For purposes of this paragraph, the term ‘low-volume hospital’ means, for a fiscal year, a subsection (d) hospital established under clause (i) that the Secretary determines is located more than 25 road miles from another subsection (d) hospital and has less than 800 discharges during the fiscal year that is equal to the applicable percentage increase for purposes of subparagraph (B) for the hospital involved) in the fiscal year that is equal to the applicable percentage increase for purposes of subparagraph (D)(A)(I)”.

(iii) In no case shall a hospital be denied treatment as a community hospital or payment (on the basis of a target rate as such as a hospital) because data are unavailable for any cost reporting period due to changes in ownership, changes in fiscal intermediaries, or other extraordinary circumstances, so long as data for at least one applicable base cost reporting period is available.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to cost reporting periods beginning on or after January 1, 2004.

SEC. 108. RECOGNITION OF ATTENDING NURSE PRACTITIONERS AS ATTENDING PHYSICIANS TO SERVICE HOSPICE PATIENTS.

(a) In General.—Section 1861(d)(3)(B) (42 U.S.C. 1395w–2(d)(3)(B)) is amended by inserting “or nurse practitioner (as defined in section (aa)(5)) after “the physician (as defined in section (p)(1))”.

(b) Clarification of Hospice Role of Nurse Practitioners.—Section 1814(a)(7) (A)(1)(I) (42 U.S.C. 1395a(f)(7)(A) (1)(I)) is amended by inserting “(which for purposes of this subparagraph does not include a nurse practitioner)” after “attending physician (as defined in section 1861(d)(3)(B))”.

SEC. 109. RURAL HOSPICE DEMONSTRATION PROJECT.

(a) In General.—The Secretary shall conduct a demonstration project for the delivery of hospice services in rural areas. Under the project Medicare beneficiaries who are unable to receive hospice care in the facility for lack of an appropriate bed shall be provided care in a facility of 20 or fewer beds which offers, within its walls, the full range of services provided by hospice programs under section 1886(d)(1) (42 U.S.C. 1395ww(b)(3)) of the Social Security Act (42 U.S.C. 1395x(d)).

(b) Scope of Project.—The Secretary shall conduct the project under this section with respect to no more than 3 hospice programs over a period of not longer than 5 years each.

(c) Compliance with Conditions.—Under the demonstration project—

(1) the hospice program shall comply with otherwise applicable requirements, except that it shall not be required to offer services to beneficiaries in the home or under the requirements of section 1861(dd)(2)(A)(III) of the Social Security Act; and

(2) payments for hospice care shall be made at the rates otherwise applicable to such care under title XVIII of such Act.

The Secretary may require the program to comply with such additional quality assurance standards for its provision of services in its facility as the Secretary deems appropriate.

(d) Report.—Upon completion of the project, the Secretary shall submit a report to Congress on the project and shall include in the report recommendations regarding extension of such project to hospice programs serving rural areas.

SEC. 110. EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES FROM THE PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.

(a) In General.—Section 1888(e)(2)(A) (42 U.S.C. 1395y(e)(2)(A)) is amended—

(1) in clause (ii), by striking “(ii)” and inserting “(ii)” and “(iii)”;

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

(iv) Exclusion of Certain Rural Health Clinic and Federally Qualified Health Center Services.—Services described in this clause are—

(I) rural health clinic services (as defined in paragraph (1) of section 1861(aa)); and

(ii) Federally qualified health center services (as defined in paragraph (3) of such section);

that would be described in clause (ii) if such services were furnished by an individual not affiliated with a rural health clinic or a Federally qualified health center.”.

(b) Effective Date.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 2005.

SEC. 110A. RURAL COMMUNITY HOSPITAL DEMONSTRATION PROGRAM.

(a) Establishment of Rural Community Hospital (RCH) Demonstration Program.—

(i) In General.—The Secretary shall establish a demonstration program to test the feasibility and advisability of the establishment of rural community hospitals (as defined in section (f)(1)) to furnish covered inpatient hospital services (as defined in subsection (f)(1)) to Medicare beneficiaries.
the Secretary in States with low population densities, as determined by the Secretary.

(3) APPLICATION.—Each rural community hospital that is located in a demonstration area designated in paragraph (2) that desires to participate in the demonstration program under this section shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(4) SELECTION OF HOSPITALS.—The Secretary shall select from among rural community hospitals submitting applications under paragraph (3) not more than 15 of such hospitals to participate in the demonstration program under this section.

(5) DEMONSTRATION.—The Secretary shall conduct the demonstration program under this section for a 5-year period.

(6) IMPLEMENTATION.—The Secretary shall implement the demonstration program not later than January 1, 2005, but may not implement the program before October 1, 2004.

(b) Payment.

(1) IN GENERAL.—The amount of payment under the demonstration program for covered inpatient hospital services furnished in a rural community hospital, other than services furnished in a psychiatric or rehabilitation unit of the hospital which is a distinct part, is—

(A) for discharges occurring in the first cost reporting period beginning on or after the implementation of the demonstration program, the reasonable costs of providing such services; and

(B) for discharges occurring in a subsequent cost reporting period under the demonstration program, the lesser of—

(i) the reasonable costs of providing such services in the cost reporting period involved; or

(ii) the target amount (as defined in paragraph (2), applicable to the cost reporting period involved).

(2) TARGET AMOUNT.—For purposes of paragraph (1)(B)(ii), the term ‘target amount’ means, with respect to a rural community hospital for a particular 12-month cost reporting period—

(A) in the case of the second such reporting period for which this subsection is in effect, the reasonable costs of providing covered inpatient hospital services as determined under paragraph (1)(A), and

(B) for each of a subsequent cost reporting period, the target amount for the preceding 12-month cost reporting period, increased by the applicable percentage increase (as defined in clause (iii) of section 1861(e) of the Social Security Act (42 U.S.C. 1395(e))) as may be necessary for the purpose of—

(i) the controlled demonstration program under this section, the Secretary shall submit to Congress a report on such program together with recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(i) DEFINITIONS.—

(1) RURAL COMMUNITY HOSPITAL DEFINED.—

(A) IN GENERAL.—The term ‘rural community hospital’ means a hospital (as defined in section 1861(s)(1) of the Social Security Act (42 U.S.C. 1395x(s)(1)))—

(i) located in a rural area (as defined in section 1866(d)(2)(D) of such Act (42 U.S.C. 1395w(d)(2)(D)) or treated as being so located pursuant to section 1866(d)(8)(B) of such Act (42 U.S.C. 1395w(d)(8)(B));

(ii) subject to paragraph (2), has fewer than 51 acute care inpatient beds, as reported in its most recent cost report;

(iii) makes available 24-hour emergency care services; and

(iv) is not eligible for designation, or has not been designated, as a critical access hospital under section 1853.

(B) COVERED INPATIENT HOSPITAL SERVICES.—The term ‘covered inpatient hospital services’ means inpatient hospital services, including inpatient rehabilitation services furnished under an agreement under section 1883 of the Social Security Act (42 U.S.C. 1395l).

Subtitle B—Provisions Relating to Part B Only

SECT. 111. 2-YEAR EXTENSION OF HOLD HARMLESS PROVISIONS FOR SMALL RURAL AND SOLE COMMUNITY HOSPITALS UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR MEDICARE OUTPATIENT DEPARTMENT SERVICES.

(a) HOLD HARMLESS PROVISIONS.—

(1) IN GENERAL.—Section 1833(t)(7)(D)(1) (42 U.S.C. 1395l(t)(7)(D)(1)) is amended—

(A) in the heading, by striking ‘‘SMALL’’ and inserting ‘‘CERTAIN’’;

(B) by inserting ‘‘A RURAL COMMUNITY HOSPITAL (as defined in section 1866(d)(5)(D)(iii)) located in a rural area’’ after ‘‘100 beds’’; and

(C) by striking ‘‘2004’’ and inserting ‘‘2006’’.

(b) STUDY: AUTHORIZATION OF ADJUSTMENT.—

(1) IN GENERAL.—Section 1833(t) (42 U.S.C. 1395l(t)) is amended—

(A) by redesignating paragraph (13) as paragraph (16); and

(B) by inserting after paragraph (12) the following new paragraph:

‘‘(13) AUTHORIZATION OF ADJUSTMENT FOR RURAL HOSPITALS.—

(A) STUDY.—The Secretary shall conduct a study to determine if, under the system established by section 1886, hospitals located in rural areas by ambulatory payment classification groups (APCs) exceed the costs incurred by hospitals located in urban areas.

(B) AUTHORIZATION OF ADJUSTMENT.—Insofar as the Secretary determines under subparagraph (A) that costs incurred by hospitals located in rural areas exceed those costs incurred by hospitals located in urban areas, the Secretary shall provide for an appropriate adjustment under paragraph (2)(E) to reflect those higher costs by January 1, 2006.’’

SECT. 112. ESTABLISHMENT OF FLOOR ON WORK GEOGRAPHIC INDEX.

Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended—

(1) in subparagraph (A), by striking ‘‘subparagraphs (B) and (C)’’ and inserting ‘‘subparagraphs (B), (C), and (E)’’; and

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

‘‘(E) FLOOR AT 1.0 ON WORK GEOGRAPHIC INDEX.—After calculating the work geographic index in subparagraph (A)(iii), for purposes of paragraph (2), the Secretary shall determine the floor on or after January 1, 2004, and before January 1, 2007, the Secretary shall increase the work geographic index to 1.00 for any localities for which such work geographic index is less than 1.00.’’

SECT. 113. MEDICARE INCENTIVE PAYMENT PROGRAM IMPROVEMENTS FOR PHYSICIAN SCARCITY AREAS.

(a) ADDITIONAL INCENTIVE PAYMENT FOR CERTAIN PHYSICIAN SCARCITY AREAS.—

Section 1833 (42 U.S.C. 1395l) is amended by adding to the end the following new subsection:

‘‘(k) INCENTIVE PAYMENTS FOR PHYSICIAN SCARCITY AREAS.—

(1) IN GENERAL.—In the case of physicians’ services furnished on or after January 1, 2005, and before January 1, 2008—

(A) by a primary care physician in a primary care scarcity county (identified under paragraph (4)(A)); or

(B) by a physician who is not a primary care physician in a specialist care scarcity county (as so identified), in addition to the amount of payment that would otherwise be made for such services under this part, shall also be paid an amount equal to 5 percent of the amount payment for the service under this part.

(2) DETERMINATION OF RATIOS OF PHYSICIANS TO MEDICARE BENEFICIARIES IN AREA.—Based upon available data, the Secretary shall establish for each county and area with the lowest primary care ratio in the United States, the following:

(A) NUMBER OF PHYSICIANS PRACTICING IN THE AREA.—The number of physicians who are—

(i) primary care physicians; or

(ii) physicians who are not primary care physicians.

(B) NUMBER OF MEDICARE BENEFICIARIES RESIDING IN THE AREA.—The number of individuals who are residing in the county or area were weighted by the number of individuals determined under paragraph (1), to the number of individuals determined under subparagraph (A)(i), to the number of individuals determined under subparagraph (B).

(3) RANKING OF COUNTIES.—The Secretary shall rank each such county or area based separately on its primary care ratio and its specialist care ratio.

(4) IDENTIFICATION OF COUNTIES.—In the case of physicians’ services furnished on or after January 1, 2005, and before January 1, 2008—

(A) IN GENERAL.—The Secretary shall identify—

(i) those counties and areas in this paragraph referred to as ‘‘primary care scarcity counties’’ with the lowest primary care ratio; and

(ii) those counties and areas in this paragraph referred to as ‘‘specialist care scarcity counties’’ with the lowest specialist care ratio that are identified under paragraph (3)(A)(i), to the number of individuals determined under subparagraph (B), an

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aggregate total of 20 percent of the total of
the individuals determined under such para-
graph; and
(ii) those counties and areas (in this sub-
section referred to as ‘specialist care scarcity
area counties’), with the lowest specialist care
categories that represent, if each such coun-
ty or area were weighted by the number of indi-
viduals residing in the county or area counted under
paragraph (2)(B), an aggregate total of 20 percent of
the total of the individuals determined under
such paragraph.

(B) JUDICIAL REVIEW.—There shall be no
administrative or judicial review under section
1899, 1878, otherwise, respecting—
(i) the identification of a county or area;
(ii) the assignment of a specialty of any
physician under this paragraph;
(iii) the assignment of a physician to a
county under paragraph (2); or
(iv) the assignment of a postal ZIP Code
to a county or other area under this sub-
section.

(5) RURAL CENSUS TRACTS.—To the extent
feasible, the Secretary shall treat a rural
census tract of a metropolitan statistical
area as determined under the most recent
modification of the Goldsmith Modification,
originally published in the Federal Register
on February 27, 1992 (57 Fed. Reg. 67251),
as an equivalent area for purposes of qualifying
as a primary care scarcity county or
specialist care scarcity county under this
subsection.

(6) PHYSICIAN DEFINED.—For purposes of
this paragraph, the term ‘physician’ means a
physician described in section 1861(r)(1) and
the term ‘specialist physician’ includes a
physician who is identified in the available
data as a general practitioner, family prac-
tice physician, general internist, or obstet-
rician or gynecologist.

(7) PUBLICATION OF LIST OF COUNTIES;
POSTING ON WEBSITE.—With respect to a year
for which a county or area is identified or re-
vised under paragraph (4), the Secretary
shall identify such counties or areas as part of
the proposed and final rule to implement the
physician fee schedule under section 1848
for the next calendar year. The Secretary shall
post the list of counties identified or revised
under paragraph (4) on the Internet website
of the Centers for Medicare & Medicaid
Services.

(b) IMPROVEMENT TO MEDICARE INCENTIVE
PAYMENT PROGRAM.—
(1) IN GENERAL.—Section 1833(m) (42 U.S.C.
1395(m)) is amended—
(A) by inserting ‘‘(1)’’ after ‘‘(m)’’;
(B) in paragraph (1), as designated by sub-
paragraph (m), by inserting—
(i) by inserting ‘‘a year’’ after ‘‘the case
of physicians’ services furnished’’; and
(ii) by inserting ‘‘as identified by the Sec-
retary at the beginning of a year’’ after
‘‘as a health professional shortage area’’; and
(C) by adding at the end the following new
paragraphs:
(2) For each health professional shortage area
identified in paragraph (1) that consists of
an entire county or area that shall pro-
provide for the additional payment under para-
graph (1) without any requirement on the
physician or specialty in which professional
shortage area involved, the Secretary may
implement the previous sentence using the
method specified in subsection (u)(4)(C).
(3) The Secretary shall post on the Inter-
net website of the Centers for Medicare &
Medicaid Services a list of the health profes-
sional shortages areas identified in paragraph
(1) that constitute a county or area to facil-
itate the additional payment under paragraph
(1) in such areas.
(4) There shall be no administrative or jur-
dicial review under section 1899, section 1878,
or otherwise, respecting—
(A) the identification of a county or area;
(B) the assignment of a specialty of any
physician under this paragraph;
(C) the assignment of a physician to a
county under this subsection; or
(D) the assignment of a postal zip code to
a county or other area under this subsection.

(2) EFFECTIVE DATE.—The amendments
made by paragraph (1) shall apply to phy-
sicians’ services furnished on or after January
1, 2005.

(c) GAO STUDY OF GEOGRAPHIC DIF-
FERENCES IN PAYMENTS FOR PHYSICIANS’
SERVICES.—
(1) STUDY.—The Comptroller General of the
United States shall conduct a study of dif-
f erences in payments under the phy-
sician fee schedule under section 1848 of
the Social Security Act (42 U.S.C. 1395w–4) for
physicians’ services in different geographic
areas. Such study shall include—
(A) an assessment of the validity of the geo-
graphic adjustment factors used for each
component of the fee schedule;
(B) an evaluation of the measures used for
such adjustment, including the frequency of
revisions;
(C) an evaluation of the methods used to
determine professional liability insurance
costs used in computing the malpractice
component, including a review of increases
in professional liability insurance premiums
and trends in liability premiums for each
component; and
(D) an evaluation of the effect of the
adjustment to the physician work geographic
index under section 1848(t)(1)(E) of the Social
Security Act, as added by section 112, on
physician location and retention in areas af-
fected by such adjustment, taking into ac-
count—
(i) differences in recruitment costs and re-
tention rates for physicians, including spe-
cialists, between large urban areas and other
areas; and
(ii) the mobility of physicians, including
specialists, over the last decade.
(2) REPORT.—Not later than 1 year after
the date of enactment of this Act, the
Comptroller General shall submit to Con-
gress a report on the study conducted under
paragraph (1). The report shall include rec-
ommendations for the use of more
current data in computing geographic cost
of practice indices as well as the use of data di-
rectly representative of physicians’ costs
(including their administrative costs).

SEC. 114. PAYMENT FOR RURAL AND URBAN AM-
BULANCE SERVICES.

(a) PHASE-IN PROVIDING FLOOR USING BLEND
OF FEE SCHEDULE AND REGIONAL FEE
SCHEDULES.—In carrying out the phase-in
under paragraph (2)(E), as each level of
ambulance services furnished on or after
January 1, 2006, the portion of the pay-
ment amount that is based on the fee
schedule shall be increased in an effi-
cient and fair manner''; and
(b) adjustment in payment for certain
long trips.—In the case of ground
ambulance services furnished on or after
July 1, 2004, and before January 1, 2005,
regardless of where the transportation originates, the
fee schedule established under this subsection shall provide that, with respect to the pay-
ment rate for mileage for a trip above 50
miles the per mile rate otherwise applicable
shall be increased by 1/2 of the payment
per mile otherwise applicable to miles in excess
of 50 miles in such trip.

(c) IMPROVEMENT IN PAYMENTS TO RETAIN
EMERGENCY CAPACITY FOR AMBULANCE SER-
VICES IN RURAL AREAS.—
(1) IN GENERAL.—Section 1834(i) (42 U.S.C.
1395m(i)), as amended by subsections (a) and
(b), is amended by adding at the end the fol-
lowing new paragraph:
(2) ASSISTANCE FOR RURAL PROVIDERS
FURNISHING SERVICES IN LOW POPULATION DEN-
SITY AREAS.—
(A) IN GENERAL.—In the case of ground
ambulance services furnished on or after
July 1, 2004, and before January 1, 2010, for
the transportation originates in a qualified rural area (identified under sub-
paragraph (B)(ii)), the Secretary shall pro-
vide for a percent increase in the base rate
of the payment for services furnished under
this subsection. In establishing such percent
increase, the Secretary shall estimate the
average cost per trip for such services (not taking into account mileage) in the lowest quartile as compared to the average cost per trip for such services (not taking into account mileage) in the highest quartile of all rural county populations.

"(B) IDENTIFICATION OF QUALIFIED RURAL AREAS.—

(i) DETERMINATION OF POPULATION DENSITY IN AREA.—Based upon data from the United States decennial census for the year 2000, the Secretary shall determine, for each rural area, the population density for that area.

(ii) BANKING OF AREAS.—The Secretary shall rank each such area based on such population density.

(iii) IDENTIFICATION OF QUALIFIED RURAL AREAS.—The Secretary shall identify those areas (in subparagraph (A) referred to as ‘‘qualified rural areas’’) with the lowest population densities that represent, if each such area were weighted by the population of such area (as used in computing such population densities), an aggregate total of 25 percent of the total of the population of all such areas.

(iv) RURAL AREA.—For purposes of this paragraph, the term ‘‘rural area’’ has the meaning given such term in section 1861(s)(7) of the Social Security Act.

(v) JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise, respecting the identification of an area under this subparagraph.

(2) USE OF DATA.—In order to promptly implement section 1834(l)(12) of the Social Security Act, as added by paragraph (1), the Secretary shall furnish the Comptroller General of the United States.

(d) TEMPORARY INCREASE FOR GROUND AMBULANCE SERVICES.—Section 1834(l)(1)(F) (42 U.S.C. 1395m(l)(1)), as amended by subsections (a), (b), and (c), is amended by adding at the end the following new paragraph:

(13) PROVIDING APPROPRIATE COVERAGE OF RURAL AIR AMBULANCE SERVICES.—(A) In general.—The regulations described in section 1861(b)(7) shall provide, to the extent that any ambulance services (whether ground or air) furnished in such manner are covered under such section, that a rural air ambulance service (as defined in subparagraph (C)) is reimbursed under this subsection at the air ambulance rate if the air ambulance service—

(i) is reasonable and necessary based on the health condition of the individual being transported at or immediately prior to the time of the transport; and

(ii) complies with equipment and crew requirements established by the Secretary.

(B) Requirement of medically necessary.—The requirement of subparagraph (A)(i) is deemed to be met for a rural air ambulance service if—

(i) subject to subparagraph (D), such service is requested by a physician or other qualified medical personnel (as specified by the Secretary) who reasonably determines or certifies that—

(I) the individual’s condition is such that the time needed to transport the individual by land or the instability of transportation by land poses a threat to the individual’s survival or seriously endangers the individual’s health; or

(II) such service is furnished pursuant to a protocol that is established by a State or approved by the regional extension center (as defined in section 1861(s)(7)) that is located in a rural area (identified under paragraph (12)(B)(i) of section 1834(i) of the Social Security Act (42 U.S.C. 1395m(i)), as added by section 114(c) as part of outpatient services of the hospital, the amount of payment for such test shall be 100 percent of the reasonable costs of the hospital in furnishing such test.

(3) PROVIDING APPROPRIATE COVERAGE OF RURAL AIR AMBULANCE SERVICES.—Section 1834(l)(1)(F) (42 U.S.C. 1395m(l)), as added by section 114(c) as part of outpatient services of the hospital, the amount of payment for such test shall be 100 percent of the reasonable costs of the hospital in furnishing such test.

SEC. 116. EXTENSION OF TELEMEDICINE DEMONSTRATION PROJECT.

Section 2007 of the Balanced Budget Act of 1997 (Public Law 105–33) is amended—

(1) in subsection (a)(4), by striking ‘‘4-year’’ and inserting ‘‘8-year’’; and

(2) in subsection (d)(3), by striking ‘‘$30,000,000’’ and inserting ‘‘$60,000,000’’.
serve as an originating site for the use of telehealth services or any other service delivered via a telecommunications system does not serve as a substitute for in-person visits furnished by a physician, nurse practitioner, or clinical nurse specialist, as is otherwise required by the Secretary.

(c) Authority to Expand Originating Telehealth Sites to Include Skilled Nursing Facilities—As far as the Secretary concludes in the report required under subsection (b) that is advisable to permit a skilled nursing facility to be an originating site for telehealth services under section 1395(m) of the Social Security Act (42 U.S.C. 1395f(m)), and that the Secretary can establish the mechanisms to ensure such permission does not serve as a substitute for in-person visits furnished by a physician, or for in-person visits furnished by a physician assistant, nurse practitioner or clinical nurse specialist, the Secretary may deem a skilled nursing facility to be an originating site under paragraph (4)(C)(ii) of such section beginning on January 1, 2006.

Subtitle C—Provisions Relating to Parts A and B

SEC. 121. 1-YEAR INCREASE FOR HOME HEALTH SERVICES Furnished in a Rural Area.

(a) In General.—With respect to episodes and visits ending on or after April 1, 2004, and before April 1, 2005, in the case of home health services furnished in a rural area as defined in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D))), the Secretary shall increase the payment amount otherwise made under section 1885 of such Act (42 U.S.C. 1395ff) for such services by 5 percent.

(b) Maintaining Budget Neutrality.—The Secretary shall not reduce the standard prospective payment amount (or amounts) under section 1885 of the Social Security Act (42 U.S.C. 1395ff) for such purposes and shall not be responsible for the costs of such increases.

(c) No Effect on Subsequent Periods.—The payment increase provided under subsection (a) for a period under such subsection (a) shall not apply to episodes and visits ending after such period; and (2) shall not be taken into account in calculating the payment amounts applicable for episodes and visits occurring after such period.

SEC. 122. REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.

(a) In General.—Section 1886(h) (42 U.S.C. 1395ww(h)(4)) is amended—

(1) in paragraph (4)(F)(i), by inserting “subject to paragraph (7),” after “October 1, 1997;”;

(2) in paragraph (4)(H)(i), by inserting “and subject to paragraph (7),” after “subparagraph (G)”;

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

“(7) Redistribution of Unused Resident Positions.—

“(A) Reduction in Limit Based on Unused Positions.—

“(1) Programs Subject to Reduction.—

“(i) In General.—Except as provided in subparagraph (II), if a hospital’s reference resident limit (specified in clause (ii)) is less than the otherwise applicable resident limit (as defined in subparagraph (C)(i)), effective for portions for cost reporting periods occurring on or after July 1, 2005, the otherwise applicable resident limit shall be reduced by 75 percent. The difference between such otherwise applicable resident limit and such reference resident level.

“(II) Exception for Small Rural Hospitals.—This subparagraph shall not apply to a hospital located in a rural area (as defined in subsection (d)(2)(D)(ii)) with fewer than 250 beds for such cost reporting periods occurring on or after July 1, 2005.

“(ii) Reference Resident Limit.—

“(1) In General.—Except as otherwise provided in subparagraphs (II) and (III), the reference resident limit for a hospital is the resident level for the most recent cost reporting period of the hospital ending on or before September 30, 2002, for which the hospital is paid (or, if not submitted (subject to audit), as determined by the Secretary).

“(II) Use of Most Recent Accounting Period to Recognize Exisitng Programs.—If a hospital submits a timely request to increase its resident level due to an expansion of an existing residency training program that is not reflected on the cost report submitted cost report, after audit and subject to the discretion of the Secretary, the reference resident level for such hospital is the resident level for the cost reporting period that includes July 1, 2003, as determined by the Secretary.

“(III) Expansions Under Newly Approved Programs.—Upon the timely request of a hospital, the Secretary may increase the reference resident level specified under subparagraph (I) or (II) to include the number of additional resident positions approved in an application for a medical residency training program that was approved by an appropriate accrediting organization (as determined by the Secretary) before January 1, 2002, but which was not in operation during the cost reporting period used under subparagraph (I) or (II), as the case may be, as determined by the Secretary.

“(iii) Affiliation.—The provisions of clause (i) shall be applied to hospitals which are members of the same affiliated group (as defined by the Secretary) under paragraph (4)(H)(ii) of such Act as of July 1, 2003.

“(B) Redistribution.—

“(1) In General.—The Secretary is authorized to increase the otherwise applicable resident limit for each qualifying hospital that submits a timely application under this subparagraph by such number as the Secretary may approve for portions of cost reporting periods occurring on or after July 1, 2005. The aggregate number of increases in the otherwise applicable resident limit under this paragraph shall not exceed the Secretary’s estimate of the aggregate reduction in such limits attributable to subparagraph (A).

“(ii) Considerations in Redistribution.—In determining for which hospitals the increase in the otherwise applicable resident limit is provided under clause (i), the Secretary may consider the demonstrated likelihood of the hospital filling the positions within the first 3 cost reporting periods beginning on or after July 1, 2005, made available for those portions under this subparagraph, as determined by the Secretary.

“(III) Priority for Rural and Small Urban Areas.—In determining for which hospitals an increase in the otherwise applicable resident limit is provided under clause (i), the Secretary shall distribute the increase to programs of hospitals located in the following priority order:

“(I) First, to hospitals located in rural areas (as defined in subsection (d)(2)(D)(ii)),

“(II) Second, to hospitals located in urban areas that are not large urban areas (as defined for purposes of subsection (d)).

“(III) Third, to other hospitals in a State if the program seeks to increase the number of positions attributable to residents who are in a specialty for which there are not other residency training programs in the State.

Increases of residency limits within the same priority category under this clause shall be determined by the Secretary.

“(IV) Limitation.—In no case shall more than 0.66 with respect to each resident position be made available under this subparagraph with respect to any hospital.

“(V) Application of Locality Adjusted National Average Payment Amount.—With respect to additional residency positions in a hospital attributable to the increase provided under this subparagraph, notwithstanding any other provision of this section, the increased resident amount is deemed to be equal to the locality adjusted national average for resident positions calculated under paragraph (4)(E) for that hospital.

“(VI) Construction.—Nothing in this subparagraph shall be construed as permitting the redistribution of reductions in residency positions attributable to voluntary reduction programs under paragraph (6), under a demonstration project approved as of October 31, 2003, under the authority of section 402 of Public Law 90-248, or as affecting the ability of a hospital to establish new medical residency training programs under paragraph (4)(E).

“(C) Resident Level and Limit Defined.—In this paragraph:

“(i) Resident Level.—The term ‘resident level’ means, with respect to a hospital, the total number of full-time equivalent resident positions, before the application of weighting factors (as determined under paragraph (4)), in the fields of allopathic and osteopathic medicine for the hospital.

“(ii) Otherwise Applicable Resident Limit.—The term ‘otherwise applicable resident limit’ means, with respect to a hospital, the limit otherwise applicable under sub-paragraphs (P)(i) and (H) of paragraph (4) on the resident level for the hospital determined without regard to this paragraph.

“(D) Judicial Review.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise, with respect to determinations made under this paragraph.

(b) Conforming Provisions.—(1) Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended—

(A) In the second sentence of clause (ii), by striking “Subject to clause (ix), for discharges;” and placing in its stead “Subject to clause (ix), for discharges;”;

(B) in clause (v), by adding at the end the following:

The provisions of subsection (b) shall apply with respect to subsection (b)(4)(F)(i) thereof:

(C) by adding at the end the following new clause:

“(ix) For discharges occurring on or after July 1, 2005, insofar as an additional payment amount under this paragraph is attributable to resident positions redistributed to a hospital under subsection (b)(7)(B), in computing the indirect teaching adjustment under clause (ix) the additional payment shall be computed in a manner as if ‘c’ were equal to 0.66 with respect to such resident positions.

(2) Chapter 39 of title 44, United States Code, shall not apply with respect to applications under section 1886(h)(7) of the Social Security Act, as added by subsection (a)(3).

(c) Report on Extension of Applications Under Redistribution Program.—Not later than January 1, 2005, the Secretary shall submit to Congress a report containing recommendations regarding whether to extend the deadline for applications for an increase in residency limits under section 1886(h)(4)(D)(II) of the Social Security Act (as added by subsection (a)).
Subtitle D—Other Provisions

SEC. 131. PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT SERVE MEDICALLY UNDER-SERVED POPULATIONS.

(a) In General.—Section 1128(b)(3)(B) (42 U.S.C. 1320a-7(b)(3)), as amended by section 101(e)(2) of this Act, is amended—

(1) in subparagraph (F), by striking “and” after the comma at the end;

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

and”;

and

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

“(H) any remuneration between a health center entity and a hospital, provided under clause (i) or (ii) of section 1905(l)(2)(B) and any individual or entity providing goods, items, services, donations, loans, or a combination thereof, to such a health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity.”.

(b) RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.—

(1) ESTABLISHMENT.—The Secretary shall publish final regulations establishing the standards described in paragraph (a) and inserting “;” and “;

and”;

and

(2) in paragraph (3), by striking “and” at the end of subclause (B).

SEC. 132. OFFICE OF RURAL HEALTH POLICY IMPROVEMENTS.

Section 711(b) (42 U.S.C. 912(b)) is amended—

(1) in paragraph (3), by striking “and” after the comma at the end;

(2) in paragraph (4), by striking the period at the end and inserting “;” and “;

and”;

and

(3) by inserting after paragraph (4) the following new paragraph:

“(5) administer grants, cooperative agreements, and contracts to provide technical assistance and other activities as necessary to support activities related to improving health in rural areas.”.

SEC. 133. MEDPAC STUDY ON RURAL HOSPITAL PAYMENT ADJUSTMENTS.

(a) In General.—The Medicare Payment Advisory Commission shall conduct a study of the impact of sections 401 through 406, 411, 414, and 505. The Commission shall analyze the effect of such provisions on costs, capital spending, and such other payments under those sections.

(b) REPORTS.—

(1) INTERIM REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress an interim report on matters studied under subsection (a) with respect only to changes to the critical access hospital provisions under section 105.

(2) FINAL REPORT.—Not later than 3 years after the date of the enactment of this Act, the Commission shall submit to Congress a final report on all matters studied under subsection (a).

SEC. 134. FRONTIER EXTENDED STAY CLINIC DEMONSTRATION PROJECT.

(a) AUTHORITY TO CONDUCT DEMONSTRATION PROJECT.—The Secretary may also include other standards or limits an individual’s freedom of choice.

(b) CLINICS DESCRIBED.—A frontier extended stay clinic is described in this subsection if the clinic—

(1) is located in a community where the closest short-term acute care hospital or critical access hospital is at least 75 miles away from the community or is inaccessible by public road; and

(2) is designed to address the needs of—

(A) seriously or critically ill or injured patients who, due to adverse weather conditions or other reasons, cannot be transferred quickly to acute care referral centers; or

(B) patients who need monitoring and observation for a period of time.

(c) SPECIFICATION OF CODES.—The Secretary shall determine the appropriate life safety codes for such clinics that treats patients for needs referred to in subsection (b)(2).

(d) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated, in appropriate parts, the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, sufficient sums as are necessary to conduct the demonstration project under this section.

(2) BUDGET NEUTRAL IMPLEMENTATION.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under the provisions of this section shall be reduced by 0.4 percentage points.

(3) MARKET BASKET.—The Secretary shall conduct the demonstration under this section for a 3-year period.

(4) REPORT.—Not later than 1 year after the date that is 1 year after the date on which the demonstration project concludes, the Secretary shall submit to Congress a report on such recommendations for legislation or administrative action as the Secretary determines appropriate.

(d) DEFINITIONS.—In this section, the term “hospital” and “critical access hospital” have the meanings given such terms in subsections (e) and (f), respectively, of section 1861 of the Social Security Act (42 U.S.C. 1395x).
(XI) on or after October 1, 2007, 'c' is equal to 1.35.

(b) Conforming Amendment Relating to Determination of Standardized Amount.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is amended—

(1) by striking ‘‘1999 or’’ and inserting ‘‘1999 and’’; and

(2) by inserting ‘‘, or the Medicare Provider Restoration Act of 2003’’ after ‘‘2000’’.

e) Effective Date.—The amendments made by this section shall apply to discharges billed after April 1, 2007.

SEC. 203. RECOGNITION OF NEW MEDICAL TECHNOLOGIES UNDER INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM.

(a) Improving Timeliness of Data Collection.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is amended by adding at the end the following new clause:

(‘‘VIII) Following the mechanism under this subparagraph, the Secretary shall provide for the addition of new diagnosis and procedure codes in April 1 of each year, but the addition of such codes shall not require the Secretary to adjust the payment (or diagnosis-related group classification) under this subsection until the fiscal year that begins after such date.

(b) Eligibility Standard for Technology Outliers.—

(1) Adjustment of Threshold.—Section 1886(d)(5)(K)(i)(II) (42 U.S.C. 1395ww(d)(5)(K)(i)(II)) is amended by inserting ‘‘applying a threshold specified by the Secretary that is the lesser of 75 percent of the standardized amount (increased to reflect differences between costs and charges) or 75 percent of one standard deviation for the diagnosis-related group involved’’ after ‘‘is inadequate’’.

(2) Public Input.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)), as amended by subsection (a), is amended—

(A) in clause (i), by adding at the end the following: ‘‘Such mechanism shall be modified to meet the requirements of clause (viii);’’; and

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

‘‘(viii) The mechanism established pursuant to clause (i) shall be adjusted to provide, before publication of a proposed rule, for public input as to whether a new medical service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of individuals entitled to benefits under part A as follows:’’.

‘‘(I) The Secretary shall make public and periodically update a list of all the services and technologies for which an application for additional payment under this subparagraph is pending.

‘‘(II) The Secretary shall accept comments, recommendations, and data from the public regarding whether the service or technology represents a substantial improvement.

‘‘(III) The Secretary shall provide for a meeting at which organizations representing hospitals, manufacturers, individual providers, and any other interested party may present comments, recommendations, and data to the clinical staff of the Centers for Medicare & Medicaid Services before publication of a notice of proposed rulemaking regarding whether service or technology represents a substantial improvement.

(c) Preference for Use of DRG Adjustment.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)), as amended by subsections (a) and (b), is amended by adding at the end the following new clause:

‘‘(ix) Before establishing any add-on payment under this subparagraph with respect to a new medical service or technology, the Secretary shall seek to identify one or more diagnosis-related groups associated with such technology, based on similar clinical or anatomical characteristics and the cost of the technology. Within such groups the Secretary shall assign an eligible new technology into a diagnosis-related group and calculate the average costs of care most closely approximate the costs of care of using the new technology. No add-on payment under this subparagraph shall be made in respect to such new technology and this clause shall not affect the application of paragraph (4)(C)(iii).’’

(d) Establishment of New Funding for Hospital Inpatient Technology Development.—

(1) In General.—Section 1886(d)(5)(K)(i)(III) (42 U.S.C. 1395ww(d)(5)(K)(i)(III)) is amended by striking ‘‘subject to paragraph (4)(C)(iii).’’.

(2) Determination of Standardized Amount.—

(a) In General.—Section 1886(d)(5)(K)(ii)(I) (42 U.S.C. 1395ww(d)(5)(K)(ii)(I)) is amended by inserting ‘‘subject to paragraph (4)(C)(iii).’’

(b) Outliers.—

(1) In General.—The Secretary shall implement the amendments made by this section so that they apply to classification for fiscal years beginning with fiscal year 2005.

(2) Reconsiderations for Fiscal Year 2004 That Are Denied.—In the case of an application for a classification of a medical service or technology as a new medical service or technology under section 1886(d)(5)(K)(i)(II) of the Social Security Act because an additional payment is provided under subsection (d)(5)(K)(i)(III) of such section.

(c) Effective Date.—

(1) In General.—The Secretary shall implement the amendments made by this section so that they apply to classification for fiscal years beginning with fiscal year 2005.

(2) Reconsiderations for Fiscal Year 2004 That Are Denied.—In the case of an application for a classification of a medical service or technology as a new medical service or technology under section 1886(d)(5)(K)(i)(II) of the Social Security Act because an additional payment is provided under subsection (d)(5)(K)(i)(III) of such section.

SEC. 204. INCREASE IN FEDERAL RATE FOR HOSPITALS IN PUERTO RICO.

Section 1886(d)(9) (42 U.S.C. 1395ww(d)(9)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ‘‘for discharges beginning on or after October 1, 1997, 50 percent (and for discharges beginning after October 1, 1997, 75 percent)’’ and inserting ‘‘the applicable Puerto Rico percentage (specified in subparagraph (E));’’ and

(B) in clause (ii), by striking ‘‘for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges beginning after October 1, 1997, and September 30, 1997, 75 percent)’’ and inserting ‘‘the applicable Puerto Rico percentage (specified in subparagraph (E));’’ and

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

‘‘(E) For purposes of subparagraph (A), for discharges occurring—

‘‘(i) on or after October 1, 1997, and before October 1, 1998, the applicable Puerto Rico percentage is 75 percent and the applicable Federal percentage is 25 percent;’’

‘‘(ii) on or after October 1, 1997, and before April 1, 1998, the applicable Puerto Rico percentage is 50 percent and the applicable Federal percentage is 50 percent;’’

‘‘(iii) on or after April 1, 2004, and before April 1, 2005, the applicable Puerto Rico percentage is 37.5 percent and the applicable Federal percentage is 62.5 percent; and

‘‘(iv) on or after April 1, 2004, the applicable Puerto Rico percentage is 25 percent and the applicable Federal percentage is 75 percent.’’

SEC. 205. WAGE INDEX ADJUSTMENT RECLASSIFICATION REFORM.

(a) In General.—Section 1886(d) (42 U.S.C. 1395ww(d)), as amended by section 106, is amended by adding at the end the following new paragraph:

‘‘(13)(A) In order to recognize commuting patterns among geographic areas, the Secretary shall establish a process by which application or otherwise for an increase of the wage index applied under paragraph (3)(E) shall be subject to the following standards: for a qualifying county described in subparagraph (B) in the amount computed under subparagraph (D) based on out-migration of hospital employees who reside in that county to any higher wage index area.

‘‘(B) The Secretary shall establish criteria for identifying counties with an increase in the wage index applied under subparagraph (D) based on the out-migration referred to in subparagraph (A) and the area wage indices. Under such criteria the Secretary shall, using such data as the Secretary determines to be appropriate, establish—

‘‘(i) a threshold (of not less than 10 percent) for minimum out-migration to a higher wage index area or areas; and

‘‘(ii) a requirement that the average hourly wage of the hospitals in the qualifying counties or counties with an increase in the average hourly wage of all the hospitals in the area in which the qualifying county is located.

‘‘(C) The wage index applied under subparagraph (A) for a qualifying county shall be equal to the percentage of the hospital employees residing in the qualifying county who are employed in any higher wage index area multiplied by the sum of the products, for each higher wage index area of—

‘‘(I) the difference between—

‘‘(i) the wage index for such higher wage index area, and

‘‘(II) the wage index of the qualifying county, and

‘(ii) the number of hospital employees residing in the qualifying county who are employed in such higher wage index area divided by the total number of hospital employees residing in the qualifying county who are employed in any higher wage index area.

‘‘(D) The process under this paragraph may be based upon the process used by the Medicare Geographic Classification Review Board pursuant to paragraphs (8) and (10), as the Secretary determines is appropriate.

‘‘(E) The process under this paragraph may be based upon the process used by the Medicare Geographic Classification Review Board under paragraph (10), as the Secretary determines is appropriate. For such process, the Secretary may require hospitals (including subsection (d) hospitals and other hospitals) and critical access hospitals, as required under section 1866(a)(1)(T), to submit data regarding the location of residence, or the Secretary may use data from other sources.

‘‘(F) A wage index increase under this paragraph shall be effective for a period of 3 fiscal years, except that the Secretary shall reexamine such process under which a subsection (d) hospital may elect to waive the application of such wage index increase.

‘‘(G) A hospital in a county that has a wage index increase under this paragraph for a period and that has not waived the application of such an increase under subparagraph (F) is not eligible for reclassification under paragraph (8) or (10) during such period.

‘‘(H) Any increase in a wage index under this paragraph for a county shall not be taken into account for purposes of—

‘‘(i) computing the wage index for portions of the wage index area (not including the county) in which the county is located; or

‘‘(ii) applying any add-on payment adjustment with respect to such index under paragraph (8)(D).’’
"(1) The thresholds described in subparagraph (B), data on hospital employees used under this paragraph, and any determination of the Secretary under the process described in such paragraph, shall be final and shall not be subject to judicial review.".

(b) CONFORMING AMENDMENTS.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (R), by striking "and", at the end;

(2) in subparagraph (S), by striking the period at the end and inserting "; and";

(3) in subparagraph (T), the following new subparagraph:

"(T) in the case of hospitals and critical access hospitals, to furnish to the Secretary such information as the Secretary determines appropriate pursuant to subparagraph (E) of section 1886(d)(12) to carry out such section."

(c) EFFECTIVE DATE.—The amendments made by this section shall first apply to the wage index for discharges occurring on or after October 1, 2004, in initially implementing the contract health services program.

SEC. 205. LIMITATION ON CHARGES FOR INPATIENT HOSPITAL CONTRACT HEALTH SERVICES PROVIDED TO İN-DIAGNOSIS BY MEDICARE PARTICIPATING HOSPITALS.

(a) IN GENERAL.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)), as amended by section 205(b), is amended—

(1) in subparagraph (S), by striking "and" at the end;

(2) in subparagraph (T), by striking the period at the end and inserting "; and;

(3) by inserting after subparagraph (T) the following new subparagraph:

"(U) in the case of hospitals which furnish inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care both—

"(i) during the 18-month period beginning on the date of enactment of this Act and thereafter; and

"(ii) under development as of such date.";

(b) EFFECTIVE DATE.—The amendments made by this section shall first apply to the wage index for discharges occurring on or after October 1, 2004, in initially implementing the contract health services program funded by the Indian Health Service and operated by the Indian Health Service, an Indian tribe, or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), with respect to items and services that are covered under such program and furnished to an individual eligible for such items and services under such program, and

"(ii) under development as of such date;"

(c) CONFORMING AMENDMENTS.—Section 1866(d)(10)(C) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(C)), for submission of, and actions on, applications relating to changes in hospital geographic reclassification, is amended—

(1) in paragraph (A), by striking "and"

(2) in paragraph (B), by redesignating subparagraph (B) as subparagraph (C), and by adding the following new subparagraph:

"(C) Other hospitals.—In the case of hospitals the Secretary designates as inconsistent with the purpose of permitting physician ownership and investment interests in a hospital under this section, the term 'specialty hospital' means a hospital described in subparagraph (A) of section 1886(d)(12) to carry out such section."

SEC. 206. LIMITATION ON CHARGES FOR INPATIENT HOSPITAL CONTRACT HEALTH SERVICES PROVIDED TO IN-DIAGNOSIS BY MEDICARE PARTICIPATING HOSPITALS.

(a) IN GENERAL.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)), as amended by section 205(b), is amended—

(1) in subparagraph (S), by striking "and" at the end;

(2) in subparagraph (T), by striking the period at the end and inserting "; and";

(3) in subparagraph (T), by striking the period at the end and inserting "; and";

(4) in subparagraph (T), by striking the period at the end and inserting "; and";

SEC. 207. CLARIFICATIONS TO CERTAIN EXCEPTIONS TO MEDICARE LIMITS ON PHYSICIAN REFERRALS.

(a) LIMITATION ON CHARGES FOR INPATIENT HOSPITAL SERVICES PROVIDED TO IN-DIAGNOSIS BY MEDICARE PARTICIPATING HOSPITALS.

(a) IN GENERAL.—Section 1877(d)(3) (42 U.S.C. 1395nn(d)(3)) is amended—

(1) in paragraph (A), by striking "and" at the end of subparagraph (A) and inserting a semicolon; and

(2) in paragraph (B), by striking the period at the end of subparagraph (B) and inserting a semicolon.

(b) APPLICATION.—Effective for the 18-month period beginning on the date of the enactment of the Medicare Provider Restoration Act of 2003, the hospital is not a specialty hospital (as defined in section 1866(h)(9)); and

(c) DEFINITION.—Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by adding at the end the following:

"(t) SPECIALTY HOSPITAL.—

"(A) IN GENERAL.—For purposes of this section, except as provided in subparagraph (B), the term 'specialty hospital' means a hospital described in subparagraph (A) of section 1886(d)(12) to carry out such section."

(d) CHANGES IN HOSPITAL GEOGRAPHIC RECLASSIFICATION.

(a) IN GENERAL.—Section 1877(d)(3) (42 U.S.C. 1395nn(d)(3)) is amended—

(1) in subparagraph (S), by striking "and"

(2) in subparagraph (T), by striking the period at the end of subparagraph (T) and inserting a semicolon.

(b) EFFECTIVE DATE.—The amendments made by this section shall first apply to the wage index for discharges occurring on or after October 1, 2004, in initially implementing the contract health services program funded by the Indian Health Service and operated by an Indian Health Service (but in no case later than 1 year after the date of enactment of this Act) to Medicare participation agreements in effect (or entered into on or after such date).

(c) CONFORMING AMENDMENTS.—Section 1877(d)(3) (42 U.S.C. 1395nn(d)(3)) is amended by adding the following new subparagraph:

"(u) in the case of designated health services furnished in a rural area as defined in section 1886(d)(2)(D) by an entity, if—

"(A) substantially all of the designated health services furnished by the entity are furnished to individuals residing in such a rural area; and

"(B) effective for the 18-month period beginning on the date of the enactment of the Medicare Provider Restoration Act of 2003, the hospital is under development as of such date.

"(2) RURAL PROVIDERS.—In the case of designated health services furnished in a rural area as defined in section 1886(d)(2)(D) by an entity, if—

"(A) substantially all of the designated health services furnished by the entity are furnished to individuals residing in such a rural area; and

"(B) effective for the 18-month period beginning on the date of the enactment of the Medicare Provider Restoration Act of 2003, the hospital is under development as of such date.

"(c) REPORTS.—The reports required to be submitted by the Secretary under section 1866(d)(10)(C) of the Social Security Act (as added by subsection (a)(3)), in determining whether a hospital is under development as of such date, shall be provided to Congress in a manner consistent with the following:

"(1) The reports shall be provided to Congress in a manner consistent with the purpose of permitting physician ownership and investment interests in a hospital under this section.

"(2) The reports may include information consistent with the following:

"(A) An analysis of the selection and classification of hospitals; and

"(B) The differences in unadjusted Medicare payment rates for physician-owned specialty hospitals and in local full-service community hospitals for the same conditions and patient satisfaction with such care; and

"(D) to assess the differences in uncompensated care, as defined by the Secretary, between the specialty hospital and local full-service community hospitals, and the relative value of any tax exemption available to such hospitals.

SEC. 208. 1-TIME APPEALS PROCESS FOR HOSPITAL WAGE INDEX CLASSIFICATION.

(a) ESTABLISHMENT OF PROCESS.—

"(1) IN GENERAL.—The Secretary shall establish not later than March 1, 2004, by statute, regulations, or otherwise in its discretion, a process under which a hospital may appeal the wage index classification otherwise applicable to the hospital and select another area within the State (or, at the discretion of the Secretary, within a contiguous State) to which to be reclassified.

"(2) PROCESS REQUIREMENTS.—The Secretary, by statute, regulations, or otherwise in its discretion, shall establish the process described in paragraph (1) to be consistent with the following:

"(A) An appeal may be filed as soon as possible after the date of the enactment of this Act but shall be filed by not later than February 15, 2004.

"(B) Such an appeal shall be heard by the Medicare Geographic Reclassification Review Board.

"(C) There shall be no further administrative or judicial review of a decision of such Board.
(3) Reclassification upon successful appeal.—If the Medicare Geographic Reclassification Review Board determines that the hospital is a qualifying hospital (as defined in subsection (a) of section 1866(d) of the Social Security Act (42 U.S.C. 1395ww(d)) and is reclassified to the area selected under paragraph (1), such reclassification shall apply with respect to discharges occurring during the 3-year period beginning with April 1, 2004.

(4) Inapplicability of certain provisions.—Except as the Secretary may provide, (A) paragraphs (1) and (2) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) shall not apply to an appeal under this section.

(b) Reimbursement.—The Secretary shall make an adjustment in the case mix under paragraph (4)(G) of subsection (e) to compensate for the increased costs associated with residents described in such subparagraph.

(c) Effective date.—The amendment made by paragraph (1) shall apply to payments for services furnished on or after October 1, 2004.

SEC. 212. COVERAGE OF HOSPICE CONSULTATION SERVICES.

(a) Coverage defined.—The term "hospice consultation service” means a service furnished on or after October 1, 2004, that would not otherwise be paid for under the prospective payment system for covered skilled nursing facility services (under section 1884(e) of the Social Security Act (42 U.S.C. 1395n)) and is furnished by a physician (as defined in section 1861(r)(1)) who is either the medical director or an employee of a hospice program.

(b) Repeal.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under section (a), and submit recommendations for legislation or administrative change as the Comptroller General determines appropriate.

TITLE III—PROVISIONS RELATING TO PHYSICIAN'S SERVICES

SEC. 301. REVISION OF UPDATES FOR PHYSICIAN’S SERVICES.

(a) Update for 2004 and 2005.—

(1) In general.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended—

(A) by striking "and" at the end of paragraph (1)(A) and inserting "or" in lieu thereof; and

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

"(4) for individuals who are terminally ill, have not made an election under subsection (a), and are not receiving care funded by Medicare, Medicaid, or SCHIP Balanced Budget Act of 2000 provisions relating to distance or commuting; and

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

"(5) for individuals who are terminally ill, have not made an election under subsection (a), and are not receiving care funded by Medicare, Medicaid, or SCHIP Balanced Budget Act of 2000 provisions relating to distance or commuting; and

(b) Use of 10-Year Rolling Average in Computing Gross Domestic Product.—

(1) In general.—Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended—

(A) by striking "and" at the end of paragraph (1) and inserting "or" in lieu thereof; and

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

"(G) Floor for practice expense, malpractice, and work geographic indices for services furnished in Alaska.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)), as amended by section 121, is amended—

(A) by striking "and" at the end of paragraph (1) and inserting "or" in lieu thereof; and

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

"(G) Floor for practice expense, malpractice, and work geographic indices for services furnished in Alaska.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)), as amended by section 121, is amended—

(A) by striking "and" at the end of paragraph (1) and inserting "or" in lieu thereof; and

(B) by adding at the end the following new paragraph:
January 1, 2006, after calculating the practice expense, malpractice, and work geographic indices in clauses (i), (ii), and (iii) of subparagraph (A) and in subparagraph (B), the Secretary shall conduct a review and consideration of alternative data sources than those currently used in establishing the geographic index for the practice expense component under the medicare physician fee schedule.

SEC. 306. MEDPAC REPORT ON PAYMENT FOR PHYSICIANS' SERVICES.
(a) PRACTICE EXPENSE COMPONENT.—Not later than 3 months after the date of enactment of this Act, and in the absence of an initial report on the practice expense component of payments for physicians' services, the Medicare Payment Advisory Commission shall submit to Congress a report on the practice expense component of payments for physicians' services, after the transition to a full resource-based payment system in 2002, under section 1848(f) of the Social Security Act (42 U.S.C. 1395w–4). Such report shall examine the following matters by physician specialty:

(1) The effect of such refinements on payment for physicians' services.
(2) The interaction of the practice expense component with other components of and adjustments to payment for physicians' services under such section.
(3) The appropriateness of the amount of compensation by reason of such refinements.
(4) The effect of such refinements on access to care by medicare beneficiaries to physicians' services.
(5) The effect of such refinements on physician participation under the medicare program.
(b) VOLUME OF PHYSICIANS' SERVICES.—Not later than 3 months after the date of enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report on the extent to which increases in the volume of physicians' services under part B of the medicare program are a result of care that improves the health and well-being of medicare beneficiaries. The study shall include the following:

(1) An analysis of recent and historic growth in the components that the Secretary includes under the sustainable growth rate under section 1848(c) of the Social Security Act (42 U.S.C. 1395w–4(c)).
(2) An analysis of the relative growth of volume in physicians' services between medicare beneficiaries and other populations.
(3) An analysis of the degree to which new technology, including coverage determinations of the Centers for Medicare & Medicaid Services, has affected the volume of physicians' services.
(4) An examination of the impact on volume of demographic factors affecting physician supply.
(5) An examination of changes in the site of service or services that influence the number and intensity of services furnished in physicians' services under part B of the medicare program.
(6) An evaluation of the extent to which the Centers for Medicare & Medicaid Services takes into account the impact of law and regulations on the sustainable growth rate.

Subtitle B—Preventive Services
SEC. 311. COVERAGE OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.
(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395h–1(s)(2)) is amended—
(1) in subparagraph (U), by striking “and” at the end;
(2) in subparagraph (V)(iii), by inserting “and” at the end of the paragraph; and
(3) by adding at the end the following new subparagraph:

(W) an initial preventive physical examination (as defined in subsection (ww)).
(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Initial Preventive Physical Examination” mean a physical examination' means physicians' services consisting of a physical examination (including measurement of height, weight, and blood pressure, and an electrocardiogram) with the goal of health promotion and disease detection and includes education, counseling, and screening and other preventive services described in the paragraph (2), but does not include laboratory tests.

“Screening and other preventive services described in this paragraph include the following:

(A) Pneumococcal, influenza, and hepatitis B vaccine and administration under subsection (a)(10).
(B) Screening mammography as defined in subsection (j).
(C) Screening mammography as defined in subsection (j).
(D) Prostate cancer screening tests as defined in subsection (oo).
(E) Colorectal cancer screening tests as defined in subsection (pp).
(F) Diabetes outpatient self-management training services as defined in subsection (qq).
(G) Bone mass measurement as defined in subsection (rr).
(H) Screening for glaucoma as defined in subsection (uu).
(I) Medicare nutrition therapy services as defined in subsection (xx).
(J) Cardiovascular screening blood tests as defined in subsection (yy).
(K) Diabetes screening tests as defined in subsection (yy).
(L) COMMERCIAL INSURANCE SERVICES.—
SEC. 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting “(2)(W)” after “(2)(S),”.
(M) OTHER CONFORMING AMENDMENTS.—(1) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 303(i)(3)(B), is amended—
(A) in paragraph (1)—
(i) by striking “and” at the end of subparagraph (I);
(ii) by striking the semicolon at the end of subparagraph (J) and inserting “and”;
and
(iii) by adding at the end the following new subparagraph:

“(K) Diabetes screening tests as defined in subsection (yy).

(V) Cardiovascular screening blood tests as defined in subsection (xx).

(VI) AIDS counseling and referral with respect to screening tests (as defined in subsection (ww)).

(VII) The term ‘cardiovascular screening blood tests’ means a blood test for the early detection of cardiovascular disease or abnormalities associated with an elevated...
risk of cardiovascular disease) that tests for the following:

“(A) Cholesterol levels and other lipid or triglyceride levels.

“(B) Other indications associated with the presence of, or an elevated risk for, cardiovascular disease as the Secretary may approve for all individuals (or for some individuals, at the Secretary’s discretion) of the type of screening to be at risk for cardiovascular disease), including indications measured by noninvasive testing.

The Secretary may not approve an indication in subparagraph (B) for any individual unless a blood test for such is recommended by the United States Preventive Services Task Force.

“(2) The Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency for each type of cardiovascular screening blood tests, except that such frequency may not be more often than once every 2 years.

(c) FREQUENCY.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1), as amended by section 311(d), is amended—

(1) by striking “and” at the end of subparagraph (K);

(2) by striking the semicolon at the end of subparagraph (L) and inserting “; and”;

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

“(M) in the case of cardiovascular screening blood tests (as defined in section 1861(xx)(1)), which are performed more frequently than is covered under section 1861(xx)(2);”.

(d) E FFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2005.

SEC. 313. COVERAGE OF DIABETES SCREENING TESTS.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395y(a)(2)), as amended by section 312(a), is amended—

(1) in subparagraph (W), by striking “and” at the end;

(2) in subparagraph (X), by adding “and” at the end; and

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

“(Y) diabetes screening tests (as defined in subsection (yy)(1));”.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395a), as amended by adding at the end the following new subsection:

“Diabetes Screening Tests

(yy)(1) The term ‘diabetes screening tests’ means tests that are designed to identify individuals at risk for diabetes (as defined in paragraph (2)) for the purpose of early detection of diabetes, including—

(A) a fasting plasma glucose test; and

(B) such other tests, and modifications to tests, as the Secretary determines appropriate, in consultation with appropriate organizations.

(2) For purposes of paragraph (1), the term ‘individual at risk for diabetes’ means an individual who has any of the following risk factors for diabetes:

(A) Hypertension.

(B) Dyslipidemia.

(C) Obesity, defined as a body mass index greater than or equal to 30 kg/m².

(D) Previous identification of an elevated impaired glucose tolerance.

(E) Previous identification of impaired glucose tolerance.

(F) A risk factor consisting of at least 2 of the following risk characteristics:

(i) Overweight, defined as a body mass index greater than 25, but less than 30 kg/m².

(ii) A family history of diabetes.

(iii) Gestational diabetes mellitus or delivery of a baby weighing greater than 9 pounds.

(iv) 65 years of age or older.

(B) The Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency of diabetes screening tests, except that such frequency may not be more often than twice within the 12-month period following the date of the most recent diabetes screening test of that individual.”.

(c) FREQUENCY.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1), as amended by section 312(c), is amended—

(1) by striking “and” at the end of subparagraph (L);

(2) by striking the semicolon at the end of subparagraph (M) and inserting “; and”; and

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

“(N) in the case of a diabetes screening test (as defined in section 1861(yy)(1)), which is performed more frequently than is covered under section 1861(yy)(2);”.

(d) E FFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2005.

SEC. 314. IMPROVED PAYMENT FOR CERTAIN MAMMOGRAPHY SERVICES.

(a) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(c)(1)(B)(iv) (42 U.S.C. 1395l(c)(1)(B)(iv)) is amended by inserting before the period following “may not be” “the Secretary may not approve an indication for”.

(b) CONFORMING AMENDMENT.—Section 1833(a)(2)(E)(ii) (42 U.S.C. 1395a(a)(2)(E)(ii)) is amended by inserting “and, for services furnished on or after January 1, 2005, diagnostic mammography” after “screening mammography”.

(c) E FFECTIVE DATE.—The amendments made by this section shall apply—

(1) in the case of screening mammography, to services furnished on or after the date of enactment of this Act; and

(2) in the case of diagnostic mammography, to services furnished on or after January 1, 2005.

Subtitle C—Other Provisions

SEC. 321. HOSPITAL OUTPATIENT DEPARTMENT (HOPD) PAYMENT REFORM.

(a) PAYMENT FOR DRUGS.—

(1) SPECIAL RULES FOR CERTAIN DRUGS AND BIOLOGICALS.—Section 1833(t)(1)(B)(iv) (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by striking “as defined in section 1861(jj))” and substituting “as defined in section 1861(jj)) and diagnostic mammography”.

(b) CONFORMING AMENDMENT.—Section 1833(a)(2)(E)(i) (42 U.S.C. 1395a(a)(2)(E)(i)) is amended by inserting “and, for services furnished on or after January 1, 2005, diagnostic mammography” after “screening mammography”.

(c) E FFECTIVE DATE.—The amendments made by this section shall apply—

(1) in the case of screening mammography, to services furnished on or after the date of enactment of this Act; and

(2) in the case of diagnostic mammography, to services furnished on or after January 1, 2005.

SEC. 322. HOSPITAL OUTPATIENT DEPARTMENT (HOPD) PAYMENT REFORM.

(a) PAYMENT FOR DRUGS.—

(B) Drug or biological for which payment was made under paragraph (6) (relating to pass-through payments) on or before December 31, 2002.

(ii) Such term does not include—

(A) a radiopharmaceutical; or

(B) a drug or biological for which which payment is first made on or after January 1, 2003, under paragraph (6).

(ii) A drug or biological for which a temporary HCPCS code has not been assigned; or

(iii) during 2004 and 2005, an orphan drug (as designated by the Secretary).

(c) PAYMENT FOR DESIGNATED ORPHAN MEDICATIONS DURING 2004 AND 2005.—The amount of payment under this subsection for an orphan drug designated by the Secretary under subparagraph (B) is increased—

(1) by 15 percent, in the case of diagnostic mammography for a specified covered outpatient drug during the period beginning on or after January 1, 2004, and ending on December 31, 2004; and

(2) by an additional 10 percent, in the case of diagnostic mammography for a specified covered outpatient drug during the period beginning on or after January 1, 2005, and ending on December 31, 2005.

(d) ACQUISITION COST SURVEY FOR HOSPITAL OUTPATIENT DRUGS (as designated by the Secretary).

(i) ANNUAL GAO SURVEYS IN 2004 AND 2005.—

(ii) IN GENERAL.—The Comptroller General of the United States shall conduct a survey in 2004 and 2005 to determine the hospital acquisition cost for each specified covered outpatient drug. Not later than April 1, 2005, the Comptroller General shall furnish data from such surveys to the Secretary for use in setting the payment rates under subpart (A) for 2006.

(iii) SUCCESSIVE SURVEYS.—The Secretary may vary the frequency of such surveys to the extent such surveys are necessary to generate a statistically significant estimate of the average hospital acquisition cost for such specified covered outpatient drug for use in setting the payment rates under subpart (A).

(iv) SURVEY REQUIREMENTS.—The surveys conducted under clauses (i) and (ii) shall have a large sample of hospitals that is sufficient to generate a statistically significant estimate of the average hospital acquisition cost for each specified covered outpatient drug. With respect to the surveys conducted under clauses (i), the Comptroller General shall report to Congress on the justification for the size of the sample used in order to assure the validity of such estimates.

(v) REPORT OF FINDINGS.—In conducting surveys under clause (i), the Comptroller General shall determine and report to
Congress if there is (and the extent of any) variation in hospital acquisition costs for drugs among hospitals based on the volume of covered OPD services performed by such hospital and other relevant characteristics of such hospitals (as defined by the Comptroller General).

(v) Comment on Proposed Rates.—Not later than 30 days after the date the Secretary promulgated proposed rules setting forth the payment rates under subparagraph (A) for 2006, the Comptroller General shall evaluate such proposed rates and submit to Congress a report regarding the appropriateness of such rates based on the surveys the Comptroller General has conducted under clause (i).

(E) Adjustment in Payment Rates for Overhead Costs.—

(i) MedPac Report on Drug APC Design.—The Medicare Payment Advisory Commission shall submit to the Secretary, not later than July 1, 2005, a report on adjustment for ambulatory payment classification for specified covered outpatient drugs to take into account overhead and related expenses, such as pharmacy services and handling of drugs.

(ii) A description and analysis of the data available with regard to such expenses;

(iii) A recommendation as to whether such a payment adjustment should be made;

(iv) If such adjustment should be made, a recommendation regarding the methodology for making such an adjustment.

(F) Classes of Drugs.—For purposes of this paragraph:

(I) Sole Source Drugs.—The term ‘sole source drug’ means—

(a) a biological product (as defined under section 1861(t)); or

(b) a single source drug (as defined in section 1927(k)(7)(A)(iv)).

(II) Innovator Multiple Source Drugs.—The term ‘innovator multiple source drug’ means the term which has been assigned, the average wholesale price of which, with respect to a specified time.

(i) AVERAGE WHOLESALE PRICE.—The term ‘average wholesale price’ means, with respect to a specified covered outpatient drug, the average wholesale price in effect on or after the date under paragraph (9), but shall be taken into account for subsequent years.

(15) Payment for New Drugs and Biologicals Until HCPCS Code Assigned.—With respect to payment under this part for an outpatient drug or biological that is covered under this part and is furnished as part of covered OPD services for which HCPCS code has not been assigned, the amount provided for payment for such drug or biological under this part shall be equal to 95 percent of the average wholesale price for the drug or biological.

(2) Reduction in Threshold for Separate APCs for Drugs.—Section 1833(t)(16), as described in subparagraph (A), is amended by adding at the end the following new subparagraph:

(‘‘B’’ Threshold for Establishment of Separate APCs for Drugs.—The Secretary shall reduce the threshold for the establishment of separate ambulatory payment classification groups established separately for drugs or biologicals.”).

(3) Exclusion of Separate Drug APCs From Outlier Payments.—Section 1833(t)(6) is amended by adding at the end the following new subparagraph:

(‘‘C’’ Exclusion of Separate Drug and Biological APCs From Outlier Payments.—No additional payment shall be made under subparagraph (B) in the case of ambulatory payment classification groups established separately for drugs or biologicals.”).

(4) Payment for Pass Through Drugs.—Section 1833(t)(6)(D)(1) is amended by inserting after “under section 1842(o)” the following: ‘‘(or if the drug or biological is covered under section 1847B, an amount determined by the Secretary equal to the average price for the drug or biological for all competitive acquisition groups established under section 1847B)’’. In determining the appropriate payments for the drug or biological for all competitive acquisition groups established under subparagraph (D), the Secretary may adjust the weights for ambulatory payment classification for specified drugs or biologicals to take into account overhead and related expenses, such as pharmacy services and handling of drugs.

(5) Conforming Amendment to Budget Neutrality.—Section 1833(t)(9)(B) (42 U.S.C. 1395l(t)(9)(B)) is amended by adding at the end the following: ‘‘In determining adjustments under the preceding sentence for the year 2005, the Secretary shall not take into account under this subparagraph or paragraph (2)(E) any expenditures that would not have been made but for the application of paragraph (4).’’.

(6) Effective Date.—The amendments made by this subsection shall apply to items and services furnished on or after January 1, 2005.

(a) Special Payment for Brachytherapy.—

(I) In General.—Section 1833(t)(16), as redesignated by section 111(b) and amended by subsection (a)(2), is amended by adding at the end the following new subparagraph:

(C) Payment for Devices of Brachytherapy at Charges Adjusted to Cost.—Notwithstanding the preceding provisions of this title, the payment for devices of brachytherapy consisting of a seed or seeds (or radioactive source) furnished on or after January 1, 2005, and before January 1, 2007, that are in the possession of the provider or subcontractor shall be equal to the hospital’s charges for each device furnished, adjusted to cost. Charges for such devices shall not be included in determining any outlier payment under this subsection.

(II) Specification of Groups for Brachytherapy Devices.—Section 1833(t)(2) (42 U.S.C. 1395l(t)(2)) is amended—

(A) in subparagraph (F), by striking ‘‘and’’ at the end;

(B) in subparagraph (G), by striking the period at the end and inserting ‘‘and’’; and

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

(‘‘H’’ with respect to devices of brachytherapy consisting of a seed or seeds (or radioactive source), the Secretary shall create additional groups of covered OPD services that classify such devices separately from the other services (or group of services) paid for under this subsection in a manner reflecting the number, isotope, and radioactive intensity of such devices furnished, including a separate APC for palladium-103 and iodine-125 devices.”).

(3) GAO Report.—The Comptroller General of the United States shall conduct a study to determine amounts under section 1833(t)(16)(C) of the Social Security Act, as added by paragraph (1), for devices of brachytherapy. Not later than January 1, 2005, the Comptroller General shall submit to Congress and the Secretary a report on the study conducted under this paragraph, including any recommendations for appropriate payments for such devices.

(b) Limitation of Application of Functional Equivalency Standard.—(1) In General.—The Secretary may not publish regulations that apply a functional equivalence standard to a drug or biological under this paragraph.

(ii) Application.—Clause (i) shall apply to the application of a functional equivalence standard to a drug or biological on or after the date of enactment of the Medicare Provider Restoration Act of 2003 unless—

(1) such application was being made to such drug or biological prior to such date of enactment; and

(ii) the Secretary applies such standard to such drug or biological only for the purposes of determining eligibility of such drug or biological for additional payments under this paragraph and for not the purpose of any other payments under this title.

(c) Rule of Construction.—Nothing in this subparagraph shall be construed to effect the Secretary’s authority to deem a particular drug to be identical to another drug if the 2 products are pharmaceutically equivalent and bioequivalent, as determined by the Commissioner of Food and Drugs.”.

S. 323. Payment for Renal Dialysis Services.—

(a) Increase in Renal Dialysis Composite Rate for Services Furnished.—The last sentence of section 1831(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended—

(1) by striking ‘‘and’’ before ‘‘for such services’’ the second place it appears;

(2) by inserting ‘‘and before January 1, 2005’’ after ‘‘January 1, 2002’’; and

(3) by inserting before the period at the end the following: ‘‘, and for such services furnished on or after January 1, 2005, by 1.6 percent the Secretary’s authority to deem a particular drug to be identical to another drug if the 2 products are pharmaceutically equivalent and bioequivalent, as determined by the Commissioner of Food and Drugs.’’.

(b) Restoring Composite Rate Exclusions for Pediatric Facilities.—(1) In General.—Section 422(a)(2) of BIPA is amended—

(A) in subparagraph (A), by striking ‘‘(or if the 2 products are pharmaceutically equivalent and bioequivalent, as determined by the Commissioner of Food and Drugs.’’;

(B) in subparagraph (B), by striking ‘‘in the case’’ and inserting ‘‘Subject to subparagraph (D), in the case’’; and

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

(‘‘D’’ Inapplicability to Pediatric Facilities.—Subparagraphs (A) and (B) shall not apply to claims for services furnished at pediatric facilities that do not have an exception rate described in subparagraph (C) in effect on such date. For purposes of this subparagraph, the term ‘pediatric facility’ means a renal facility at least 50 percent of whose patients are individuals under 18 years of age.”).

(2) Conforming Amendment.—The fourth sentence of section 1831(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended by striking ‘‘The Secretary’’ and inserting ‘‘Subject to section 422(a)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, the Secretary’’.

(c) Inspector General Studies on ESRD Drugs.—

(1) In General.—The Inspector General of the Department of Health and Human Services shall conduct two studies with respect
to drugs and biologicals (including erythropoietin) furnished to end-stage renal disease patients under the Medicare program which are separately billed by end stage renal disease facilities under title XVIII of the Social Security Act for drugs and biologicals and the acquisition costs of such facilities for such drugs and biologicals and which are separately billed by end stage renal disease facilities, and

(B) the rates of growth of expenditures for such drugs and biologicals billed by such facilities.

(4) REPORTS.—

(A) EXISTING ESRD DRUGS.—Not later than April 1, 2004, the Inspector General shall report to the Secretary on the study conducted in paragraph (2)(A).

(B) NEW ESRD DRUGS.—Not later than April 1, 2006, the Inspector General shall report to the Secretary on the study conducted under paragraph (1), the Inspector General shall—

(1) determine the difference between the amount of payment made to end stage renal disease facilities under title XVIII of the Social Security Act for such drugs and biologicals and the acquisition costs of such facilities for such drugs and biologicals and which are separately billed by end stage renal disease facilities, and

(2) estimate the rates of growth of expenditures for such drugs and biologicals billed by such facilities.

(5) USE OF ADVISORY BOARD.—

(A) IN GENERAL.—In carrying out the demonstration under this subsection, the Secretary shall include the following:

(i) Patient organizations.

(ii) Individuals with expertise in end-stage renal dialysis services, such as clinicians, economists, and researchers.

(B) RULES OF CONSTRUCTION.—Nothing in this paragraph, section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)), or any other provision of law, shall be construed as requiring or authorizing the Secretary to develop demonstration projects that include, as a condition, the use of the Advisory Board established under section 1881 of the Social Security Act (42 U.S.C. 1395rr(b)).
SEC. 326. PAYMENT FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.

(a) Reductions in Payment Updates.—Section 1833(a)(1)(C) (42 U.S.C. 1395l(a)(1)(C)) is amended to read as follows:

"(C)(i) Notwithstanding the second sentence of each of subsections (B), except as otherwise specified in clauses (ii), (iii), and (iv), if the Secretary has not updated amounts established under such subsections for or under to reflect the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved.

"(ii) In each of the fiscal years 1998 through 2002, the increase under this subparagraph shall be reduced (but not below zero) by 2.0 percentage points.

"(iii) In fiscal year 2003, beginning with April 1, 2004, the increase under this subparagraph shall be reduced (but not below zero) by 1.0 percentage points.

"(iv) In fiscal year 2005, the last quarter of calendar year 2005, and each of the calendar years 2006 and 2007, the amount established under this subparagraph shall be reduced (but not below zero) by 0.5 percentage points.

(b) Repeal of Survey Requirement and Implementation of New System.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "The" and inserting "For services furnished prior to the implementation of the system described in subparagraph (D), the;" and

(B) in clause (i), by striking "taken not later than January 1, 1995, and every 5 years thereafter."; and

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

"(D)(i) Taking into account the recommendations in the report under section 326(d) of Medicare Provider Restoration Act of 2003, the Secretary shall implement a requirement for facility services furnished in an ambulatory surgical center described in such subsection to be performed with respect to facility services furnished in connection with a surgical procedure specified pursuant to subsection (1)(A) and furnished to an individual in an ambulatory surgical center described in such subsection, for services furnished beginning with the implementation date of a revised payment system for such services in such facility.

"(ii) The amounts paid shall be 80 percent of the lesser of the actual charge for the services or the
that the Secretary estimates will assure that there is no net increase in expenditures under this subsection as a result of this sub-paragraph.

(b) CONFORMING AMENDMENTS.—(1) Section 183(h)(4)(C) (42 U.S.C. 1395h(b)(4)(C)) is amended by inserting “(and includes shoes described in section 1861(s)(12))” after “in section 1861(s)(9)”.

(2) Section 1842(a)(2) (42 U.S.C. 1395u(a)(2)) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 2005.

SEC. 329. 5 YEAR AUTHORIZATION OF REIMBURSEMENT FOR ALL MEDICARE PART B SERVICES FURNISHED BY CERTIFIED INDIAN HOSPITALS AND CLINICS.

Section 1880(e)(1)(A) (42 U.S.C. 1395q(e)(1)(A)) is amended by inserting “(and for items and services furnished during the 5-year period beginning on January 1, 2005, all items and services for which payment may be made under part B)” after “for services described in paragraph (2)”.

Subtitle D—Additional Demonstrations, Studies, and Other Provisions

SEC. 341. DEMONSTRATION PROJECT FOR COVERAGE OF CERTAIN PRESCRIPTION DRUGS AND BIOLOGICALS.

(a) DEMONSTRATION PROJECT.—The Secretary shall conduct a demonstration project for the 2-year period beginning on the date that is 90 days after the date of the enactment of this Act, but in no case may the project extend beyond December 31, 2005.

(b) DURATION.—The Secretary shall conduct the demonstration project over the duration of the project, the Secretary may not provide—

(1) coverage for more than 50,000 patients; and

(2) more than $500,000,000 in funding.

(c) REPORT.—Not later than June 1, 2006, the Secretary shall submit to each House of Congress a report on the project. The report shall include an evaluation of patient access to care and patient outcomes under the project, as well as an analysis of the cost-effectiveness of the project, including an evaluation of the costs savings (if any) to the medicare program attributable to the Medicare services and hospital outpatient department services for administration of the biological.

SEC. 342. EXTENSION OF COVERAGE OF INTRAOPERATIVE IMMUNE GLOBULIN (IVIG) FOR THE TREATMENT OF PRIMARY IMMUNE DEFICIENCY DISEASES IN CHILDREN.

(a) IN GENERAL.—Section 1881 (42 U.S.C. 1395x), as amended, is amended—

(1) in subsection (a)(2)—

(1) by striking “immunoglobulin (IVIG)” and inserting “intravenous immune globulin (IVIG)”), as defined in section 1861(zz)”, after “in section 1861(zz) (including intravenous immune globulin (IVIG)”), as defined in section 1861(zz)”, after “with respect to drugs and biologicals”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 2005.

SEC. 343. MEDPAC STUDY OF COVERAGE OF CERTIFIED REGISTERED NURSE FIRST ASSISTANTS.

(a) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the “Commission”) shall conduct a study as specified in paragraph (1), including an evaluation of the costs savings (if any) to the medicare program attributable to the Medicare services and hospital outpatient department services for administration of the biological.

(b) EFFICACY OF CERTIFIED REGISTERED NURSE FIRST ASSISTANTS.—The term “certified registered nurse first assistant” means a nurse assistant by an organization recognized by the Secretary.

(c) CERTIFICATION.—The term “certified registered nurse first assistant” means an individual who—

(1) is a registered nurse and is licensed to practice as a nurse assistant in the State in which the services are furnished by a certified registered nurse first assistant; and

(2) has successfully passed the examination prescribed by the Secretary.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 2005.
subsection (a) together with recommendations for such legislation or administrative action as the Commission determines to be appropriate.

SEC. 345. STUDIES RELATING TO VISION IMPAIRMENTS.

(a) COVERAGE OF OUTPATIENT VISION SERVICES FURNISHED BY VISION REHABILITATION PROFESSIONALS UNDER PART B.—

(1) STUDY.—The Secretary shall conduct a study to determine the feasibility and advisability of providing for payment for vision rehabilitation services furnished by vision rehabilitation professionals.

(2) REPORT.—Not later than January 1, 2005, the Secretary shall submit to Congress a report on the study conducted under paragraph (1) together with recommendations for such legislation or administrative action as the Secretary determines to be appropriate.

(b) VISION REHABILITATION PROFESSIONAL DEFINED.—In this subsection, the term "vision rehabilitation professional" means an orientation and mobility specialist, a rehabilitation teacher, or a low vision therapist.

(c) REPORT ON APPROPRIATENESS OF A DEMONSTRATION PROJECT TO TEST FEASIBILITY OF USING PPO NETWORKS TO REDUCE COSTS OF ACQUIRED IN CvICATION SERVICES FOR VISON REHABILITATION PROFESSIONALS AFTER CATARACT SURGERY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on a demonstration project establishing a two-year demonstration project under which the Secretary enters into arrangements with vision care preferred provider organization networks to furnish and pay for conventional eyeglasses subsequent to each cataract surgery with insertion of an intraocular lens on behalf of Medicare beneficiaries. In conducting the demonstration project, the Secretary shall include an estimate of potential cost savings to the Medicare program through the use of such networks, taking into consideration quality of beneficiary access to vision care services offered by vision care preferred provider organization networks.

SEC. 346. MEDICARE HEALTH CARE QUALITY DEMONSTRATION PROGRAMS.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1866 the following new section:

"SEC. 1866a. MEDICARE HEALTH CARE QUALITY DEMONSTRATION PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) BENEFICIARY.—The term ‘beneficiary’ means any individual who is entitled to benefits under part A and enrolled under part B, including any individual who is enrolled in a Medicare Advantage plan under part C.

"(2) MEDICARE ADVANTAGE PLAN.—The term ‘Medicare Advantage plan’ means any plan described in subsection (b) together with recommendations for such legislation or administrative action as the Commission determines to be appropriate.

"(3) PHYSICIAN.—Except as otherwise provided for by the Secretary, the term ‘physician’ means any individual who furnishes services that may be paid for as physicians’ services under this title.

"(b) DEMONSTRATION PROJECTS.—The Secretary shall establish a 5-year demonstration program under which the Secretary shall approve demonstration projects that examine health delivery factors that encourage the delivery of high quality care in patient care, including—

"(1) the provision of incentives to improve the safety of care provided to beneficiaries;

"(2) the implementation of best practice guidelines by providers and services by beneficiaries;

"(3) reduced financial uncertainty in the delivery of care through the utilization of variations in the utilization and allocation of services, and outcomes measurement and research;

"(4) encourage shared decision making between providers and patients;

"(5) the provision of incentives for improving the quality and safety of care and achieving the efficient allocation of resources;

"(6) the appropriate use of culturally and ethnically sensitive health care delivery; and

"(7) the financial effects on the health care marketplace of altering the allocation of resources.

"(c) ADMINISTRATION BY CONTRACT.—

"(1) IN GENERAL.—In conducting the demonstration project established under subsection (a) together with recommendations for such legislation or administrative action as the Commission determines to be appropriate, a health care group may administer the demonstration program established under section 1866a in accordance with section 1866b.

"(2) PAYMENT SYSTEMS.—A health care group that receives assistance under this section may, with respect to the demonstration project to be carried out with such assistance, include proposals for the use of alternative payment systems for items and services provided to beneficiaries by the group that are designed to—

"(A) encourage the delivery of high quality care while accomplishing the objectives described in subsection (b); and

"(B) streamline documentation and reporting requirements otherwise required under this title.

"(d) BENEFITS.—A health care group that receives assistance under this section may, with respect to the demonstration project to be carried out with such assistance, include modifications to the package of benefits available under the original medicare fee-for-service program, including—

"(1) expand access to outpatient physical therapy services for beneficiaries with respect to the demonstration program to evaluate outcomes measurement and document the financial impact of the health care marketplace of altering incentives for health care delivery and changing the allocation of resources;

"(2) incorporate research;

"(3) meet such other requirements as the Secretary may establish.

"(e) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII as may be necessary to carry out the purposes of the demonstration program established under this section.

"(f) BUDGET NEUTRALITY.—With respect to the 5-year period of the demonstration program under subsection (b), the aggregate expenditures under this title for such period shall not exceed the aggregate expenditures that would have been expended under this title if the program established under this section had not been implemented.

"(g) NOTICE REQUIREMENTS.—In the case of an individual that receives health care items or services under a demonstration program carried out under this section, the Secretary shall ensure that such individual is notified of any waivers of coverage or payment rules that are applicable to such individual under this section as a result of the participation of the individual in such program.

"(h) PARTICIPATION AND SUPPORT BY FEDERAL AGENCIES.—In carrying out the demonstration program under this section, the Secretary may direct—

"(i) the Director of the National Institutes of Health to expand the efforts of the Institutes to evaluate current medical technologies and improve the foundation for evidence-based practice;

"(j) the Administrator of the Agency for Healthcare Research and Quality to, where possible and appropriate, use the program under this section as a laboratory for the study of quality improvement strategies and to evaluate, monitor, and disseminate information relevant to such program; and

"(k) the Administrator of the Centers for Medicare & Medicaid Services to expand the efforts of the Administrator of the Center for Medicare Choices to support linkages of relevant medicare data to registry information from participating health care providers and beneficiary access to beneficiary populations served by the participating groups, for analysis supporting the purposes of the demonstration program, consistent with the applicable provisions of the Health Insurance Portability and Accountability Act of 1996.

"SEC. 347. MEDPAC STUDY ON DIRECT ACCESS TO PHYSICAL THERAPY SERVICES.

(a) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the “Commission”) shall conduct a study to determine whether the availability of allowing medicare fee-for-service beneficiaries direct access to outpatient physical therapy services and physical therapy services furnished as comprehensive rehabilitation facility services.

(b) REPORT.—Not later than January 1, 2005, the Commission shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation or administrative action as the Commission determines to be appropriate.

"(c) DIRECT ACCESS DEFINED.—The term “direct access” means, with respect to outpatient physical therapy services furnished as comprehensive outpatient rehabilitation facility services, …
services, coverage of and payment for such services in accordance with the provisions of title XVIII of the Social Security Act, except that sections 1833(a)(2), 1861(p), and 1861(c) of such Act (42 U.S.C. 1395a(a)(2), 1395x(p), and 1395x(c), respectively) shall be applied—
(1) without regard to any requirement that—
(A) an individual be under the care of (or referred by) a physician; or
(B) services be provided under the supervision of a physician; and
(2) covering a physical therapist or a qualified physical therapist to satisfy any requirement for
(A) certification and recertification; and
(B) establishment and periodic review of a plan of care.

SEC. 348. DEMONSTRATION PROJECT FOR CONSUMER-DIRECTED CHRONIC OUT-PATIENT SERVICES.

(a) Establishment.—

(1) In general.—Subject to the succeeding provisions of this section, the Secretary shall establish demonstration projects (in this section referred to as “demonstration projects”) under which the Secretary shall evaluate methods that improve the quality of care delivered to individuals with chronic conditions and that reduce expenditures that would otherwise be made under the medicare program on behalf of such individuals for such services, such methods to include permitting those beneficiaries to direct their own health care needs and services.

(b) Design of Projects.—

(1) Evaluation before implementation of project.—

(A) In general.—In establishing the demonstration projects under this section, the Secretary shall evaluate best practices employed by group health plans and practices under State plans for medical assistance under the medicaid program under title XIX of the Social Security Act, as well as best practices outside the sector of such plans and practices, of methods that permit patients to self-direct the provision of personal care services. The Secretary shall evaluate such practices and determine, through a 1-year period and, based on such evaluation, shall design the demonstration project.

(B) Requirement for estimate of budget neutral costs.—As part of the evaluation under subparagraph (A), the Secretary shall evaluate the costs of furnishing care under the project. The Secretary may not implement demonstration projects under this section unless the Secretary determines that the costs of providing care to individuals with chronic conditions under the project will not exceed the costs, in the aggregate, of furnishing care to such individuals under title XVIII of the Social Security Act, that would otherwise be paid without regard to the demonstration projects for the period of the project.

(2) Scope of services.—The Secretary shall determine the appropriate scope of personal care services that would apply under the demonstration projects.

(c) Voluntary Participation.—Participation of providers of services and suppliers, and other individuals with chronic conditions, in the demonstration projects shall be voluntary.

(d) Demonstration Projects Sites.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall conduct a demonstration project in at least one area of which—

(A) 2 shall be in a rural area;

(B) 1 shall be in an urban area; and

(C) 1 shall be in a State with a medical school with a Department of Geriatrics that manages rural outreach sites and is capable of managing personal care of individuals with chronic conditions, one of which is dementia.

(3) Duration.—The Secretary shall conduct the demonstration program under this section for a 1-year period and, based on the evaluation of such project, the Secretary shall submit to Congress a report on the evaluation of such project and shall include in the report the following:

(A) An analysis of the patient outcomes and costs of furnishing care to the individuals with chronic conditions participating in the projects as compared to such outcomes and costs to other individuals for the same health condition.

(B) Evaluation of patient satisfaction under the demonstration projects.

(C) Such recommendations regarding the extension and expansion of the demonstration projects as the Secretary determines appropriate.

(e) Waiver authority.—The Secretary shall, as necessary and appropriate, waive compliance with the requirements of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

(f) Authorization of Appropriations.—

(1) Payments for the costs of carrying out the demonstration project under this section shall be made from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395j).

(2) There are authorized to be appropriated from such Trust Fund such sums as may be necessary for the Secretary to enter into contracts with appropriate organizations for the design, implementation, and evaluation of the demonstration project.

(g) Consultation.—In carrying out the demonstration program under section (d) there shall be consultation with two or more chronic conditions, including polypharmacy.

(h) Demonstration Project Sites.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall conduct a demonstration project in at least one area of which—

(A) 2 shall be in an urban area;

(B) 1 shall be in an urban area; and

(C) 1 shall be in a State with a medical school with a Department of Geriatrics that manages rural outreach sites and is capable of managing personal care of individuals with chronic conditions, one of which is dementia.

(i) Use of evidence-based guidelines and tools.—The Secretary shall require in such contracts that the contractor use evidence-based guidelines and tools that would otherwise be made under the medicare program.

(j) Consultation.—In carrying out the demonstration program under this section, the Secretary shall consult with private sector and non-profit groups that are undertaking similar efforts to improve quality and reduce avoidable hospitalizations for chronic patients.

(k) Public Health Information System.—The Secretary shall, in consultation with public health information systems for such beneficiaries, including any information system that the Secretary determines is necessary to conduct demonstration projects, and biannually thereafter, the Secretary shall submit to Congress a report on the evaluation of such demonstration projects, and biannually thereafter, the Secretary shall submit to Congress a report on the evaluation of such demonstration projects.

(l) Authorization of Appropriations.—

(1) Use of quality improvement organizations.—The Secretary shall contract with quality improvement organizations or such other entities as the Secretary deems appropriate to manage and evaluate their performance under the demonstration program under this section.

(2) Technical assistance.—The Secretary shall establish performance requirements as the Secretary may direct over the demonstration period and with the assistance provided under subsection (d)(2).

(3) Technological Innovation and Education.—The Secretary shall require in such contracts that the contractor be responsible for technical assistance and education as needed to physicians.
enrolled in the demonstration program under this section for the purpose of aiding their adoption of health information technology, meeting practice standards, and implementing required clinical and outcomes measures.

(e) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide for the demonstration project under this section from the Supplementary Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t) of such funds as are necessary for the costs of carrying out the demonstration program under this section.

(2) BUDGET NEUTRALITY.—In conducting the demonstration program under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary estimates would have been paid if the demonstration program under this section was not implemented.

(f) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq.; 1395 et seq.) as may be necessary for the purpose of carrying out the demonstration program under this section.

(g) REPORT.—Not later than 12 months after the date of completion of the demonstration program under this section, the Secretary shall cause to be prepared a report on such program, together with recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(h) DEFINITIONS.—In this section:

(1) ELIGIBLE BENEFICIARY.—The term "eligible beneficiary" means any individual who—

(A) is entitled to benefits under part A and enrolled for benefits under part B of title XVIII of the Social Security Act and is not enrolled in a plan under part C of such title; and

(B) has one or more chronic medical conditions specified by the Secretary (one of which may be cognitive impairment).

(2) HEALTH INFORMATION TECHNOLOGY.—The term "health information technology" means electronic communication, clinical alerts and reminders, and other information technology that meets such functionality, interoperability, and other standards as prescribed by the Secretary.

SEC. 351. DEMONSTRATIONS OF COVERAGE OF CHIROPRACTIC SERVICES UNDER MEDICARE.

(a) DEFINITIONS.—In this section:

(1) CHIROPRACTIC SERVICES.—The term "chiropractic services" has the meaning given that term by the Secretary for purposes of section 1861(r)(5) of the Social Security Act (42 U.S.C. 1395x(r)(5)).

(2) DEMONSTRATION PROJECT.—The term "demonstration project" means a demonstration project established by the Secretary under section 351(e).

(3) ELIGIBLE BENEFICIARY.—The term "eligible beneficiary" means an individual who is enrolled under part B of the medicare program.

(4) MEDICARE PROGRAM.—The term "medicare program" means the health benefits program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(b) DEMONSTRATION OF COVERAGE OF CHIROPRACTIC SERVICES UNDER MEDICARE.

(1) ESTABLISHMENT.—The Secretary shall establish demonstration projects by which the Secretary determines is appropriate.

(2) D EMONSTRATION PROJECT.—The term "demonstration project" means a demonstration project established by the Secretary under section 351(c).

(c) ELIGIBLE BENEFICIARY.—The term "eligible beneficiary" means an individual who is enrolled under part B of the medicare program.

(d) MEDICARE PROGRAM.—The term "medicare program" means the health benefits program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(e) WAIVER AUTHORITY.—The Secretary shall waive compliance with such requirements of the medicare program to the extent and for the period the Secretary finds necessary to conduct the demonstration projects.

(f) FUNDING.—

(1) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide for the transfer from the Federal Supplementary Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395c) of such funds as are necessary for the costs of carrying out the demonstration projects under this section.

(B) LIMITATION.—In conducting the demonstration projects under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under the medicare program do not exceed the amount which the Secretary would have paid under the medicare program if the demonstration projects under this section were not implemented.

(2) EVALUATION AND REPORT.—There are authorized to be appropriated such sums as may be necessary for the purpose of developing and submitting the report to Congress under subsection (d).

TITLE IV—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

SEC. 401. DEMONSTRATION PROJECT TO CLARIFY THE DEFINITION OF HOMEBASED.

(a) DEMONSTRATION PROJECT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall conduct a 2-year demonstration project under part B of title XVIII of the Social Security Act under which medicare beneficiaries with chronic conditions described in subsection (b) are deemed to be homebound if a beneficiary of receiving home health services under the medicare program.

(1) DEMONSTRATION PROJECT.—The Secretary shall not implement the demonstration projects before October 1, 2004.

(B) DURATION.—The Secretary shall complete the demonstration projects by the date that is 2 years after the date on which the first demonstration project is implemented.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of the demonstration projects—

(A) to determine whether eligible beneficiaries use chiropractic services under a demonstration project, and for such beneficiaries for which payment is made under the medicare program than eligible beneficiaries who do not use such services;

(B) to determine the cost of providing payment for chiropractic services under the medicare program;

(C) to determine the satisfaction of eligible beneficiaries participating in the demonstration projects and the quality of care received by such beneficiaries; and

(D) to evaluate other matters as the Secretary determines is appropriate.

(2) REPORT.—Not later than the date that is 1 year after the date on which the demonstration projects conclude, the Secretary shall submit to Congress the evaluation conducted under paragraph (1) together with such recommendations for legislation or administrative action as the Secretary determines is appropriate.

(e) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of the medicare program to the extent and for the period the Secretary finds necessary to conduct the demonstration projects.

(f) FUNDING.—
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(b) Medicare Beneficiary Described.—For purposes of subsection (a), a Medicare beneficiary is eligible to be deemed to be homebound, without regard to the purpose, frequency, or duration of absences from the home, if—

(1) the beneficiary has been certified by one physician as an individual who has a permanent disabling condition that is not expected to improve;

(2) the beneficiary is dependent upon assistance from another individual with at least 3 out of the 5 activities of daily living for the rest of the beneficiary’s life; and

(3) the beneficiary requires skilled nursing services for the rest of the beneficiary’s life and the skill nursing is more than medication management;

(4) an attendant is required to visit the beneficiary on a daily basis to monitor and treat the beneficiary’s medical condition or to assist the beneficiary with activities of daily living;

(5) the beneficiary requires technological assistive devices to enable the beneficiary to live independently; and

(6) the beneficiary does not regularly work in a paid position full-time or part-time outside the home.

(c) Demonstration Project Sites.—The demonstration project established under this section shall be conducted in 3 States selected by the Secretary to represent the Northeast, Midwest, and Western regions of the United States.

(d) Demonstration Project Participants.—The aggregate number of such beneficiaries that may participate in the project may not exceed 500.

(e) Data.—The Secretary shall collect such data on the demonstration project with respect to the provision of home health services to Medicare beneficiaries that relates to quality of care, patient outcomes, and additional costs, if any, to the Medicare program.

(f) Report to Congress.—Not later than 1 year after the date of the completion of the demonstration project under this section, the Secretary shall submit to Congress a report on the project using the data collected under subsection (e). The report shall include the following:

(1) An examination of whether the provision of home health services to Medicare beneficiaries under the project has had any of the following effects:

(A) Has adversely affected the provision of home health services under the Medicare program;

(B) Has directly caused an increase of expenditures under the Medicare program for the provision of such services that is directly attributable to such clarification.

(2) The specific data evidencing the amount of any increase in expenditures that is directly attributable to the demonstration project (expressed both in absolute dollar terms and as a percentage) above expenditures that would otherwise have been incurred for home health services under the Medicare program.

(3) Specific recommendations to exempt permanently and severely disabled homebound beneficiaries from restrictions on the length, frequency, and purpose of their absences from the home to qualify for home health services without incurring additional costs under the Medicare program.

(g) Waiver Authority.—The Secretary shall waive compliance with the requirements of the Social Security Act (42 U.S.C. 1395 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

(h) Construction.—Nothing in this section shall be construed as waiving any applicable civil monetary penalty, criminal penalty, or other remedy available to the Secretary under title XI or title XVIII of the Social Security Act for acts prohibited under such titles, including false certifications for purposes of receipt of items or services under the Medicare program.

(1) Amounts Not To Be Included.—Payments for the costs of carrying out the demonstration project under this section shall be made from funds appropriated for such purposes and shall be subject to the following:

(a) Medicare Beneficiary.—The term “Medicare beneficiary” means an individual who is enrolled under part B of title XVIII of the Social Security Act.

(b) Home Health Services.—The term “home health services” has the meaning given such term in section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)).

(c) Activities of Daily Living Defined.—The term “activities of daily living” means eating, toileting, transferring, bathing, and dressing.

SEC. 402. Demonstration Project for Medical Adult Day-Care Services.

(a) Establishment.—Subject to the succeeding provisions of this section, the Secretary shall establish a demonstration project (in this section referred to as the “demonstration project”) under which the Secretary shall, as part of an episode of care, provide medical adult day-care services for the rest of the beneficiary’s life to assist the beneficiary with activities of daily living.

(b) Payment.—(1) In General.—Subject to paragraph (2), the amount of payment for an episode of care for home health services, a portion of which consists of substitute medical adult day-care services, under the demonstration project shall be made at a rate equal to 95 percent of the amount that would otherwise apply for such home health services under section 1895 of the Social Security Act (42 U.S.C. 1395f). In no case may a home health agency, or a Medicare adult day-care facility, under arrangement with a home health agency, separately charge a beneficiary for medical adult day-care services as a substitute for a portion of home health services that would otherwise be provided in the beneficiary’s home.

(2) Adjustment in Case of Overutilization of Substitute Adult Day-Care Services to Ensure Budget Neutrality.—The Secretary shall monitor the expenditures under the demonstration project and under title XVIII of the Social Security Act for home health services. If the Secretary determines, after consultation with the demonstration project and under section 1861(m) of the Social Security Act, that the rates of payment for medical adult day-care services for a period determined by the Secretary exceed expenditures for home health services under such title XVIII for home health services for such period if the demonstration project had not been conducted, the Secretary shall adjust the rate of payment for such services for adult day-care facilities under paragraph (1) in order to eliminate such excess.

(c) Demonstration Project Sites.—The demonstration project established under this section shall be conducted in not more than 3 sites in States selected by the Secretary that license or certify providers of services that furnish medical adult day-care services.

(d) Duration.—The Secretary shall conduct the demonstration project for a period of 3 years.

(e) Voluntary Participation.—Participation of Medicare beneficiaries in the demonstration project shall be voluntary. The total number of such beneficiaries that may participate in the project at any given time may not exceed 15,000.

(f) Waiver Authority.—The Secretary may waive such requirements of title XVIII of the Social Security Act as may be necessary for the purposes of carrying out the demonstration project, other than waiving the requirement that an individual be homebound in order to be eligible for benefits for home health services.

(e) Evaluation and Report.—The Secretary shall conduct an evaluation of the clinical and cost-effectiveness of the demonstration project. Not later than 6 months after the completion of the project, the Secretary shall submit to Congress a report on the evaluation, and shall include in the report the following:

(1) An analysis of the patient outcomes and costs of furnishing care to Medicare beneficiaries participating in the project as compared to such outcomes and costs to beneficiaries receiving only home health services for the same health conditions;

(2) Such recommendations regarding the extension, expansion, or termination of the project as the Secretary determines appropriate.


(a) In General.—During the period described in subsection (b), the Secretary may...
not require, under section 4602(e) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 467) or otherwise under OASIS, a home health agency to gather or submit information to an individual who is not eligible for benefits under either title XVIII or title XIX of the Social Security Act (such information in this section referred to as ‘‘non-medicare/medicaid OASIS information’’).

(b) PERIOD OF SUSPENSION.—The period described in this subsection—

(1) begins on the date of the enactment of this Act; and

(2) ends on the last day of the second month beginning after the date on which the Secretary has published final regulations regarding the collection and use by the Centers for Medicare & Medicaid Services of non-medicare/medicaid OASIS information following the submission of the report required under subsection (c).

(c) REPORT.—

(1) Study.—The Secretary shall conduct a study on how non-medicare/medicaid OASIS information is and can be used by large home health agencies. Such study shall examine—

(A) whether there are unique benefits to the analysis of such information that cannot be derived from other information available to, or collected by, such agencies; and

(B) how collecting such information by small home health agencies compared to the administrative burden related to such collection.

In conducting the study the Secretary shall obtain recommendations from quality assessment experts in the use of such information and the necessity of small, as well as large, home health agencies collecting such information.

(2) Report.—The Secretary shall submit to Congress a report on the study conducted under paragraph (1) not later than 18 months after the date of the enactment of this Act.

(d) CONSTRUCTION.—Nothing in this section shall be construed as preventing home health agencies from collecting non-medicare/medicaid OASIS information for their own use.

SEC. 404. MEDI PAC STUDY ON MEDICARE MARGINS OF HOME HEALTH AGENCIES.

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study of payment margins of home health agencies under the home health prospective payment system under section 1895 of the Social Security Act (42 U.S.C. 1395fff). Such study shall examine whether systematic differences in payment margins related to differences in case mix (as measured by home health resource groups (HHRGs)) among such agencies. The study shall use the partial or full-year cost reports filed by home health agencies.

(b) Report.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study under subsection (a).

SEC. 405. COVERAGE OF RELIGIOUS NONMÉDICAL HEALTH CARE INSTITUTION SERVICES FURNISHED IN THE HOME.

(a) In General.—Section 1851(a)(2) (42 U.S.C. 1395i–5(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting ‘‘and for home health services furnished by a religious nonmedical health care institution’’ after ‘‘religious nonmedical health care institution’’; and

(2) in paragraph (2)—

(A) by striking ‘‘or extended care services’’ and inserting ‘‘, extended care services, or home health services’’; and

(B) by striking ‘‘or receiving services from a home health agency’’ after ‘‘skilled nursing facility’’.

(b) DEFINITION.—Section 1851 (42 U.S.C. 1395i–5), as amended by section 342, is amended by adding at the end the following new section—

‘‘(aaa)(1) The term ‘home health agency’ also includes a religious nonmedical health care institution (as defined in subsection (aa)(1)), with respect to items and services ordinarily furnished by such an institution to individuals in their homes, and that are comparable to items and services furnished to an individual by a home health agency that is not religious nonmedical health care institution.

(2)(A) Subject to subparagraphs (B), payment may not be made for items and services provided by such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations consistent with section 1821.

(2)(B) Notwithstanding any other provision of this title, payment may not be made under subparagraph (A)—

(1) in any fiscal year for as much payments exceed $700,000; and

(2) after December 31, 2006.’’

Subtitle B—Graduate Medical Education

SEC. 411. EXCEPTION TO INITIAL RESIDENCY PERIOD FOR GERIATRIC RESIDENCY OR FELLOWSHIP PROGRAMS.

(a) CLARIFICATION OF CONGRESSIONAL INTENT.—Concealed in section 1886(b)(7)(F)(ii) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(F)(ii)), as added, by section 2920 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–212), to mean before the initial residency period for geriatric residency or fellowship programs such that, where a particular approved geriatric training program requires a resident to complete 2 years of training to initially become board eligible in the geriatric specialty, the 2 years spent in the geriatric training program are treated as part of the resident’s initial residency period, but are not counted against any limitation on the initial residency period.

(b) INTERPRETATION.—The Secretary shall promulgate interim final regulations consistent with the congressional intent expressed in the statute and extending opportunity for public comment to be effective for cost reporting periods beginning on or after October 1, 2003.

SEC. 412. TREATMENT OF VOLUNTEER SUPERVISION.

(a) Moratorium on Changes in Treatment.—During the 1-year period beginning on January 1, 2004, for purposes of applying subsections (d)(5)(B) and (h) of section 1886 of the Social Security Act (42 U.S.C. 1395ww), the Secretary shall allow all hospitals to count residents in osteopathic and allopathic family practice programs in existence as of January 1, 2002, who are training at non-hospital sites, without regard to the financial arrangement with the hospital and the teaching physician practicing in the non-hospital site to which the resident has been assigned.

(b) Study and Report.—

(1) Study.—The Inspector General of the Department of Health and Human Services shall conduct a study of the appropriateness of altering Medicare policy and payment rules under this section for the costs of training residents in non-hospital settings.

(2) Report.—Not later than 1 year after the date of the enactment of this Act, the Inspector General shall submit to Congress a report on the study conducted under paragraphs (1), together with such recommendations as the Inspector General determines appropriate.

Subtitle C—Chronic Care Improvement

SEC. 421. VOLUNTARY CHRONIC CARE IMPROVEMENT PROGRAMS AND EXEMPTION UNDER TRADITIONAL FEE-FOR-SERVICE.

(a) In general.—Title XVIII is amended by inserting after section 1806 the following new section—

‘‘(c) CHRONIC CARE IMPROVEMENT PROGRAMS.—

‘‘(1) IN GENERAL.—The Secretary shall provide for the phased-in development, testing, evaluation, and implementation of chronic care improvement programs in accordance with this section. Each such program shall be designed to improve clinical quality and beneficiary satisfaction and achieve spending targets with respect to expenditures under this title for targeted beneficiaries with one or more threshold conditions.

‘‘(2) DEFINITIONS.—For purposes of this section—

(A) CHRONIC CARE IMPROVEMENT PROGRAM.—The term ‘chronic care improvement program’ means a program described in paragraph (1) that is offered under an agreement under subsection (b) or (c).

(B) CHRONIC CARE IMPROVEMENT ORGANIZATION.—The term ‘chronic care improvement organization’ means an entity that has entered into an agreement under subsection (b) or (c) to provide, directly or through contracts with subcontractors, a chronic care improvement program under this section.

Such an entity may be a disease management organization, health insurer, integrated delivery system, physician group practice, a consortium of such entities, or any other legal entity that the Secretary determines appropriate to carry out a chronic care improvement program under this section.

(C) CARE MANAGEMENT PLAN.—The term ‘care management plan’ means a plan established under subsection (d) for a participant in a chronic care improvement program.

(D) THRESHOLD CONDITION.—The term ‘threshold condition’ means a chronic condition with a long-term or episodic history such as congestive heart failure, diabetes, chronic obstructive pulmonary disease (COPD), or other diseases or conditions, as selected by the Secretary as appropriate for the development of a chronic care improvement program.

(E) TARGETED BENEFICIARY.—The term ‘targeted beneficiary’ means, with respect to a chronic care improvement program, an individual who—

(i) is entitled to benefits under part A and enrolled under part B, but not enrolled in a plan under part C;

(ii) has two or more threshold conditions covered under such program; and

(iii) has been identified under subsection (d)(1) as a potential participant in such program.

(F) CONSTRUCTION.—Nothing in this section shall be construed as—

(A) expanding the amount, duration, or scope of benefits under this title;

(B) providing an entitlement to participate in a chronic care improvement program under this section;

(C) providing for any hearing or appeal rights under section 1899, 1878, or otherwise, with respect to a chronic care improvement program under this section; and

(D) providing benefits under a chronic care improvement program for which a claim may be submitted to the Secretary by any third party of services or supplier (as defined in section 1861(d)).

(b) DEVELOPMENTAL PHASE (PHASE I).—

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“(1) IN GENERAL.—In carrying out this section, the Secretary shall enter into agreements consistent with subsection (f) with chronic care improvement programs for the purpose of testing, evaluating, and evaluating the performance of chronic care improvement programs using randomized controlled trials. The first such agreement shall be entered into not later than 3 years after the date of the enactment of this section.

“(2) AGREEMENT PERIOD.—The period of an agreement under this subsection shall be for 3 years.

“(3) MINIMUM PARTICIPATION.—

(A) IN GENERAL.—The Secretary shall seek to enter into agreements in a manner so that chronic care improvement programs offered under this section are offered in geographic areas that, in the aggregate, are such that at least 10 percent of the aggregate number of Medicare beneficiaries reside.

(B) MEDICARE BENEFICIARY DEFINED.—In this paragraph, the term ‘Medicare beneficiary’ means an individual who is entitled to benefits under part A, enrolled under part B, or both, and who resides in the United States.

“(4) SITE SELECTION.—In selecting geographic areas in which agreements are entered into under this subsection, the Secretary shall ensure that each chronic care improvement program conducted under this subsection is offered in a geographic area in which at least 10,000 targeted beneficiaries reside among other individuals entitled to benefits under part A, enrolled under part B, or both to serve as a control population.

“(5) INITIAL CONTACT BY SECRETARY.—The Secretary shall communicate with each targeted beneficiary concerning participation in a chronic care improvement program. Such communication may be made by the Secretary and shall include information on the following:

(A) A description of the advantages to the beneficiary in participating in a program.

(B) Notification that the organization offering a program provides the beneficiary directly concerning such participation.

(C) Notification that participation in a program is voluntary.

(D) A description of the method for the beneficiary to participate or for declining to participate and the method for obtaining additional information concerning such participation.

“(6) VOLUNTARY PARTICIPATION.—A targeted beneficiary may participate in a chronic care improvement program on a voluntary basis and may terminate participation at any time.

“(7) CHRONIC CARE IMPROVEMENT PROGRAMS.—

(A) IN GENERAL.—Each chronic care improvement program shall—

(A) have a designated point of contact responsible for communications with beneficiaries concerning for the purposes of appropriate for the targeted beneficiaries to be served; and

(B) subsection (c) may be on a per-member per-month basis; or

(C) ELEMENTS OF CARE MANAGEMENT PLANS.—A care management plan for a targeted beneficiary shall be developed with the beneficiary and shall, to the extent appropriate, include the following:

(A) A designated point of contact responsible for communications with the beneficiary and for facilitating communication with other health care providers under the plan.

(B) Self-care education for the beneficiary (through approaches such as disease management or medical nutrition therapy) and education for primary caregivers and family members.

(C) Education for physicians and other providers and collaboration to enhance communication of relevant clinical information.

(D) Use of monitoring technologies that enable patient guidance through the exchange of pertinent clinical information, such as vital signs, symptomatic information, and health self-assessment.

(E) The provision of education about hospice care, pain and palliative care, and end-of-life care.

“(8) EVALUATION OF PROGRAMS.—The Secretary shall carry out evaluations of programs expanded under this subsection. Such evaluations shall be carried out in the similar manner as is provided under subsection (j).

“(9) IDENTIFICATION AND ENROLLMENT OF PROSPECTIVE PROGRAM PARTICIPANTS.—

(A) IDENTIFICATION OF PROSPECTIVE PROGRAM PARTICIPANTS.—The Secretary shall establish a method for identifying targeted beneficiaries who may benefit from participation in a chronic care improvement program.

(B) INITIAL CONTACT BY SECRETARY.—The Secretary shall communicate with each targeted beneficiary concerning participation in a chronic care improvement program. Such communication may be made by the Secretary and shall include information on the following:

(A) A description of the advantages to the beneficiary in participating in a program.

(B) Notification that the organization offering a program provides the beneficiary directly concerning such participation.

(C) Notification that participation in a program is voluntary.

(D) A description of the method for the beneficiary to participate or for declining to participate and the method for obtaining additional information concerning such participation.

“(10) VOLUNTARY PARTICIPATION.—A targeted beneficiary may participate in a chronic care improvement program on a voluntary basis and may terminate participation at any time.

“(11) CHRONIC CARE IMPROVEMENT PROGRAMS.—

(A) IN GENERAL.—Each chronic care improvement program shall—

(A) have a designated point of contact responsible for communications with beneficiaries concerning the program and not taking into account any payments by the organization under the agreement for risk or medical management services.

(B) subsection (c) may be on a per-member per-month basis; or

(C) ELEMENTS OF CARE MANAGEMENT PLANS.—A care management plan for a targeted beneficiary shall be developed with the beneficiary and shall, to the extent appropriate, include the following:

(A) A designated point of contact responsible for communications with the beneficiary and for facilitating communication with other health care providers under the plan.

(B) Self-care education for the beneficiary (through approaches such as disease management or medical nutrition therapy) and education for primary caregivers and family members.

(C) Education for physicians and other providers and collaboration to enhance communication of relevant clinical information.

(D) Use of monitoring technologies that enable patient guidance through the exchange of pertinent clinical information, such as vital signs, symptomatic information, and health self-assessment.

(E) The provision of education about hospice care, pain and palliative care, and end-of-life care.

“(12) CONDUCT OF PROGRAMS.—In carrying out paragraph (1)(C) with respect to a participant, the chronic care improvement organization shall—

(A) provide the participant in managing the participant’s health (including all comorbidities, relevant health care services, and pharmaceutical needs) and in performing the performance of the chronic care improvement program under the agreement.

“(13) ADDITIONAL REQUIREMENTS.—Each such organization and program shall comply with such additional requirements as the Secretary may specify.

“(A) ACCREDITATION.—The Secretary may provide that chronic care improvement programs and chronic care improvement organizations that are accredited by qualified organizations as defined by the Secretary may be deemed to meet such requirements under this section as the Secretary may specify.

“(B) CLINICAL, QUALITY IMPROVEMENT, AND FINANCIAL REQUIREMENTS.—The Secretary may enter into an agreement with such an organization under this section for the operation of a chronic care improvement program unless—

(i) the program and organization meet the requirements of subsection (e) and such clinical, quality improvement, financial, and other requirements as the Secretary deems to be appropriate for the targeted beneficiaries to be served; and

(ii) the organization demonstrates to the satisfaction of the Secretary that the organization is able to assume financial risk for performance under the agreement (as applied under paragraph (3)(B)) with respect to payments made to the organization under such agreements and through any reserves, reinsurance, withholds, or such other means as the Secretary determines appropriate.

“(C) MANNER OF PAYMENT.—Subject to paragraph (3)(B), the payment under an agreement under—

(A) subsection (b) shall be computed on a per-member per-month basis or such other basis as the Secretary and organization may agree.

“(D) APPLICATION OF PERFORMANCE STANDARDS.—

(A) SPECIFICATION OF PERFORMANCE STANDARDS.—Each agreement under this section with a chronic care improvement organization shall specify performance standards for each of the factors specified in subsection (c)(2), including clinical quality and spending targets under this title, against which the performance of the chronic care improvement organization under the agreement is measured.

(B) ADJUSTMENT OF PAYMENT BASED ON PERFORMANCE.—

(A) IN GENERAL.—Each such agreement shall provide for adjustments in payment...
rates to an organization under the agreement insofar as the Secretary determines that the organization failed to meet the performance standards specified in the agreement.

"(ii) Financial Risk for Performance.—In the case of an agreement under subsection (b) or (c), the agreement shall provide for a full reimbursement of expenditures by which the Secretary determines that the organization failed to meet the performance standards specified in the agreement.

"(3) Budget Neutral Payment Condition.—Under this section, the Secretary shall ensure that the aggregate sum of Medicare program expenditures attributable to providers and beneficiaries participating in chronic care improvement programs and funds paid to chronic care improvement organizations under this section, shall not exceed the Medicare program benefit expenditures that the Secretary estimates would have been made for such targeted beneficiaries in the absence of such programs.

"(g) Funding.—(1) Subject to paragraph (2), there are appropriated to the Secretary, in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, such sums as may be necessary to provide for agreements with chronic care improvement programs and funds paid to chronic care improvement organizations under this title (after taking into account any savings attributable to the operation of this section) over the 3-fiscal-year period beginning on October 1, 2003.

"(2) In no case shall the funding under this section exceed $100,000,000 in aggregate increased expenditures under this title (after taking into account any savings attributable to the operation of this section) over the 3-fiscal-year period beginning on October 1, 2003.

"(b) Reports.—The Secretary shall submit to Congress reports on the operation of section 1807 of the Social Security Act, as added by subsection (a), as follows:

(1) Not later than 2 years after the date of the implementation of such section, the Secretary shall submit to Congress an interim report on the scope of implementation of the programs under subsection (b) of such section, the design of the programs, and preliminary cost and quality findings with respect to those programs based on the following programs:

(A) Quality improvement measures, such as adherence to evidence-based guidelines and rehospitalization rates.

(B) Beneficiary and provider satisfaction.

(C) Health outcomes.

(D) Financial outcomes.

(2) Not later than 3 years and 6 months after the date of implementation of such section the Secretary shall submit to Congress an update to the report required under paragraph (1) on the results of such implementation.

(3) The Secretary shall submit to Congress 2 additional biennial reports on the chronic care improvement programs conducted under such section. Each such report shall include information on—

(A) the scope of implementation (in terms of both regions and chronic conditions) of the chronic care improvement programs;

(B) the design of the programs; and

(C) the improvements in health outcomes and financial efficiencies that result from such implementation.

SEC. 422. MEDICARE ADVANTAGE QUALITY IMPROVEMENT PROGRAM.

(a) In General.—Section 1852(e) (42 U.S.C. 1395w–22(e)) is amended—

(1) in the heading, by striking "ASSURANCE; and "IMPROVEMENT" and inserting "IMPROVEMENT"; and

(2) by amending paragraphs (1) through (3) to read as follows:

"(1) In general.—Each MA organization shall have an ongoing quality improvement program for the purpose of improving the quality of care provided to enrollees in each MA plan and each MA organization (other than an MA private fee-for-service plan or an MSA plan).

"(2) Chronic care improvement program.—(A) In general.—Each MA organization shall have a chronic care improvement program under paragraph (1), each MA organization shall have a chronic care improvement program. Each chronic care improvement program shall have a method for monitoring and identifying enrollees with multiple or sufficiently severe chronic conditions that meet criteria established by the organization for participation under the program.

"(3) Data.—

(4) In General.—Except as provided in clauses (1) and (3) with respect to plans described in such clauses and subject to subparagraph (B), as part of the quality improvement program under paragraph (1), each MA organization shall provide for the collection, analysis, and reporting of data that permits the measurement of health outcomes and other quality measures.

"(ii) APPLICATION TO MA REGIONAL PLANS.—The Secretary shall establish as appropriate by regulation requirements for the collection, analysis, and reporting of data that permits the measurement of health outcomes and other quality measures for MA organizations with respect to MA regional plans.

"(B) In general.—The requirements under paragraph (4), and the program developed under this section, shall be construed as restricting the use of data to facilitate consumer choice and providers with respect to MA local plans that are preferred provider organizations.

"(C) Definition of Preferred Provider Organization.—In this subparagraph, the term 'preferred provider organization' means an MA plan that—

(1) has a network of providers that have agreed to a contractually specified reimbursement method and covered benefits with the organization offering the plan;

(II) provides for reimbursement for all covered benefits regardless of whether such benefits are provided within such network of providers; and

(III) is offered by an organization that is not licensed or organized under State law as a health maintenance organization.

"(5) Limitations.—

(1) Types of data.—The Secretary shall not collect under subparagraph (A) data on such items or services which the Secretary determines, in consultation with MA organizations and private research, data, demonstration, and quality improvement programs. (QIO), and claims data;

(2) Timeframe for decisions on requests for coverage determinations of whether an item or service is covered under MA regional plans. (QIO), and claims data;

(3) for the collection of such data in a timely manner:

(a) Development of Plan.—Not later than 6 months after the date of enactment of this Act, the Secretary shall develop a plan to improve quality of care and reduce the cost of care for chronically ill Medicare beneficiaries.

(b) Plan requirements.—The plan will utilize existing data and evidence gaps, develop research initiatives, and propose intervention demonstration programs to provide better health care for chronically ill Medicare beneficiaries.

(3) on the collection of such data in a timely manner:

(a) Development of Plan.—Not later than 6 months after the date of enactment of this Act, the Secretary shall develop a plan to improve quality of care and reduce the cost of care for chronically ill Medicare beneficiaries.

(b) Plan requirements.—The plan will utilize existing data and evidence gaps, develop research initiatives, and propose intervention demonstration programs to provide better health care for chronically ill Medicare beneficiaries.

(4) Effective date.—The amendments made by this section shall apply with respect to contract years beginning on and after January 1, 2006.

SEC. 423. CHRONICALLY ILL MEDICARE BENEFICIARY RESEARCH, DATA, DEMONSTRATION, AND IMPLEMENTATION PROVISIONS.

(a) Development of Plan.—Not later than 6 months after the date of enactment of this Act, the Secretary shall develop a plan to improve quality of care and reduce the cost of care for chronically ill Medicare beneficiaries.

(b) Plan requirements.—The plan will utilize existing data and evidence gaps, develop research initiatives, and propose intervention demonstration programs to provide better health care for chronically ill Medicare beneficiaries.

(3) Plan requirements.—The plan will utilize existing data and evidence gaps, develop research initiatives, and propose intervention demonstration programs to provide better health care for chronically ill Medicare beneficiaries.

(b) Plan requirements.—The plan will utilize existing data and evidence gaps, develop research initiatives, and propose intervention demonstration programs to provide better health care for chronically ill Medicare beneficiaries.

(4) Effective date.—The amendments made by this section shall apply with respect to contract years beginning on and after January 1, 2006.

SEC. 431. IMPROVEMENTS IN NATIONAL AND LOCAL COVERAGE DETERMINATION PROCESS TO RESPOND TO CHANGES IN TECHNOLOGY.

(a) National and Local Coverage Determination Process.—

(1) In General.—Section 1862 (42 U.S.C. 1395y) as amended by sections 948 and 950, is amended—

(A) in the third sentence of subsection (a), by inserting "consistent with subsection (b)" after "Secretary shall ensure"; and

(B) by adding at the end of the following new subsection:

"(1) NATIONAL AND LOCAL COVERAGE DETERMINATION PROCESS.—

"(1) FACTORS AND EVIDENCE USED IN MAKING NATIONAL COVERAGE DETERMINATIONS.—The Secretary shall make available to the public the factors considered in making national coverage determinations of whether an item or service is covered under Medicare.

"(2) Timeframe for decisions on requests for national coverage determinations.—In

"(2) Timeframe for decisions on requests for national coverage determinations.—In
the case of a request for a national coverage determination that—

"(A) does not require a technology assessment from an outside entity or delegation from a local coverage advisory committee, the decision on the request shall be made not later than 6 months after the date of the request; or

"(B) after such an assessment or deliberation and in which a clinical trial is not requested, the decision on the request shall be made not later than 9 months after the date of the request.

"(3) PROCESS FOR PUBLIC COMMENT IN NATIONAL COVERAGE DETERMINATIONS.—

"(A) PERIOD FOR PROPOSED DECISION.—Not later than the 30-month period following the 30-month period for requests described in paragraph (2)(B) that begins on the date a request for a national coverage determination is made, the Secretary shall make a draft of proposed decision on the request available to the public through the Internet website of the Centers for Medicare & Medicaid Services or other appropriate means.

"(B) 30-DAY PERIOD FOR PUBLIC COMMENT.—Beginning on the date the Secretary makes a draft of the proposed decision available under subparagraph (A), the Secretary shall provide a 30-day period for public comment on such draft.

"(C) 60-DAY PERIOD FOR FINAL DECISION.—Not later than 90 days after the conclusion of the 30-day period referred to under subparagraph (B), the Secretary shall—

"(i) make a final decision on the request;

"(ii) include in such final decision summaries of the public comments received and responses to such comments;

"(iii) make available to the public the clinical evidence and other data used in making such a decision when the decision differs from the recommendations of the Medicare Coverage Advisory Committee; and

"(iv) in the case of a final decision under clause (i) to grant the request for the national coverage determination, the Secretary shall assign a temporary or permanent National Coverage Determination.

"(4) CONSULTATION WITH OUTSIDE EXPERTS IN CERTAIN NATIONAL COVERAGE DETERMINATIONS.—With respect to a request for a national coverage determination for which there is not a review by the Medicare Coverage Advisory Committee, the Secretary shall consult with appropriate outside clinical experts.

"(5) LOCAL COVERAGE DETERMINATION PROCESS.—

"(A) PLAN TO PROMOTE CONSISTENCY OF COVERAGE DETERMINATIONS.—The Secretary shall develop a plan to evaluate new local coverage determinations to determine which determinations should be adopted nationally and to what extent greater consistency can be achieved among local coverage determinations.

"(B) CORRECTION OF TRUST FUND HOLDINGS.—The Secretary shall require the fiscal intermediaries or carriers providing services within the same area to consult on all new local coverage determinations.

"(C) DISSEMINATION OF INFORMATION.—The Secretary should serve as a center to disseminate information on local coverage determinations and fiscal intermediary initiatives to reduce duplication of effort.

"(6) NATIONAL AND LOCAL COVERAGE DETERMINATION DEFINED.—For purposes of this subsection—

"(A) NATIONAL COVERAGE DETERMINATION.—The term 'national coverage determination' means a determination by the Secretary with respect to a particular item or service that would apply to all Medicare beneficiaries.

"(B) LOCAL COVERAGE DETERMINATION.—The term 'local coverage determination' has the meaning given that in section 1869(n)(2)(B).

"(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to national coverage determinations as of January 1, 2004, and section 1862(b)(5) of the Social Security Act, as added by such paragraph, shall apply to such determinations made on or after July 1, 2004.

(b) MEDICARE COVERAGE OF ROUTINE COSTS ASSOCIATED WITH CERTAIN CLINICAL TRIALS OF CATEGORY A DEVICES.—

"(1) IN GENERAL.—In the case of an individual entitled to benefits under part A, or enrolled under part B, or both who participates in a category A clinical trial, the Secretary shall not exclude under subsection (a)(1) payment for coverage of routine costs of care as defined by the Secretary furnished to such individual.

"(2) CATEGORY A CLINICAL TRIAL.—For purposes of paragraph (1), a 'category A clinical trial' means a trial of a medical device—

"(A) the trial involves investigational (category A) medical device (as defined in regulations under section 405.201(b) of title 42, Code of Federal Regulations (as in effect September 1, 2003), and

"(B) the trial meets criteria established by the Secretary to ensure that the trial conforms to appropriate scientific and ethical standards.

"(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to routine costs incurred on and after January 1, 2005, and, as of such date, section 1115(o) of title 42, Code of Federal Regulations, is superseded to the extent inconsistent with section 1862(m) of the Social Security Act, as added by such paragraph.

"(4) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (1) shall be construed as applying to, or affecting, coverage or payment for a nonexperimental/investigational (category B) device.
the Trust Fund if the clerical error involved had not occurred.

(c) Appropriation.—There is appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, an amount determined by the Secretary of the Treasury, in consultation with the Secretary, to be equal to the interest income lost by the Trust Fund through the date on which the appropriation is being made as a result of the clerical error involved.

(d) Deadline.—In the case of a clerical error that occurs after April 15, 2001, the Secretary of the Treasury shall ensure that the appropriation described in paragraph (1) shall take effect on later than 120 days after the date of the enactment of this Act—

(1) the Secretary of the Treasury shall take the actions under subsection (b)(1); and
(2) the appropriation under subsection (c) shall be made.

SEC. 435. MODIFICATIONS TO MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) Examination of Budget Consequences.—Section 1805(b)(2) (42 U.S.C. 1395b–6(b)) is amended by adding at the end the following new paragraph:

"(6) EXAMINATION OF BUDGET CONSEQUENCES.—In making any recommendations, the Commission shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.

(b) Consideration of Efficient Provision of Services.—Section 1805(b)(2)(B)(i) (42 U.S.C. 1395b–6(b)(i)) is amended by inserting "the efficient provision of" after "expenditures for".

(c) Application of Disclosure Requirements.—

(1) In General.—Section 1805(c)(2)(D) (42 U.S.C. 1395b–6(c)(2)(D)) is amended by adding at the end the following:

"(E) A PPLICATION OF DISCLOSURE REQUIREMENTS FOR MEDPAC. —

(i) Section 1812(a)(3) (42 U.S.C. 1395b–5(a)(3)) is amended by striking ''medicare program and related foundations'' and inserting ''the medicare program and related foundations.''

(ii) Section 1833(t)(3)(C)(ii) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking ''leave home,'' and inserting ''leave home''; and


(4) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking "leave home,

(5) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking "leave home,

(6) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking "leave home,

(7) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking "leave home,

(8) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking "leave home,

(9) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking "leave home,

(10) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking "leave home,


(12) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking "leave home,

(13) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking "leave home,

(14) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking "leave home,

(15) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395l(t)(3)(C)(ii)) is amended by striking "leave home,


(d) Effective Date.—The amendment made by paragraph (1) shall take effect on January 1, 2004.

SEC. 436. MODIFICATIONS TO CONGRESSIONAL RECORD—SENATE.
(B) in subsection (a)(3)(C), by redesignating the clause (iii) added by section 307 as clause (iv); and
(C) in subsection (c)(5), by striking "(a)(3)(C) (iii)" and inserting "(a)(3)(C)(iv)".
(2) Section 1876 (42 U.S.C. 1395ss) is amended—
(A) in subsection (c)(2)(B), by striking "significant" and inserting "significant"; and
(B) in subsection (j)(2), by striking "this section" and inserting "this section".

SEC. 500. ADMINISTRATIVE IMPROVEMENTS—REGULATORY REDUCTION, AND CONTRACTING PROVISIONS

TITLE V—ADMINISTRATIVE IMPROVEMENTS, REGULATORY REDUCTION, AND CONTRACTING PROVISIONS

SECTION 500. ADMINISTRATIVE IMPROVEMENTS WITHIN THE CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS).

(a) COORDINATED ADMINISTRATION OF MEDICARE PRESCRIPTION DRUG AND MEDICARE ADVANTAGE PROGRAMS—Title XVIII of the Social Security Act (42 U.S.C. 1315 et seq.), as amended by section 921, is amended by inserting after subsection (a)(3)(C) the following new subsection:

"(D) Actuarial sciences.
"(E) Compliance with health plan contracts.
"(F) Consumer education and decision making.
"(G) Any other area specified by the Secretary that requires specialized management or other expertise.

(b) RATES OF PAYMENT—(1) PERFORMANCE-RELATED PAY.—Subject to subparagraph (B), the Secretary shall establish the rate of pay for an individual employed under paragraph (1). Such rate shall take into account expertise, experience, and performance.

(2) LIMITATION.—In no case may the rate of compensation under subparagraph (A) exceed the highest rate of basic pay for the Senior Executive Service under section 5332(b) of title 5, United States Code.

(c) REQUIREMENT FOR DEDICATED ACTUARY FOR PRIVATE HEALTH PLANS.—Section 117(b) (42 U.S.C. 1317(b)) is amended by adding at the end the following new paragraph:

"(3) In the office of the Chief Actuary there shall be an actuary whose duties relate exclusively to the programs under parts C and D of title XVIII and related provisions of such title.

(1) IN GENERAL.—There is within the Centers for Medicare & Medicaid Services a center to carry out the duties described in paragraph (3).

(2) DIRECTOR.—Such center shall be headed by a director who shall report directly to the Administrator of the Centers for Medicare & Medicaid Services.

(3) DUTIES.—The duties described in this paragraph are the following:

(A) In the administration of parts C and D.
(B) The provision of notice and information under section 1804.
(C) Such other duties as the Secretary may specify.

(4) DEADLINE.—The Secretary shall ensure that the center is carrying out the duties described in paragraph (3) by not later than January 1, 2004.

(b) MANAGEMENT STAFF FOR THE CENTERS FOR MEDICARE & MEDICAID SERVICES.—Such section is further amended by adding at the end the following new subsection:

"(b) EMPLOYMENT OF MANAGEMENT STAFF—

(1) IN GENERAL.—The Secretary may employ, within the Centers for Medicare & Medicaid Services, individuals as management staff as the Secretary determines to be appropriate and experienced (either in the public or private sector), superior expertise in at least one of the following areas:

(A) The review, negotiation, and administration of health care contracts.

(B) The design of health care benefit plans.
Administration” and inserting “Centers for Medicare & Medicaid Services”; (F) in section 2102(a)(7) (42 U.S.C. 300aa-2(a)(7)), by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services”; and (G) in section 2675(a) (42 U.S.C. 1395f-7(a)), by striking “Health Care Financing Administration” in the first sentence and inserting “Centers for Medicare & Medicaid Services”. (3) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended— (A) in subparagraph (B), by striking “Health Care Financing Administration” in the matter preceding clause (i) and inserting “Centers for Medicare & Medicaid Services”; and (B) in subparagraph (C)— (i) by striking “Health Care Financing Administration” in the heading and inserting “CENTERS FOR MEDICARE & MEDICAID SERVICES” and (ii) by striking “Centers for Medicare & Medicaid Services” in the matter preceding clause (i) and inserting “Centers for Medicare & Medicaid Services”. (4) AMENDMENTS TO TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended— (A) in section 1086(d)(4), by adding “administration of the Health Care Financing Administration” in the last sentence and inserting “Administrator of the Centers for Medicare & Medicaid Services”; and (B) in section 1086(d)(9), by striking “Health Care Financing Administration” in the second sentence and inserting “Centers for Medicare & Medicaid Services”. (5) AMENDMENTS TO THE ALZHEIMER’S DISEASE AND RELATED DEMENTIAS SERVICES RESEARCH ACT OF 1992.—The Alzheimer’s Disease and Related Dementias Research Act of 1992 (42 U.S.C. 1574–1) is amended by— (A) in the heading of subparagraph 3 of part D to read as follows: “Subpart 3—Responsibilities of the Centers for Medicare & Medicaid Services”; (B) in subsection 907 (42 U.S.C. 11271)— (i) in subsection (a), by striking “National Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (ii) in subsection (b)(1), by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (iii) in subsection (b)(2), by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services”; (iv) in subsection (c), by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services”; and (C) in section 938 (42 U.S.C. 11272), by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (6) MISCELLANEOUS AMENDMENTS.— (A) REHABILITATION ACT OF 1973.—Section 203(b)(8) of the Rehabilitation Act of 1973 (29 U.S.C. 792(b)(8)) is amended by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (B) INDIAN HEALTH CARE IMPROVEMENT ACT.—Section 405(d)(1) of the Indian Health Care Improvement Act (25 U.S.C. 1445(d)(1)) is amended by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (C) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Sections 654(a)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1444(b)(5)) is amended by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (D) THE HOME HEALTH CARE AND ALZHEIMER’S DISEASE AND RELATED DEMENTIAS SERVICES RESEARCH ACT OF 2000.—Section 302(a)(9) of the Home Health Care and Alzheimer’s Disease Amendments of 1990 (42 U.S.C. 242z-1(a)(9)) is amended by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (E) THE CHILDREN’S HEALTH ACT OF 2000.—Section 2507(a) of Title XXV of the Public Health Service Act (42 U.S.C. 274a) is amended by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (F) THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1995.—Section 1909 of the National Institutes of Health Revitalization Act of 1995 (42 U.S.C. 296a) is amended by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (G) THE MEDICAID, MEDICARE, AND SCHIP BENEFITS IMPROVEMENT AND PROTECTION ACT OF 2000.—Section 104(d)(4) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (42 U.S.C. 1395m note) is amended by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (H) THE MEDICARE, MEDICAID, AND SCHIP REIMBURSEMENT IMPROVEMENT AND PROTECTION ACT OF 2006.—Title IV of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2006 (42 U.S.C. 1395m note) is amended by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (7) ADDITIONAL AMENDMENT.—Section 403 of the Act entitled, “An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes”, enacted October 15, 1977 (48 U.S.C. 1574–1; 48 U.S.C. 1421q–1), is amended by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services” (8) AMENDMENTS TO THE ALZHEIMER’S DISEASE AND RELATED DEMENTIAS SERVICES RESEARCH ACT OF 1992.—The Alzheimer’s Disease and Related Dementias Research Act of 1992 (42 U.S.C. 1574–1; 48 U.S.C. 1421q–1) is amended by striking “Health Care Financing Administration” and inserting “Centers for Medicare & Medicaid Services”. Subtitle A—Regulatory Reform SEC. 501. CONSTRUCTION; DEFINITION OF SUPPLIER (a) CONSTRUCTION.—Nothing in this title shall be construed as (1) to compensate or affect existing legal remedies for addressing fraud or abuse, whether it be criminal prosecution, civil enforcement, or administrative remedies, including under subsection (a)(9) of title 31, United States Code (commonly known as the “False Claims Act”); or (2) to prevent or impede the Department of Health and Human Services in any way from its ongoing efforts to eliminate waste, fraud, and abuse in the medicare program. Furthermore, the consolidation of medicare administrative contracting set forth in this division does not constitute consolidation of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund or reflect any position on that issue. (b) DEFINITION OF SUPPLIER.—Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (c) the following new subsection: “(d) The term ‘supplier’ means, unless the context otherwise requires, a physician or other practitioner, a facility, or other entity (other than a provider of services) that furnishes items of this title.” (c) SECTIONS.—Sections 502(a), 503, 504, and 505 of title I, and sections 512(a), 513, 514, and 515 of title II, of the Act (42 U.S.C. 1395hh(a), (b), (c), (d), (e), (f), (g), and (h)) are repealed. Subtitle B—Financial Reforms SEC. 502. ISSUANCE OF REGULATIONS (a) REGULAR TIMELINE FOR PUBLICATION OF FINAL RULES.—(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)) is amended by adding at the end the following new paragraph: “(3)(A) The Secretary, in consultation with the Director of the Office of Management and Budget, shall establish and publish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation or an interim final regulation. (B) Such timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other relevant factors, but shall not be longer than a year, except under exceptional circumstances. If the Secretary intends to vary such timeline with respect to the publication of a final regulation, the Secretary shall cause a public notice in the Federal Register notice of the different timeline by not later than the timeline previously established with respect to such regulation. Such notice shall include a brief explanation of the justification for such variation. (C) In the case of interim final regulations, upon the expiration of the regular timeline established under this paragraph for the publication of a final regulation after opportunity for public comment, the interim final regulation shall not continue in effect unless the Secretary publish a notice of continued regulation that includes an explanation of the regular timeline (and any subsequent 1-year extension) was not complied with. If such a notice is published, the regular timeline (or such timeline as has been extended under this paragraph) for publication of the final regulation shall be treated as having been extended for 1 additional year.” (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. The Secretary shall provide for an appropriate transition period to take into account the backlog of previously published interim final regulations. (b) LIMITATIONS ON NEW MATTER IN FINAL REGULATIONS.— (1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph: “(4) If the Secretary publishes a final regulation that includes a provision that is not a logical outgrowth of a previously published notice of proposed rulemaking or interim final rule, such provision shall be treated as a proposed regulation and shall not take effect until there is the further opportunity for public comment pursuant to section 1871(b) of the Act. Such notice of continuation of the provision again as a final regulation.” (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to final regulations published after the date of the enactment of this Act. SEC. 503. COMPLIANCE WITH CHANGES IN REGULATIONS AND POLICIES (a) NO RETROACTIVE APPLICATION OF SUBSTANTIVE CHANGES. (1) IN GENERAL.—Section 1871(b) (42 U.S.C. 1395hh(b)) is amended by adding at the end the following new subsection: “(e)(1)(A) A substantive change in regulations, including proposed regulations, proposed rulemaking, substantive rules, statements of policy, or guidelines of general applicability under this title shall
not be applied (by extrapolation or other- 
wise) retroactively to items and services fur-
ished before the effective date of the change, unless the Secretary determines that—

(i) such retroactive application is nec-

(iii) the guidance was in error;

the provider of services or supplier shall not be subject to any penalty or interest un-
der this title or the provisions of title XI insofar as they relate to this title (including inter-
est under a repayment plan under section 1883 or otherwise) relating to the provision of such items or service or such claim if the provider of services or supplier reasonably relied on such guidance.

(B) Paragraph (A) shall not be con-

such that—

the date of the enactment of this Act and
shall only apply to a penalty or interest im-
posed with respect to guidance provided on or after July 24, 2003.

SEC. 504. RECOMMENDATIONS RELATING TO REGULATORY REFORM.

(a) GAO STUDY ON ADVISORY OPINION AU-

(1) STRATEGY.—The Comptroller General of the United States shall conduct a study to deter-

(b) ADVISORY OPINION IN COMPLIANCE WITH SUB-

(1) IN GENERAL.—Section 1871(e)(1), as added by subsection (a), is amended by add-

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on

the date of the enactment of this Act and shall only apply to a penalty or interest im-
posed with respect to guidance provided on or after July 24, 2003.
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(related to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).

"(B) CONSTRUCTION.—An entity shall not be treated as administering a contract merely by reason of having entered into a contract with the Secretary under section 1893.

"(6) APPLICATION OF FEDERAL ACQUISITION REGULATION.—Except to the extent inconsistent with a specific requirement of this section, the Federal Acquisition Regulation applied under this section.

"(7) CONTRACTING REQUIREMENTS.—

"(a) CONTRACTING REQUIREMENTS.—The Secretary shall include, as one of the standards developed under section 1862(b) for a provider and beneficiary satisfaction levels.

"(b) CONTRACTING REQUIREMENTS.—

"(1) USE OF COMPETITIVE PROCEDURES.—

"(A) IN GENERAL.—Except as provided in laws with general applicability to Federal acquisition policies (as defined in paragraph (B) of subsection (a) of section 2304 of title 41, United States Code), the Secretary shall select a contractor for a contract under this section through a competitive procedure.

"(2) CONTRACTING REQUIREMENTS.—All contracts and contracts entered into under this section shall reflect the performance requirements published under subparagraph (A), but may include additional performance requirements.

"(ii) shall be used for evaluating contract performance under the contract; and

"(iii) shall be consistent with the written statement of work provided under the contract.

"(D) INFORMATION REQUIREMENTS.—The Secretary shall ensure that performance requirements under subparagraph (A), provider and beneficiary satisfaction levels, and any other matters as the Secretary finds pertinent.

"(E) IMPLEMENTATION OF PERFORMANCE STANDARDS.—The Secretary shall ensure that the performance requirements under subparagraph (A) are met by the contractors and the Secretary is satisfied that the contractor is meeting the requirements.

"(F) LIMITATION ON LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS AND CERTAIN OFFICERS.—

"(i) CERTIFYING OFFICER.—No contractor shall be liable under this subsection as a certifying officer shall, in the absence of the recklessness disregard of the individual's obligations or the intent by that individual to defraud the United States, be liable with respect to any payments certified by the individual under this section.

"(ii) DISBURSING OFFICER.—No contractor shall be liable under this subsection as a discharging officer shall, in the absence of the reckless disregard of the officer's obligations or the intent by that officer to defraud the United States, be liable with respect to any payments certified by the officer designated as provided in paragraph (1) of this subsection.
(b) CONFIRMING AMENDMENTS TO SECTION 1816 (RELATING TO FISCAL INTERMEDIARIES).—

Section 1816 (42 U.S.C. 1395h) is amended as follows:

(1) The heading is amended to read as follows:

"PROVISIONS RELATING TO THE ADMINISTRATION OF PART A".

(2) Subsection (a) is amended to read as follows:

"(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.

(3) Subsection (b) is repealed.

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in each of paragraphs (2)(A) and (3)(A) by striking "administration under this section" and inserting "contract under section 1874A that provides for making payments under this part";

(5) Subsections (d) through (i) are repealed.

(6) Subsections (j) and (k) are each amended—

(A) by striking "an agreement with an agency or organization under this section" and inserting "a contract with a medicare administrative contractor under section 1874A with respect to the administration of this part";

(B) by striking "such agency or organization" and inserting "such medicare administrative contractor" each place it appears;

(C) by striking "carrier or carriers" each place it appears; and

(D) by striking "medicare administrative contractor," after "the contractor" each place it appears; and

(E) by striking "medicare administrative contractor," as added by subsection (a)(1).

(7) Section (l) is repealed.

(c) CONFORMING AMENDMENTS TO SECTION 1842 (RELATING TO CARRIERS).—Section 1842 (42 U.S.C. 1395u) is amended as follows:

(1) The heading is amended to read as follows:

"PROVISIONS RELATING TO THE ADMINISTRATION OF PART B".

(2) Subsection (a) is amended to read as follows:

"(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.

(3) Subsection (b) is amended—

(A) by striking paragraph (1); and

(B) in paragraph (2)—

(i) by striking subparagraphs (A) and (B); and

(ii) in subparagraph (C), by striking "carriers" and inserting "medicare administrative contractors"; and

(iii) in subparagraph (D), by striking "the carrier" and inserting "the contractors".

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in paragraph (2)(A), by striking "contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)," and inserting "contract under section 1874A for making payments under this part";

(C) in paragraph (3)(A), by striking "contract under section 1874A(a)(3)(B);"

(D) in paragraph (4), in the matter preceding subparagraph (A), by striking "contractor" and inserting "medicare administrative contractor"; and

(E) by striking subparagraphs (5) and (6).

(5) Subsections (d), (e), and (f) are repealed.

(6) Subsection (g) is amended by striking "carrier or carriers" and inserting "medicare administrative contractor or contractors";

(7) Subsection (h) is amended—

(A) in paragraph (2)—

(i) by striking "Each carrier having an agreement with the Secretary under subsection (a) and inserting "The Secretary"; and

(ii) by striking "Each such carrier" and inserting "The Secretary";

(B) in paragraph (3)(A)—

(i) by striking "Such carrier" and inserting "The Secretary";

(ii) by striking "such carrier" and inserting "such carrier";

(C) in paragraph (3)(B)—

(i) by striking "a carrier" and inserting "a medicare administrative contractor each place it appears; and

(ii) by striking the "carrier" and inserting the "contractor" each place it appears; and

(D) in paragraph (4), after the date of the enactment of this Act, the provisions contained in the section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395d(d)(2)) shall continue to apply during the period that begins on the date of the enactment of this Act and ends on October 1, 2011, and any reference in such provisions to an agreement or contract shall be deemed to include a contract under section 1874A of such Act, as inserted by subsection (a)(1), that continues the activities referred to in such provisions.

(8) Subsection (i) of section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395d(d)(2)) is amended to read as follows:

"IN GENERAL .—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2010, and the Secretary is authorized to take such appropriate actions before such date as may be necessary to implement such amendments on a timely basis.

(9) Subsection (j)(3) is amended by inserting "and inserting "medicare administrative contractor" after "the contractor" and inserting "the contractors" each place it appears; and

(10) Subsection (k)(1)(A) is amended by striking "carriers".

(d) EFFECTIVE DATE; TRANSITION RULE.—(1) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2005, and the Secretary is authorized to take such appropriate actions before such date as may be necessary to implement such amendments on a timely basis.

(B) CONSTRUCTION FOR CURRENT CONTRACTS AND AGREEMENTS.—In making payments under this part, the activities referred to in such provisions to an agreement or contract shall be deemed to include a contract under section 1874A of such Act, as inserted by subsection (a)(1), that continues the activities referred to in such provisions.

(2) REPORTS ON IMPLEMENTATION.—

(1) PLAN FOR IMPLEMENTATION.—By not later than October 1, 2004, the Secretary shall submit a report to Congress and the Comptroller General of the United States that describes the plan for implementation of the amendments made by this section. The Comptroller General shall conduct an evaluation of such plan and shall submit to Congress, not later than 6 months after the date the report is received, a report on such evaluation and shall include in such report such recommendations as the Comptroller General deems appropriate.

(2) STATUS OF IMPLEMENTATION.—The Secretary shall submit a report to Congress not later than October 1, 2006, that describes the status of implementation of such amendments and that includes a description of the following:

(A) The number of contracts that have been competitively bid and awarded;

(B) The distribution of functions among contracts and contractors.
of the Department of Health and Human Services and to the Secretary.

(ii) To Congress.—The Inspector General of the Department of Health and Human Services shall submit to Congress annual reports on the results of such evaluations, including assessments of the scope and sufficiency of such evaluations.

(iii) Agency Reports.—The Secretary shall address the results of such evaluations in reports required under section 3544(c) of title 44, United States Code.

(b) Application of Requirements to Fiscal Intermediaries and Carriers.—

(1) In general.—The provisions of section 1874A(e)(1) of the Social Security Act (other than subparagraph (B)), as added by subsection (a), shall apply to each fiscal intermediary and carrier under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(2) Deadline for initial evaluation.—In the case of such a fiscal intermediary or carrier with an agreement or contract under such requirement (as in effect on the date of the enactment of this Act, the first evaluation under section 1874A(e)(2)(A) of the Social Security Act (42 U.S.C. 1395u) by subsection (a), pursuant to paragraph (1), shall be completed (and a report on the evaluation submitted to the Secretary) by not later than 1 year after such enactment.

Subtitle C—Education and Outreach

SEC. 521. PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.

(a) Coordination of Education Funding.—

(1) In general.—Title XVIII is amended by inserting after section 1888 the following new section:—

"Sec. 1889. (a) Coordination of Education Funding.—The Secretary shall coordinate the educational activities provided through medicare contractors (as defined in subsection (g), including under section 1888) in order to maximize the effectiveness of Federal education efforts for providers of services and suppliers.

(b) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(2) Reports.—Not later than October 1, 2004, the Secretary shall submit to Congress a report that includes an analysis and evaluation of the steps taken to coordinate the funding of programs under section 1888(a) of the Social Security Act, as added by paragraph (1).

(b) Incentives to Improve Contractor Performance.—

(1) In general.—Section 1874A, as added by section 511(a)(1), is amended by adding at the end the following new subsection:—

"(i) Incentives to Improve Contractor Performance.—The Secretary shall, consistent with standards developed by the Secretary under paragraph (3), include in the report such recommendations as the Comptroller General determines appropriate with respect to the methodology.

(2) Report on use of methodology in assessing contractor performance.—Not later than October 1, 2004, the Comptroller General of the United States shall submit to Congress and to the Secretary a report on the adequacy of the methodology under section 1874A(f) of the Social Security Act, as added by paragraph (1), and shall include in the report such recommendations as the Comptroller General determines appropriate with respect to the methodology.

(c) Provision of Access to and Prompt Responses from Medicare Administrative Contractors.—

(1) In general.—Section 1874A, as added by section 511(a)(1) and as amended by section 521(a) and subsection (b), is further amended by striking at the end the following new subsection:

"(c) Communications With Beneficiaries, Providers of Services and Suppliers.—

"(1) In general.—The Secretary shall develop a strategy for communications with individuals entitled to benefits under part A or enrolled under part B, or both, and with providers of services and suppliers under this title.

"(2) Response to written inquiries.—Each medicare administrative contractor shall, for those providers of services and suppliers which submit claims for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, both, with respect to whom claims are submitted for claims processing, provide general written responses (which may be through electronic transmission) in a clear, concise, and accurate manner to inquiries of providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, both, concerning the programs under this title within 45 business days of the date of receipt of such inquiries.

"(3) Response to toll-free lines.—The Secretary shall ensure that each medicare administrative contractor shall, for those providers of services and suppliers which submit claims for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, both, with respect to whom claims are submitted for claims processing, provide telephone toll-free lines to individuals entitled to benefits under part A or enrolled under part B, both, with respect to whom claims are submitted for claims processing, where information regarding billing, denial of claims, appeals, and other appropriate information under this title.

"(4) Monitoring of contractor responses.—

"(A) In general.—Each medicare administrative contractor shall, consistent with standards developed by the Secretary under subparagraph (B), maintain a system for identifying who provides the information referred to in paragraphs (2) and (3); and

"(B) Development of standards.—
“(c) Encouragement of Participation in Education Program Activities.—A medicare contractor may not use a record of attendance at (or failure to attend) educational activities or other information gathered during an educational program conducted under this section or otherwise by the Secretary to select or track providers of services or suppliers for the purpose of conducting any type of audit or prepayment review.

“(d) Construction.—Nothing in this section or section 1890(g) shall be construed as providing for disclosure by a medicare contractor—

“(1) of the screens used for identifying claims that will be subject to medical review; or

“(2) of information that would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

“(g) Definitions.—For purposes of this section, the terms ‘medicare contractor’ includes—

“(1) a medicare administrative contractor with a contract under section 1874A, including a fiscal intermediary with a contract under section 1842; or

“(2) An eligible entity with a contract under section 1842.

“(a) Establishment.—The Secretary shall establish a demonstration program (in this section referred to as the ‘demonstration program’) under which technical assistance described in paragraph (2) is made available, upon request and on a voluntary basis, to small providers of services or suppliers paying an amount estimated to be equal to 25 percent of the cost of the technical assistance.

“(f) Authorization of Appropriations.—There are authorized to be appropriated, for carrying out the provisions of this section, such sums as are necessary for fiscal years beginning after fiscal year 2005.

“(g) Definitions.—For purposes of this section, the term ‘small provider of services or supplier’ means—

“(1) a provider of services with fewer than 10 full-time-equivalent employees.

“(2) a provider of services with fewer than 25 full-time-equivalent employees.

“(3) a provider of services paying an amount estimated to be equal to 25 percent of the cost of the technical assistance.

“(4) a supplier with fewer than 10 full-time-equivalent employees.

“(5) A small provider of services or supplier participating in the demonstration program shall include in such report recommendations regarding the continuation or extension of the demonstration program.

“(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary for fiscal years beginning after fiscal year 2005.

“(g) Definitions.—For purposes of this section, the term ‘small provider of services or supplier’ means—

“(1) a provider of services with fewer than 10 full-time-equivalent employees.

“(2) a provider of services with fewer than 25 full-time-equivalent employees.

“(3) a provider of services paying an amount estimated to be equal to 25 percent of the cost of the technical assistance.

“(4) a supplier with fewer than 10 full-time-equivalent employees.

“(5) A small provider of services or supplier participating in the demonstration program shall include in such report recommendations regarding the continuation or extension of the demonstration program.

“(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary for fiscal years beginning after fiscal year 2005.

“(g) Definitions.—For purposes of this section, the term ‘small provider of services or supplier’ means—

“(1) a provider of services with fewer than 10 full-time-equivalent employees.

“(2) a provider of services with fewer than 25 full-time-equivalent employees.

“(3) a provider of services paying an amount estimated to be equal to 25 percent of the cost of the technical assistance.

“(4) a supplier with fewer than 10 full-time-equivalent employees.

“(5) A small provider of services or supplier participating in the demonstration program shall include in such report recommendations regarding the continuation or extension of the demonstration program.

“(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary for fiscal years beginning after fiscal year 2005.

“(g) Definitions.—For purposes of this section, the term ‘small provider of services or supplier’ means—

“(1) a provider of services with fewer than 10 full-time-equivalent employees.

“(2) a provider of services with fewer than 25 full-time-equivalent employees.

“(3) a provider of services paying an amount estimated to be equal to 25 percent of the cost of the technical assistance.

“(4) a supplier with fewer than 10 full-time-equivalent employees.

“(5) A small provider of services or supplier participating in the demonstration program shall include in such report recommendations regarding the continuation or extension of the demonstration program.

“(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary for fiscal years beginning after fiscal year 2005.

“(g) Definitions.—For purposes of this section, the term ‘small provider of services or supplier’ means—

“(1) a provider of services with fewer than 10 full-time-equivalent employees.

“(2) a provider of services with fewer than 25 full-time-equivalent employees.

“(3) a provider of services paying an amount estimated to be equal to 25 percent of the cost of the technical assistance.

“(4) a supplier with fewer than 10 full-time-equivalent employees.

“(5) A small provider of services or supplier participating in the demonstration program shall include in such report recommendations regarding the continuation or extension of the demonstration program.

“(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary for fiscal years beginning after fiscal year 2005.

“(g) Definitions.—For purposes of this section, the term ‘small provider of services or supplier’ means—

“(1) a provider of services with fewer than 10 full-time-equivalent employees.

“(2) a provider of services with fewer than 25 full-time-equivalent employees.

“(3) a provider of services paying an amount estimated to be equal to 25 percent of the cost of the technical assistance.

“(4) a supplier with fewer than 10 full-time-equivalent employees.

“(5) A small provider of services or supplier participating in the demonstration program shall include in such report recommendations regarding the continuation or extension of the demonstration program.
Human Services a Medicare Beneficiary Ombudsman who shall have expertise and experience in the fields of health care and education of (and assistance to) individuals entitled to benefits under part A or enrolled under part B, or both, with respect to any aspect of the Medicare program; "(2) DUTIES.—The Medicare Beneficiary Ombudsman shall—"(A) receive complaints, grievances, and requests for information submitted by individuals entitled to benefits under part A or enrolled under part B, or both, with respect to any aspect of the Medicare program; "(B) report with respect to complaints, grievances, and requests referred to in subparagraph (A), including—"(i) assistance in collecting relevant information, individuals, to seek the appeal of a decision or determination made by a fiscal intermediary, carrier, MA organization, or the Secretary; "(ii) assistance to such individuals with any problems arising from disenrollment from an MA plan under part C; and "(iii) assistance to such individuals in presenting information, under section 1839(t)(4)(C) (relating to income-related premium adjustment; and "(C) submit annual reports to Congress and the Secretary that describe the activities of the Office and that include such recommendations for improvement in the administration of this title as the Ombudsman determines provide.THE OBMBUDSMAN SHALL NOT SERVE AS AN ADVOCATE FOR ANY INDIVIDUAL BENEFICIARY OR PROVIDER AND SHALL PROVIDE A NEUTRAL SERVICE TO INDIVIDUALS ENTITLED TO BENEFITS UNDER PART A OR ENROLLED UNDER PART B, OR BOTH, REGARDING ANY COMPLAINTS, GRIEVANCES, OR REQUESTS FOR INFORMATION SUBMITTED BY SUCH INDIVIDUALS REGARDING THE MEDICARE PROGRAM. SUCH EVALUATION SHALL INCLUDE AN ANALYSIS OF—"(i) the high volume of visits by individuals referred to the Ombudsman for assistance; "(ii) the cost-effectiveness of such assistance; “(iii) the effectiveness of such assistance in resolving individual complaints, grievances, or requests for information; “(iv) the extent to which the Ombudsman is able to provide data on the basis of which Congress can make funding decisions on the basis of which the Secretary can make funding decisions and which can be used by other individuals in the provision of services to Medicare beneficiaries; “(v) any problems arising from disenrollment from an MA plan under part C; “(vi) any problems arising from disenrollment from an MA plan under part D; “(vii) the extent to which the Secretary's actions are necessary for fiscal year 2004 and each succeeding fiscal year; 

(a)還是of the listing of numbers of individual contractors.”.

(b) MONITORING ACCURACY.—"(A) STUDY.—The Comptroller General of the United States shall conduct a study to monitor the accuracy and consistency of information provided to individuals entitled to benefits under part A or enrolled under part B, or both, by the toll-free telephone number 1–800–MEDICARE, including an assessment of whether the information provided is sufficient to answer questions of such individuals. In conducting such study, the Comptroller General shall examine the education and training of the individuals providing information through such number.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subparagraph (A).

SEC. 524. BENEFICIARY OUTREACH DEMONSTRATION PROGRAM. (a) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the “demonstration program”) under which Medicare specialists employed by the Department of Health and Human Services provide advice and assistance to individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both, regarding the Medicare program at the location of existing local offices of the Social Security Administration.

(b) LOCATION.—"(1) IN GENERAL.—The demonstration program shall be conducted in at least 6 offices or areas. Subject to paragraph (2), in selecting such offices the Secretary shall provide preference for offices with a high volume of visits by individuals referred to in subsection (a).

(c) FUNDING.—"(1) AGCERNMENT.—The feasibility of developing a process to publicly provide information that enables hospital discharge planners, Medicare beneficiaries, and the public to identify skilled nursing facilities that are participating in the Medicare program.

(d) INCLUSION OF INFORMATION IN CERTAIN HOSPITAL DISCHARGE PLANS.—

(a) AVAILABILITY OF DATA.—The Secretary shall publicly provide information that enables hospital discharge planners, Medicare beneficiaries, and the public to identify skilled nursing facilities that are participating in the Medicare program.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to notices provided during calendar quarters beginning more than 6 months after the date of the enactment of this Act.

SEC. 526. INFORMATION ON MEDICARE-CERTIFIED SKILLED NURSING FACILITIES IN HOSPITAL DISCHARGE PLANS.

(a) AVAILABILITY OF DATA.—The Secretary shall publicly provide information that enables hospital discharge planners, Medicare beneficiaries, and the public to identify skilled nursing facilities that are participating in the Medicare program.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to notices provided during calendar quarters beginning more than 6 months after the date of the enactment of this Act.

SEC. 527. MEDICARE APPEALS.

(a) WORKLOAD.—"(1) IN GENERAL.—The number of such administrative law judges and support staff required to conduct hearings under the provisions of this Act shall be such as are necessary for fiscal year 2005 and subsequent fiscal years to carry out the functions transferred under the plan.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to notices provided during calendar quarters beginning more than 6 months after the date of the enactment of this Act.

(c) DURATION.—The demonstration program shall be conducted over a 3-year period.

(d) EVALUATION AND REPORT.—"(1) EVALUATION.—The Secretary shall provide for an evaluation of the demonstration program. Such evaluation shall include an analysis of—"(A) utilization of, and satisfaction of those individuals referred to in subsection (a) with, the assistance provided under the program; and "(B) the cost-effectiveness of providing beneficiary assistance through out-stationing Medicare specialists at local offices of the Social Security Administration.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on such evaluation and such report shall indicate whether any changes to the program shall be made and, if so, the changes to such program that are necessary for fiscal year 2006 and each succeeding fiscal year.

(f) USE OF CENTRAL, TOLL-FREE NUMBER (1–800–MEDICARE).—"(1) PHONE TRIAGE SYSTEM; LISTING IN MEDICARE HANDBOOK INSTEAD OF OTHER TOLL-FREE NUMBERS.—Section 1804(b) (42 U.S.C. 1395b–7(b)) is amended by striking "by using toll-free telephone number 1–800–MEDICARE, 42 U.S.C. 1395b–7(b) is amended by amending at the end the following parag
(H) INDEPENDENCE OF ADMINISTRATIVE LAW JUDGES.—The steps that should be taken to ensure the independence of administrative law judges consistent with the requirements of subsection (b)(2).

(I) GEOGRAPHIC DISTRIBUTION.—The steps that should be taken to provide for an appropriate geographic distribution of administrative law judges throughout the United States to carry out subsection (b)(3).

(J) HIRING.—The steps that should be taken to hire administrative law judges (and support staff) to carry out subsection (b)(4).

(K) PERFORMANCE STANDARDS.—The appropriateness of establishing performance standards for administrative law judges with respect to decisions described in section 1869(f)(2)(A)(i) (42 U.S.C. 1395ff(f)(2)(A)(i)) is amended by adding at the end the following new subparagraph (M): "The training that should be provided to administrative law judges with respect to transfer of functions described in paragraph (5)."

(L) SHARED RESOURCES.—The Secretary shall enter into such arrangements with the Commissioner as may be appropriate with respect to transferred functions of administrative law judges to share office space, support staff, and other resources, with appropriate reimbursement.

(M) TRAINING.—The training that should be provided to administrative law judges with respect to laws and regulations under title XVIII of the Social Security Act taking into account requirements under subsection (b)(2) for the independence of such judges and consistent with the applicable provisions of title 5, United States Code relating to impartiality.

(N) ADDITIONAL INFORMATION.—The plan may include recommendations for further congressional action, including modifications of the requirements and deadlines established under section 1869 of the Social Security Act (42 U.S.C. 1396f) (as amended by this Act).

(O) LEGAL EVALUATION.—The Comptroller General of the United States shall evaluate the plan and, not later than the date that is 6 months after the date on which the plan is received by the Comptroller General, shall submit to Congress a report on such evaluation.

(b) TRANSFER OF ADJUDICATION AUTHORITY.—

(1) IN GENERAL.—Not earlier than July 1, 2005, and not later than October 1, 2005, the Commissioner of Social Security and the Secretary shall enter into such arrangements with the Commissioner of Social Security to share of—

(a) IN GENERAL.—Section 1866(b)(2) (42 U.S.C. 1395i(b)(2)) is amended by inserting at the end the following new subparagraph: "(A) in paragraph (1)(A), by inserting ‘subject to paragraph (2),’ before ‘to judicial review of the Secretary’s final decision’; and"

(b) APPLICABILITY TO PROVIDER AGREEMENTS.—Section 1869(f)(1)(F)(i) (42 U.S.C. 1395ff(1)(F)(i)) is amended by inserting at the end the following new subparagraph (B): "(B) for the determination.

(c) LIMITATION.—The Departmental Appeals Board does not have the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to the determination by the Departmental Appeals Board consistent with the applicable provisions of title 5, United States Code relating to impartiality.

(d) JUDICIAL REVIEW.—For purposes of the subpoena, the term ‘review entity’ means an entity of up to three reviewers who are administrative law judges or members of the Departmental Appeals Board selected for purposes of determining matters in controversy under this paragraph.

(e) REVIEW ENTITY DEFINED.—For purposes of this subparagraph, the term ‘review entity’ means an entity of up to three reviewers who are administrative law judges or members of the Departmental Appeals Board selected for purposes of making determinations under this paragraph.

(f) CONFORMING AMENDMENT.—Section 1869(b)(1)(F)(i) (42 U.S.C. 1395ff(1)(F)(i)) is amended to read as follows: "(ii) REFERENCE TO EXPEDITED ACCESS TO JUDICIAL REVIEW.—For the provision relating to expedited access to judicial review, see paragraph (2).’’.

(g) APPLICABILITY TO PROVIDER AGREEMENTS.—Section 1869(bb)(1)(F)(i) (42 U.S.C. 1395cc(b)(1)(F)(i)) is amended—

(1) by inserting ‘(A)’ after ‘(b)(1)’; and

(2) by adding at the end the following new subparagraph (b): "(B) INSTITUTION OF LEGISLATIVE PROCEDURE.—When a request for administrative hearing is filed a request for an administrative hearing, the appellant requests a determination by the appropriate review entity that the Departmental Appeals Board does not have the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to the determination by the Departmental Appeals Board consistent with the applicable provisions of title 5, United States Code relating to impartiality. Such a determination by such review entity shall be considered a final decision and not subject to review by the Secretary.

(j) IN GENERAL.—If the appropriate review entity—

(1) determines that there are no material issues of fact in dispute and that the only issues to be adjudicated are ones of law or regulation that the Departmental Appeals Board does not have authority to decide; or

(2) determines that there are no material issues of fact in dispute and that the only issues to be adjudicated are ones of law or regulation that the Departmental Appeals Board does not have authority to decide; or

(3) makes such request only once with respect to the determination by the Departmental Appeals Board consistent with the applicable provisions of title 5, United States Code relating to impartiality.

(k) DETERMINATIONS.—Section 1866(h)(1) (42 U.S.C. 1395i(h)(1)) is amended—

(1) by inserting ‘(A)’ after ‘(h)(1)’; and

(2) by adding at the end the following new subparagraph (b): "(B) for the determination.

(l) APPLICABILITY TO PROVIDER AGREEMENTS.—Section 1869(bb)(1)(F)(i) (42 U.S.C. 1395cc(b)(1)(F)(i)) is amended—

(1) by inserting ‘(A)’ after ‘(b)(1)’; and

(2) by adding at the end the following new subparagraph (b): "(B) INSTITUTION OF LEGISLATIVE PROCEDURE.—When a request for administrative hearing is filed a request for an administrative hearing, the appellant requests a determination by the appropriate review entity that the Departmental Appeals Board does not have the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to the determination by the Departmental Appeals Board consistent with the applicable provisions of title 5, United States Code relating to impartiality. Such a determination by such review entity shall be considered a final decision and not subject to review by the Secretary.

(m) IN GENERAL.—If the appropriate review entity—

(1) determines that there are no material issues of fact in dispute and that the only issues to be adjudicated are ones of law or regulation that the Departmental Appeals Board does not have authority to decide; or

(2) determines that there are no material issues of fact in dispute and that the only issues to be adjudicated are ones of law or regulation that the Departmental Appeals Board does not have authority to decide; or

(3) makes such request only once with respect to the determination by the Departmental Appeals Board consistent with the applicable provisions of title 5, United States Code relating to impartiality.

(n) DETERMINATIONS.—Section 1866(h)(1) (42 U.S.C. 1395i(h)(1)) is amended—

(1) by inserting ‘(A)’ after ‘(h)(1)’; and

(2) by adding at the end the following new subparagraph (b): "(B) INSTITUTION OF LEGISLATIVE PROCEDURE.—When a request for administrative hearing is filed a request for an administrative hearing, the appellant requests a determination by the appropriate review entity that the Departmental Appeals Board does not have the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to the determination by the Departmental Appeals Board consistent with the applicable provisions of title 5, United States Code relating to impartiality. Such a determination by such review entity shall be considered a final decision and not subject to review by the Secretary.

(o) APPLICABILITY TO PROVIDER AGREEMENTS.—Section 1869(bb)(1)(F)(i) (42 U.S.C. 1395cc(b)(1)(F)(i)) is amended—

(1) by inserting ‘(A)’ after ‘(b)(1)’; and

(2) by adding at the end the following new subparagraph (b): "(B) INSTITUTION OF LEGISLATIVE PROCEDURE.—When a request for administrative hearing is filed a request for an administrative hearing, the appellant requests a determination by the appropriate review entity that the Departmental Appeals Board does not have the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to the determination by the Departmental Appeals Board consistent with the applicable provisions of title 5, United States Code relating to impartiality. Such a determination by such review entity shall be considered a final decision and not subject to review by the Secretary.

(p) APPLICABILITY TO PROVIDER AGREEMENTS.—Section 1869(bb)(1)(F)(i) (42 U.S.C. 1395cc(b)(1)(F)(i)) is amended—

(1) by inserting ‘(A)’ after ‘(b)(1)’; and

(2) by adding at the end the following new subparagraph (b): "(B) INSTITUTION OF LEGISLATIVE PROCEDURE.—When a request for administrative hearing is filed a request for an administrative hearing, the appellant requests a determination by the appropriate review entity that the Departmental Appeals Board does not have the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to the determination by the Departmental Appeals Board consistent with the applicable provisions of title 5, United States Code relating to impartiality. Such a determination by such review entity shall be considered a final decision and not subject to review by the Secretary.
to benefits under part A or enrolled under part B, or both, may obtain expedited access to judicial review under the process established under section 1606(b)(2). Nothing in this paragraph shall be construed to affect the application of any remedy imposed under section 1819 during the pendency of an appeal under this subparagraph.

(c) EXPEDITED REVIEW OF CERTAIN PROVIDER AGREEMENT DETERMINATIONS.—

(1) TERMINATION AND CERTAIN OTHER IMMEDIATE DETERMINATIONS.—Section 1866(b)(2) of title 42 U.S.C. 1395cc(h)(1), as amended by subsection (b), is amended by adding at the end the following new subparagraph:

"(C) The Secretary shall develop and implement a process to expedite proceedings under this subsection in which—

"(i) the remedy for the determination of participation has been imposed;

"(ii) a determination described in clause (i) of section 1819(b)(2)(B) has been imposed, but only if such remedy has been imposed on an immediate basis; or

"(III) a determination has been made as to whether a finding of substandard quality of care that results in the loss of approval or certification of a nursing facility’s nurse aide training program.

(2) WAIVER OF DISAPPROVAL OF NURSE-AIDE TRAINING PROGRAMS.—Sections 1819(b)(2) and section 1919(b)(2) (42 U.S.C. 1395t-3(b)(2) and 1395b, as amended) are each amended—

(A) in subparagraph (B)(iii), by striking "subparagraph (C)" and inserting "subparagraphs (C) and (D)"; and

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

"(D) WAIVER OF DISAPPROVAL OF NURSE-AIDE TRAINING PROGRAMS.—Upon application of a nursing facility, the Secretary may waive the application of subparagraph (B)(ii)(D) if the imposition of the civil monetary penalty was not related to the quality of care to residents of the facility. Nothing in this subparagraph shall be construed as eliminating any requirement upon a facility to pay a civil monetary penalty described in subsection (b) and the pendency of an appeal under this subparagraph.

(3) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to reduce by 10 percent the average length of stay for patients treated under section 1866(b) of the Social Security Act (42 U.S.C. 1395cc(h)), there are authorized to be appropriated in appropriate part from the Federal Hospital Insurance Trust Fund, established under section 1817 of the Social Security Act (42 U.S.C. 1395l), and the Federal Supplementary Medical Insurance Trust Fund, established under section 1841 of such Act (42 U.S.C. 1395l)) to the Secretary such additional sums for fiscal year 2004 and each subsequent fiscal year as may be necessary.

The purposes for which such amounts are available include increasing the number of administrative law judges (and their staffs) and the appellate level staff at the Departmental Appeals Board of the Department of Health and Human Services and educating such judges and staffs on long-term care issues.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appeals (filed on or after October 1, 2004).

SEC. 533. REVISIONS TO MEDICARE APPEALS PROCESS.

(a) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE BY PROVIDERS.—A provider may not on its own initiative introduce evidence in any appeal under this section that was not presented at the reconsideration conducted by the qualified independent contractor under subsection (c), unless there is good cause which precluded the introduction of such evidence at or before that reconsideration.

(b) EFFECTIVE DATE.—The amendment made by paragraph (a) shall take effect on October 1, 2004.

(c) USe OF PATIENTS’ MEDICAL RECORDS.—Section 1869(c)(3)(B)(i) (42 U.S.C. 1395ff(c)(3)(B)(i)) is amended by inserting "(including the medical records of the individual involved)" after "clinical experience".

(d) NOTICE REQUIREMENTS FOR MEDICARE APPEALS.—

(1) INITIAL DETERMINATIONS AND REDETERMINATIONS.—Section 1869(a) (42 U.S.C. 1395ff(a)) is amended by adding at the end the following new paragraphs:

"(A) The written notice on the determination shall include—

"(i) the reasons for the determination, including whether a local medical review policy or a local coverage determination was used;

"(ii) the procedures for obtaining additional information concerning the determination, including the information described in subparagraph (B); and

"(iii) notification of the right to seek a redetermination or otherwise appeal the determination or otherwise file a complaint, including the information described in subparagraph (C);

"(B) such written notice shall be provided in printed form and in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both; and

"(C) the individual provided such written notice may obtain, upon request, information on the specific provision of the policy, manual, or regulation used in making the redetermination.

(2) REQUIREMENTS OF NOTICE OF REDETERMINATION.—With respect to a redetermination insofar as it results in a denial of a claim for benefits—

"(A) the written notice on the redetermination shall include—

"(i) the specific reasons for the redetermination;

"(ii) as appropriate, a summary of the clinical or scientific evidence used in making the redetermination;

"(III) the procedures for obtaining additional information concerning the redetermination; and

"(IV) notification of the right to appeal the redetermination or otherwise file a complaint, including the information described in subparagraph (C);

"(B) such written notice shall be provided in printed form and in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both; and

"(C) the individual provided such written notice may obtain, upon request, information on the specific provision of the policy, manual, or regulation used in making the redetermination.

(3) CONSIDERATIONS.—Section 1869(c)(3)(E) (42 U.S.C. 1395ff(c)(3)(E)) is amended—

(A) by inserting "with respect to" and all that follows as a title after "Secretary"; and

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

"(f) QUALIFIED INDEPENDENT CONTRACTORS.—

(1) ELIGIBILITY REQUIREMENTS OF QUALIFIED INDEPENDENT CONTRACTORS.—Section 1869(c)(3)(D) (42 U.S.C. 1395ff(c)(3)(D)) is amended—

(A) in subparagraph (A), by striking "sufficient training and expertise in medical science and legal matters" and inserting "sufficient training and expertise in medical, legal, and other expertise (including knowledge of the program under this title) and sufficient staffing"; and

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

"(K) INDEPENDENCE REQUIREMENTS.—

"(i) IN GENERAL.—Subject to clause (ii), a qualified independent contractor shall not conduct any activities in a case unless the entity—

"(I) is not a related party (as defined in subsection (g)(5));

"(II) does not have a material familial, financial, or professional relationship with such a party in relation to such case; and

"(iii) does not have a conflict of interest with such a party.

"(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified independent contractor of compensation from the Secretary for the conduct of activities under this section if the compensation is provided consistent with clause (iii).

"(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by the Secretary to a qualified independent contractor in connection with reviews under this section shall not be contingent on any decision rendered by the contractor or by any reviewing professional.

(2) ELIGIBILITY REQUIREMENTS FOR REVIEWERS.—Section 1869 (42 U.S.C. 1395f) is amended—

(A) by amending subsection (c)(3)(D) to read as follows:

"(D) QUALIFICATIONS FOR REVIEWERS.—The requirements of subsection (g) shall be met (relating to qualifications of reviewing professionals)"; and

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

"(f) QUALIFICATIONS OF REVIEWERS.—In reviewing determinations under this section, a qualified independent contractor shall assure that—

"(g) QUALIFICATIONS OF REVIEWERS.—In reviewing determinations under this section, a qualified independent contractor shall assure that—
“(A) each individual conducting a review shall meet the qualifications of paragraph (2); (B) compensation provided by the contractor to the reviewing professional shall be consistent with paragraph (3); and (C) in the case of a review by a panel described in subsection (c)(3)(B) composed of physicians or other health care professionals (each in this subsection referred to as a ‘reviewing professional’), a reviewing professional meets the qualifications described in paragraph (3) if the reviewing professional is a physician (allopathic or osteopathic), a reviewing professional is a nonphysician physician (allopathic or osteopathic) who is appropriately credentialed or licensed in one or more States to deliver health care services and has medical expertise in the field of practice that is appropriate for such items or services.”

“(2) RELATED PARTY DEFINED.—For purposes of this section, the term ‘related party’ means, with respect to a case under this title involving a specific individual entitled to benefits under part B, or both, any of the following: (A) The Secretary, the Medicare administrative contractor, carrier, or payer involved under part B, or both, of such overpayment; (B) the individual (or authorized representative) of such contracting entity; (C) The health care professional that provides the items or services involved in the case; (D) The institution at which the items or services (or treatment in connection with a review under this section) are furnished; (E) The manufacturer of any drug or other item that is included in the items or services involved in the case; (F) Any other party determined by the Secretary to have a substantial interest in the case involved.”

“(3) REDUCING MINIMUM NUMBER OF QUALIFIED INDEPENDENT CONTRACTORS.—Section 1874A(h), as added by section 1874A(h) of the Social Security Act, as added by subsection (a), shall apply to nonrandom prepayment reviews conducted on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary shall specify.

“(4) TRANSITION.—In applying section 1874A(h) of the Social Security Act (as added by subsection (a)) to nonrandom prepayment reviews conducted before the date of the enactment of this Act, the Secretary may— (A) reduce the minimum number of qualified independent contractors, as specified in section 1874A(h)(3),(B) permit a single qualified independent contractor to conduct a nonrandom prepayment review of a case involving a specific individual entitled to benefits under part A or both, of such overpayment; and (C) reduce the frequency with which reviews are conducted under such section.”

“SEC. 535. RECOVERY OF OVERPAYMENTS. (a) IN GENERAL.—Section 1893(f)(3)(A) is amended by adding at the end the following new subsection: (B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall terminate a nonrandom prepayment review of a provider or supplier based on the initial identification by that provider of services or supplier of an improper billing practice unless there is a likelihood of sustained or high level of payment error under section 1893(i)(5)(A).”

“(B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall issue regulations relating to the termination of nonrandom prepayment review. Such regulations may vary such criteria and date based upon the differences in the circumstances triggering prepayment review.”

“(e) EFFECTIVE DATE.—In general.—Except as provided in this subsection, the amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.”

“(E) The manufacturer of any drug or other item that is included in the items or services involved in the case; (F) Any other party determined by the Secretary to have a substantial interest in the case involved.”

“(2) EFFECTIVE DATE.—In general.—Except as provided in this subsection, the amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.”

“(3) Application of standards protocols for random prepayment review.—Section 1874A(h) of the Social Security Act, as added by subsection (a), shall apply to random prepayment reviews conducted on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary shall specify.”

“(c) Application to fiscal intermediaries and carriers.—The provisions of section 1874A(h) of the Social Security Act, as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395c-1) and each carrier under section 1842 of such Act (42 U.S.C. 1395u-3) in the same manner as they apply to Medicare administrative contractors under such provisions.”

“SEC. 535. RECOVERY OF OVERPAYMENTS. (a) IN GENERAL.—Section 1893(f)(3)(A) is amended by adding at the end the following new subsection: (B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall terminate a nonrandom prepayment review of a provider or supplier based on the initial identification by that provider of services or supplier of an improper billing practice unless there is a likelihood of sustained or high level of payment error under section 1893(i)(5)(A).”

“(B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall issue regulations relating to the termination of nonrandom prepayment review. Such regulations may vary such criteria and date based upon the differences in the circumstances triggering prepayment review.”

“(c) Application to fiscal intermediaries and carriers.—The provisions of section 1874A(h) of the Social Security Act, as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395c-1) and each carrier under section 1842 of such Act (42 U.S.C. 1395u-3) in the same manner as they apply to Medicare administrative contractors under such provisions.”
‘’(ii) RULE OF APPLICATION.—The Secretary shall establish rules for the application of this subparagraph in the case of a provider of services or supplier that was not paid under this title during the previous year or was paid under this title only during a portion of that year.

‘’(iii) TREATMENT OF PREVIOUS OVERPAYMENT.—If a provider of services or supplier that has entered into a repayment plan under subparagraph (A) with respect to a specific overpayment amount, such payment amount under such repayment plan shall not be taken into account under clause (i) with respect to subsequent overpayment amounts.

‘’(C) EXCEPTION.—Subparagraph (A) shall not apply if—

(i) the Secretary has reason to suspect that the provider of services or supplier may file for bankruptcy or otherwise cease to do business or discontinue participation in the program under this title; or

(ii) there is an indication of fraud or abuse committed against the program.

‘’(D) IMMEDIATE COLLECTION IF VIOLATION OF REPAYMENT PLAN.—If a provider of services or supplier fails to make a payment in accordance with a repayment plan under this paragraph, the Secretary may immediately seek to offset or otherwise recover the total amount outstanding (including applicable interest) under the repayment plan.

‘’(E) RELATION TO NO FAULT PROVISION.—Nothing in this subparagraph shall be construed as affecting the application of section 1870(c) (relating to no fault in the case of certain overpayments).

‘’(2) LIMITATION ON RECONSIDERATIONS.

(A) IN GENERAL.—In the case of a provider of services or supplier that is determined to have received an overpayment under this title and that seeks a reconsideration by a qualified independent contractor under subparagraph (C) under section 1893(b)(1), the Secretary may not take any action (or authorize any other person, including any Medicare contractor) as defined in subparagraph (C) to recoup the overpayment until the date the decision on the reconsideration has been rendered, if the provisions of section 1893(b)(1) (providing for such a reconsideration by a qualified independent contractor) are not in effect, in applying the previous sentence any reference to such a reconsideration shall be treated as a reference to a redetermination by the fiscal intermediary or carrier involved.

(B) COLLECTION WITH INTEREST.—Insofar as the determination on such appeal is against the provider of services or supplier, interest on the overpayment shall accrue on and after the date that the notice of the alleged overpayment. Insofar as such determination against the provider of services or supplier is later reversed, the Secretary shall provide for repayment of the overpayment plus interest at the same rate as would apply under the previous sentence for the period in which the amount was recouped.

(C) ACTUATOR DEFINED.—For purposes of this subsection, the term ‘medicare contractor’ has the meaning given such term in section 1892(g).

(D) LIMITATION ON USE OF EXTRAPOLATION.—A medicare contractor may not use extrapolation to determine overpayment amounts to be recovered by recoupment, offset, or otherwise unless the Secretary determines that—

(A) there is a sustained or high level of payment error; or

(B) any required educational intervention has failed to correct the payment error.

There shall be no administrative or judicial review under section 1899, section 1876, or otherwise of the Secretary’s determination of sustained or high levels of payment errors under this paragraph.

‘’(4) PROVISION OF SUPPORTING DOCUMENTATION.—In the case of a provider of services or supplier with respect to which amounts were previously overpaid, a medicare contractor may obtain additional records or supporting documentation for a limited sample of submitted claims to ensure that the previous practice is not continuing.

‘’(5) CONSENT SETTLEMENT REFORMS.—

(A) IN GENERAL.—The Secretary may use a consent settlement (as defined in subparagraph (D)) to set a projected overpayment. Where an opportunity to submit additional information before consent settlement offer, before offering a provider of services or supplier a consent settlement, the Secretary shall—

(i) communicate to the provider of services or supplier—

I. that, based on a review of the medical records requested by the Secretary, a preliminary evaluation of those records indicates that there would be an overpayment;

II. the nature of the problems identified in such evaluation; and

III. the steps that the provider of services or supplier should take to address the problems; and

(ii) provide for a 45-day period during which the provider of services or supplier may furnish additional information concerning the medical records for the claims that had been reviewed.

‘’(B) CONSENT SETTLEMENT OFFER.—The Secretary shall review any additional information furnished by the provider of services or supplier under subparagraph (D). Taking into consideration such information, the Secretary shall determine if there still appears to be an overpayment. If so, the Secretary—

(i) shall provide notice of such determination to the provider of services or supplier, including an explanation of the reason for such determination; and

(ii) in order to resolve the overpayment, may offer the provider of services or supplier—

I. the opportunity for a statistically valid random sample; or

II. a consent settlement.

The opportunity provided under clause (ii)(I) does not affect the appeal rights with respect to the alleged overpayment involved.

‘’(C) CONSENT SETTLEMENT DEFINED.—For purposes of this paragraph, the term ‘consent settlement’ means an agreement between the Secretary and a provider of services or supplier whereby both parties agree to settle a projected overpayment based on a limited sample of submitted claims and the provider of services or supplier agrees not to appeal the claims involved.

‘’(D) NOTICE OF OVER-UTILIZATION OF CODES.—The Secretary shall establish in consultation with organizations representing the classes of providers of services and suppliers appropriate corrective action plan; and

‘’(E) PAYMENT AUDITS.—

(A) WRITTEN NOTICE FOR POST-PAYMENT AUDITS.—Subject to subparagraph (C), if a medicare contractor audits a provider of services or supplier under this title, the contractor shall provide the provider of services or supplier with written notice (which may be in electronic form) of the intent to conduct such an audit.

‘’(B) EXPLANATION OF FINDINGS FOR ALL AUDITS.—Subject to subparagraph (C), if a medicare contractor audits a provider of services or supplier under this title, the contractor shall—

(i) give the provider of services or supplier a full review and explanation of the findings of the audit in a manner that is understandable to the provider of services or supplier and permits the development of an appropriate corrective action plan;

(ii) inform the provider of services or supplier of the appeal rights under this title as well as consent settlement options (which are at the discretion of the Secretary); and

(iii) give the provider of services or supplier an opportunity to provide additional information to the contractor; and

(iv) take into account information provided, on a timely basis, by the provider of services or supplier under clause (ii).

‘’(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply if the provider of services or supplier under clause (ii).

‘’(F) USE OF EXTRAPOLATION.—Section 1893(f)(5) of the Social Security Act, as added by subsection (a), shall apply to requests for repayment plans made after the date of the enactment of this Act.

‘’(G) LIMITATION ON RECONSIDERATION.—Section 1893(f)(3) of the Social Security Act, as added by subsection (a), shall apply to statistically valid random samples initiated after the date that is 1 year after the date of the enactment of this Act.

‘’(H) USE OF EXTRAPOLATION.—Section 1893(f)(3) of the Social Security Act, as added by subsection (a), shall apply to statistically valid random samples initiated after the date that is 1 year after the date of the enactment of this Act.

‘’(I) DISPOSAL OF MEDIARE CONTRACTORS IN Event OR DISCONTINUATION OF PARTICIPATION IN THE PROGRAM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a standard methodology for Medicare contractors to use in selecting a sample of claims for review in the case of an abnormal billing pattern.

‘’(J) EFFECTIVE DATES AND DEADLINES.—

(1) USE OF REPAYMENT PLANS.—Section 1893(f)(1) of the Social Security Act, as added by subsection (a), shall apply to requests for repayment plans made after the date of the enactment of this Act.

(2) LIMITATION ON RECONSIDERATION.—Section 1893(f)(2) of the Social Security Act, as added by subsection (a), shall apply to actions taken after the date of the enactment of this Act.

‘’(K) STANDARD METHODLOGY FOR PROBE AND INVESTIGATE.—The Secretary shall establish a standard methodology for Medicare contractors to use in selecting a sample of claims for review in the case of an abnormal billing pattern.

‘’(L) EFFECTIVE DATES AND DEADLINES.—

(1) USE OF EXTRAPOLATION.—Section 1893(f)(4) of the Social Security Act, as added by subsection (a), shall apply to statistically valid random samples initiated after the date that is 1 year after the date of the enactment of this Act.

(2) USE OF EXTRAPOLATION.—Section 1893(f)(5) of the Social Security Act, as added by subsection (a), shall apply to consent settlements entered into after the date of the enactment of this Act.

‘’(M) PROVIDER ENROLLMENT PROCESS; RIGHT OF APPEAL.

(1) PROVIDER ENROLLMENT PROCESS.—Section 1893(f)(6) of the Social Security Act, as added by subsection (a), shall apply to actions taken after the date of the enactment of this Act.

(2) RIGHT OF APPEAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish the process for notice of overutilization of billing codes under section 1893(f)(6) of the Social Security Act, as added by subsection (a).

‘’(N) PAYMENT AUDITS.—Section 1893(f)(17) of the Social Security Act, as added by subsection (a), shall apply to audits initiated after the date of the enactment of this Act.

‘’(O) STANDARD FOR ABNORMAL BILLING PATTERNS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a standard methodology for selection of sample claims for abnormal billing patterns under section 1893(f)(6) of the Social Security Act, as added by subsection (a).

‘’(P) SEC. 536. PROVIDER ENROLLMENT PROCESS; RIGHT OF APPEAL.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) by adding at the end of the heading the following: “ENROLLMENT PROCESSES”;

(2) by adding at the end the following new subsection:
‘‘(1) ENROLLMENT PROCESS FOR PROVIDERS OF SERVICES AND SUPPLIERS.—

‘‘(A) IN GENERAL.—The Secretary shall establish a process for the enrollment of providers of services and suppliers under this title.

‘‘(B) DEADLINES.—The Secretary shall establish procedures under which there are deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment). The Secretary shall monitor the processes of Medicare administrative contractors in meeting the deadlines established under this subparagraph.

‘‘(C) CONSULTATION BEFORE CHANGING PROVIDER ENROLLMENT FORMS.—The Secretary shall consult with providers of services and suppliers before making changes in the provider enrollment forms required of such providers and suppliers to be eligible to submit claims for which payment may be made under this title.

‘‘(2) HEARING RIGHTS IN CASES OF DENIAL OR NON-RENEWAL.—A provider of services or supplier whose application to enroll (or, if applicable, to renew enrollment) under this title is denied may have a hearing and judicial review of such a determination. Procedures that apply under subsection (h)(1)(A) to a provider of services that is dissatisfied with a determination by the Secretary.

‘‘(h) PRIOR DETERMINATION PROCESS FOR PROVIDERS AND SUPPLIERS.—

‘‘(1) ENROLLMENT PROCESS.—

‘‘(A) IN GENERAL.—Subject to paragraph (2), under the process established under this subsection an eligible requester may submit to the contractor a request for a determination, before the furnishing of a physician’s service, that the physician’s service for which the individual receives, from a physician, an advance beneficiary notice under section 1877(a).

‘‘(B) ACCOMPANYING DOCUMENTATION.—The Secretary may require the request be accompanied by a description of the physician’s service and any other appropriate documentation. If the request is submitted by an eligible requester who is described in paragraph (1)(B)(ii), the Secretary may require that the request also be accompanied by a copy of the advance beneficiary notice involved.

‘‘(2) RESPONSIBILITY OF CONTRACTORS.—The contractor shall make the determination under this subsection with respect to physicians’ services.

‘‘(D) INFORMING BENEFICIARY IN CASE OF NON-COVERAGE.—

‘‘(1) IN GENERAL.—

‘‘(A) IN GENERAL.—Contractor determinations under this subsection shall be construed as affirming or disproving a determination under section 1879(a).

‘‘(B) LIMITATION ON FURTHER REVIEW.—

‘‘(C) LIMITATION ON APPLICATION TO SGR.—For purposes of applying section 1841(b)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)), the amendment made by subsection (a) shall not be considered to be a change in law or regulation.
(1) DATA COLLECTION.—The Secretary shall establish a process for the collection of information on the instances in which an advance beneficiary notice (as defined in paragraph (1) of section 1861(q) of title XVIII of such Act) is provided and on the appropriate use of advance beneficiary notices and coverage policies under the medicare program.

(2) OUTREACH AND EDUCATION.—The Secretary shall establish a program of outreach and education for beneficiaries and providers of services or other persons that would furnish coverage policies under the medicare program.

(3) GAO REPORT ON USE OF ADVANCE BENEFICIARY NOTICES.—Not later than 18 months after the date on which section 1869(b) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of advance beneficiary notices under title XVIII of such Act. Such report shall include information concerning the providers of services and other persons that have provided such notices and the reasons of beneficiaries to such notices.

(4) USE OF PRIOR DETERMINATION PROCESS.—Not later than 36 months after the date on which section 1869(b) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of the prior determination process under such section. Such report shall include—

(A) information concerning—

(i) the number and types of procedures for which a prior determination has been sought;

(ii) determinations made under the process;

(iii) the percentage of beneficiaries prevailing;

(iv) in those cases in which the beneficiaries do not prevail, the reasons why such beneficiaries did not prevail; and

(v) changes in receipts of services resulting from the application of such process;

(B) an evaluation of whether the process was useful for physicians (and other suppliers of services) and beneficiaries; and

(C) recommendations for improvements or continuation of such process.

(5) ADVANCE BENEFICIARY NOTICE DEFINED.—In this subsection, the term ‘‘advance beneficiary notice’’ means a written notice provided under section 1879(a) of the Social Security Act (42 U.S.C. 1395pp(a)) to an individual entitled to benefits under part A or enrolled under part B of title XVIII of such Act before items or services are furnished under such part in cases where a provider of services or other person that would furnish the item or service believes that payment will not be made for some or all of such items or services under such title.

SEC. 539. APPEALS BY PROVIDERS WHEN THERE IS NO OTHER PARTY AVAILABLE.

(a) IN GENERAL.—Section 1870 (42 U.S.C. 1395gg) is amended by adding at the end the following new subsection:

"(b) In general.—If, after section (f) or any other provision of law, the Secretary shall permit a provider of services or supplier to appeal any determination of the Secretary under this part with respect to services rendered under this title to an individual who subsequently dies if there is no other party available to appeal such determination.

(2) INCLUSION IN MAC CONTRACTS.—Section 1874A(a)(2)(A)(i), as added by section 511(a)(1), is amended by adding at the end the following new sentence: "Such requirements shall include a process established by the Centers for Medicare & Medicaid Services to educate physicians on the use and assessment of potential evaluation and management physician services that meets the requirements described in subparagraph (B) to test such guidelines;"

SEC. 540. REVISIONS TO APPEALS TIMEFRAMES AND AMOUNTS.

(a) TIMEFRAMES.—Section 1869 (42 U.S.C. 1395f) is amended—

(1) in subsection (a)(3)(A)(i), by striking ‘‘30-day period’’ each place it appears and inserting ‘‘60-day period’’; and

(2) in subsection (c)(3)(A)(i), by striking ‘‘30-day period’’ and inserting ‘‘60-day pe- riode’’.

(b) AMOUNTS.—

(1) IN GENERAL.—Section 1869(b)(1)(E) (42 U.S.C. 1395f) is amended by adding at the end the following new clause:

"(iii) ADJUSTMENT OF DOLLAR AMOUNTS.—For requests for hearings or judicial review made in a year after 2004, the dollar amounts specified in clause (1) shall be equal to such dollar amounts increased by the percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average) for July 2003 to the July preceding the year involved. Any amount determined under the previous sentence that is not a multiple of $10 shall be rounded to the nearest multiple of $10.'’.

(2) CONFORMING AMENDMENTS.—(A) Section 1852(g)(5) (42 U.S.C. 1395w–22(g)(5)) is amended by adding at the end the following provisions:

The provisions of section 1869(b)(1)(E)(ii) shall apply with respect to dollar amounts specified in the first 2 sentences of this paragraph in the same manner as the dollar amounts specified in section 1869(b)(1)(E)(i).

(B) Section 1876(b)(5)(B) (42 U.S.C. 1395mm(b)(5)(B)) is amended by adding at the end the following provisions:

The provisions of section 1869(b)(1)(E)(ii) shall apply with respect to dollar amounts specified in the first 2 sentences of this subparagraph in the same manner as the dollar amounts specified in section 1869(b)(1)(E)(i).

(c) AMOUNTS.—Section 1869(b)(1)(E)(ii) is amended by inserting the following after the provisions of such subparagraph:

"The provisions of section 1869(b)(1)(E)(ii) shall apply with respect to dollar amounts increased by the percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average) for July 2003 to the July preceding the year involved. Any amount determined under the previous sentence that is not a multiple of $10 shall be rounded to the nearest multiple of $10.'’.

SEC. 540A. MEDIATION PROCESS FOR LOCAL COVERAGE DETERMINATIONS.

(a) IN GENERAL.—Section 1869 (42 U.S.C. 1395f) is amended, as amended by section 538(a), is amended by adding at the end the following new subsection:

"(1) MEDICATION PROCESS FOR LOCAL COVERAGE DETERMINATIONS.—(A) The Secretary shall establish a mediation process by the Centers for Medicare & Medicaid Services for resolving any dispute between a provider of services or a supplier and a medicare contractor regarding a local coverage determination issued by such medicare contractor to an individual entitled to benefits under part A or enrolled under part B of title XVIII of such Act on or after the date of the enactment of this Act.

(B) In general.—The Secretary shall—

(i) require that the Centers for Medicare & Medicaid Services—

(I) establish a program to educate physicians on the use and assessment of potential evaluation and management physician services that meets the requirements described in subparagraph (B) to test such guidelines;

(ii) establish the guidelines and that includes appropriate outreach.

The Secretary shall make changes to the manner in which existing evaluation and management documentation guidelines are implemented to reduce paperwork burdens on physicians.

(b) PILOT PROJECTS TO TEST MODIFIED OR NEW EVALUATION AND MANAGEMENT DOCUMENTATION GUIDELINES.—

(1) IN GENERAL.—With respect to proposed new or modified documentation guidelines referred to in subsection (a), the Secretary shall conduct under this subsection appropriate and representative pilot projects to test the proposed guidelines.

(2) LENGTH AND CONSULTATION.—Each pilot project under this subsection shall—

(a) be voluntary; and

(b) be of sufficient length as determined by the Secretary (but in no case to exceed 1 year) to allow for preparatory physician and other contractor analysis, and use and assessment of potential evaluation and management guidelines and;

(C) be conducted, in development and throughout the planning and operational stages of the project, in consultation with practicing physicians (including both generalists and specialists).

(3) RANGE OF PILOT PROJECTS.—Of the pilot projects conducted under this subsection with respect to proposed new or modified documentation guidelines—

(a) at least one shall focus on a peer review method by physicians (not employed by a medicare contractor) which evaluates medical record information for claims submitted by physicians who identify outliers relative to codes used for billing purposes for such services;

(b) at least one shall focus on an alternative method to detailed guidelines based on physician documentation of face to face encounter time with a patient;

(c) at least one shall be conducted for services furnished in a rural area and at least one for services furnished outside such an area; and

(d) at least one shall be conducted in a setting that includes physicians who bill under physicians’ services in teaching settings and at least one shall be conducted in a setting other than a teaching setting.

(c) IMPACT.—Each pilot project shall examine the effect of the proposed guidelines on..."
(A) different types of physician practices, including those with fewer than 10 full-time-equivalent employees (including physicians); and
(B) the costs of physician compliance, including education, implementation, auditing, and monitoring.

(5) Report on Pilot Projects.—Not later than 18 months after the date of completion of pilot projects carried out under this subsection with respect to a proposed guideline described in paragraph (1), the Secretary shall submit to Congress a report on the pilot projects. Each such report shall include a finding by the Secretary of whether the objectives described in subsection (c) will be met in the implementation of such proposed guideline.

(c) Objectives for Evaluation and Management Guidelines.—The objectives for modified evaluation and management documentation guidelines developed by the Secretary shall be to—

(1) identify clinically relevant documentation needed to code accurately and assess coding levels accurately;
(2) decrease the level of non-clinically pertinent and burdensome documentation time and content in the physician’s medical record;
(3) increase accuracy by reviewers; and
(4) educate both physicians and reviewers.

(d) Definitions.——Alternate systems of requirements for documentation accompanying claims for evaluation and management physician services for which payment is made under title XIX of the Social Security Act; and

(e) Coordination of Systems of Documentation for Physician Claims.—

(1) Study.—The Secretary shall carry out a study of the matters described in paragraph (1).

(2) Matters Described.—The matters referred to in paragraph (1) are—

(A) development of a simpler, alternative system of requirements for documentation accompanying claims for evaluation and management physician services for which payment is made under title XIX of the Social Security Act; and
(B) coordination of systems other than current coding and documentation requirements for payment for such physician services.

(3) Consultation with Practicing Physicians.—In designing and carrying out the study conducted under paragraph (1), the Secretary shall consult with practicing physicians, including physicians who are part of group practices and including both generalists and specialists.

(4) Application of HIPAA Uniform Coding Requirements.—In developing an alternative system under paragraph (2), the Secretary shall study the requirements of administrative simplification under part C of title XI of the Social Security Act; and

(5) Report to Congress.—(A) Not later than October 1, 2005, the Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1).

(B) The Medicare Payment Advisory Commission shall review any analysis of the results of the study included in the report under subparagraph (A) and shall submit a report on such analysis to Congress.

(e) Study on Appropriate Coding of Certain Extended Office Visits.—The Secretary shall conduct a study of the appropriateness of coding in cases of extended office visits in which there is no diagnosis made. Not later than October 1, 2005, the Secretary shall submit a report to Congress on such study and shall include recommendations on appropriate coding for such visits in a manner that takes into account the amount of time the physician spent with the patient.

(f) Definitions.—In this section—

(1) the term "rural area" has the meaning given that term in section 1861 (d)(2)(D) of the Social Security Act (42 U.S.C. 1395w(d)(2)(D)); and
(2) the term "teaching settings" are those settings described in section 415.150 of title 42 of the Code of Federal Regulations (42 U.S.C. 263b (d)(2)(D)).

SEC. 542. IMPROVEMENT IN OVERSIGHT OF TECHNOLOGY AND COVERAGE.

(a) Council for Technology and Innovation.—The Secretary shall establish the Council for Technology and Innovation within the Centers for Medicare & Medicaid Services (in this section referred to as "CMS").

(b) Composition.—The Council shall be composed of senior CMS staff and clinicians and shall be chaired by the Executive Coordinator for Technology and Innovation (appointed or designated under paragraph (4)).

(4) Duties.—The Council shall coordinate the activities of coverage, coding, and payment processes under this title with respect to new technologies, including new drug therapies, and shall coordinate the exchange of information on new technologies between CMS and other entities that make similar decisions.

(4) Executive Coordinator for Technology and Innovation.—The Secretary shall appoint (or designate) a noncareer appointee who is an employee of the United States (other than a member of the executive branch) as the Executive Coordinator for Technology and Innovation (in this section referred to as "the executive coordinator").

(a) Appointment.—The executive coordinator shall—

(i) be appointed by the Secretary by not later than October 1, 2004, and shall serve as the Executive Coordinator for Technology and Innovation at the Federal Register notice of a meeting to reexamine the use of external data in the determination of payment amounts for such tests under this subsection; and

(ii) submit to Congress a report on the results of the study under subsection (b). The study may include an analysis of whether other executive agencies, such as the Bureau of Labor Statistics in the Department of Commerce, are best suited to collect this information.

(b) Duties.—The executive coordinator shall—

(i) develop a single point of contact for outside groups looking to contribute to the Health Care Procedure Coding System.

(ii) make available to the public (through an Internet website and other appropriate means) a list of final determinations of the payment amounts for such tests under this subsection, together with the rationale for such determination, the data on which the determinations are based, and responses and suggestions received from the public.

(c) Under the procedures established pursuant to subparagraph (A), the Secretary shall—

(i) set forth the criteria for making determinations under subparagraph (A); and

(ii) make available to the public the data (other than proprietary data) considered in making such determinations.

(d) The Secretary may convene such further public meetings to receive public comments on payment amounts for such tests under this subsection as the Secretary deems appropriate.

(e) For purposes of this paragraph:

(i) The term "HCPCS" means 'Health Care Procedure Coding System'.

(ii) A code shall be considered to be substantially revised if there is a substantive change to the definition of the test or procedure to which the code applies (such as a new analyte or a new methodology for measuring an existing analyte-specific test).

(f) Study on use of External Data Collection for Use in the Medicare Inpatient Payment System.

(a) Study.—The Comptroller General of the United States shall conduct a study that analyzes which external data can be collected in a shorter timeframe by the Centers for Medicare & Medicaid Services for use in computing payments for inpatient hospital services. The study may include an evaluation of the feasibility and appropriateness of using quarterly samples or special surveys or other methods. The study shall include an analysis of whether other executive agencies, such as the Bureau of Labor Statistics in the Department of Commerce, are best suited to collect this information.

(b) Report.—By not later than October 1, 2004, the Comptroller General shall submit a report to Congress on the study conducted under paragraph (a).


(a) In General.—The Secretary shall not require a hospital (including a critical access hospital) to ask questions (or obtain information) from an individual entitled to benefits under part A or enrolled under part B, or both, and the hospital shall not imposen such requirement in the case of reference laboratory services described in subsection (b), if the Secretary does not impose such requirement in the case of such services furnished by an independent laboratory.

(b) Reference Laboratory Services Described.—Reference laboratory services described in this subsection are clinical laboratory diagnostic tests (or the interpretation of test results), or both, provided without a face-to-face encounter between the individual entitled to benefits under part A or enrolled under part B, or both, and the hospital and includes (but does not limit) to a list of proposed determinations with respect to the appropriate basis for establishing a payment amount under this subsection for each such code, together with an explanation of the reasons for such determination, the data on which the determination is based, and a request for public written comments on the proposed determination; and

(v) taking into account the comments received during the public comment period, develops and makes available to the public (through an Internet website and other appropriate mechanisms) a list of final determinations of the payment amounts for such tests under this subsection, together with the rationale for such determination, the data on which the determinations are based, and responses and suggestions received from the public.

(c) Under the procedures established pursuant to subparagraph (A), the Secretary shall—

(i) set forth the criteria for making determinations under subparagraph (A); and

(ii) make available to the public the data (other than proprietary data) considered in making such determinations.

(d) The Secretary may convene such further public meetings to receive public comments on payment amounts for such tests under this subsection as the Secretary deems appropriate.

(e) For purposes of this paragraph:

(i) The term "HCPCS" means 'Health Care Procedure Coding System'.

(ii) A code shall be considered to be substantially revised if there is a substantive change to the definition of the test or procedure to which the code applies (such as a new analyte or a new methodology for measuring an existing analyte-specific test).

(f) Study on use of External Data Collection for Use in the Medicare Inpatient Payment System.

(a) Study.—The Comptroller General of the United States shall conduct a study that analyzes which external data can be collected in a shorter timeframe by the Centers for Medicare & Medicaid Services for use in computing payments for inpatient hospital services. The study may include an evaluation of the feasibility and appropriateness of using quarterly samples or special surveys or other methods. The study shall include an analysis of whether other executive agencies, such as the Bureau of Labor Statistics in the Department of Commerce, are best suited to collect this information.

(b) Report.—By not later than October 1, 2004, the Comptroller General shall submit a report to Congress on the study conducted under paragraph (a).
SEC. 544. EMTALA IMPROVEMENTS.
(a) PAYMENT FOR EMTALA-MANDATED SCREENING AND STABILIZATION SERVICES.—
(1) IN GENERAL.—Section 1862 (42 U.S.C. 1395y(b)(2)(A)) is amended by inserting after subsection (c) the following new subsection:—
“(d) For purposes of subsection (a)(1)(A), in the case of a service that is required to be provided pursuant to section 1867 to an individual who is entitled to benefits under this title, determinations as to whether the item or service is reasonable and necessary shall be made on the basis of the information available to the treating physician or practitioner (including the patient’s presenting symptoms or complaint) at the time the item or service was ordered or furnished by the physician or practitioner (and not on the patient’s principal diagnosis). When making such determinations with respect to such an item or service, the Secretary shall not consider the frequency with which the item or service was provided to the patient before or after the time of the admission or visit.”.
(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items and services furnished on or after January 1, 2004.
(b) NOTIFICATION OF PROVIDERS WHEN EMTALA INVESTIGATION CLOSED.—Section 1867(d) (42 U.S.C. 1395dd(d)) is amended by adding at the end the following new paragraph:
“(4) NOTICE UPON CLOSING AN INVESTIGATION.—The Secretary shall establish a procedure to notify hospitals and physicians when an investigation under this section is closed.”.
(c) PRIOR REVIEW BY PEER REVIEW ORGANIZATIONS OF SERVICES INVOLVING TERMINATION OF PARTICIPATION.—
(1) IN GENERAL.—Section 1867(d)(3) (42 U.S.C. 1395dd(d)(3)) is amended—
(A) in the heading, by inserting “or in terminating a hospital’s participation under this title” after “in imposing sanctions under paragraph (1)”; and
(B) by adding at the end the following new sentence:—“Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall also request such a review before making a compliance determination as part of the process of terminating a hospital’s participation under this title for violations related to the appropriate screening examination, stabilizing treatment, or an appropriate transfer as required by this section, and shall provide a period of 5 days for such review. The Secretary shall provide a copy of the organization’s report to the hospital or physician consistent with confidentiality requirements imposed on the organization under such part.”.
(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to terminations of participation initiated on or after the date of the enactment of this Act.
SEC. 545. EMERGENCY MEDICAL TREATMENT AND LABOR ACT (EMTALA) TECHNICAL AMENDMENTS.
(a) Establishment.—The Secretary shall have experience with the application of EMTALA and at least 2 of which have not been cited for EMTALA violations; and
(2) 7 shall be practicing physicians drawn from the following regional offices of the Centers for Medicare & Medicaid Services; and
(3) 2 shall represent patients; and
(4) 2 shall be staff involved in EMTALA investigations and research organized by the Centers for Medicare & Medicaid Services; and
(5) 1 shall be from a State survey office involved in EMTALA investigations and research organized by the Centers for Medicare & Medicaid Services.
(b) Members.—In selecting members described in paragraphs (1) through (3), the Secretary shall consider qualified individuals nominated by organizations representing providers and patients.
(c) General Responsibilities.—The Advisory Group shall—
(1) review EMTALA regulations;
(2) provide advice and recommendations to the Secretary with respect to the rules and regulations and their application to hospitals and physicians;
(3) shall solicit comments and recommendations from hospitals, physicians, and the public regarding the implementation of such regulations; and
(4) may disseminate information on the application of such regulations to hospitals, physicians, and the public.
(d) Administrative Matters.—
(1) Chairperson.—The members of the Advisory Group shall elect a chairperson to serve as chairperson of the Advisory Group for the life of the advisory group.
(2) Meetings.—The Advisory Group shall meet at the direction of the Secretary. The Advisory Group shall then meet twice per year and at such other times as the Advisory Group may provide.
(e) Termination.—The Advisory Group shall terminate 30 months after the date of its first meeting.
(f) Waiver of Administrative Limitation.—The Secretary shall establish the Ad- visory Group to establish a waiver of a limitation that may apply to the number of advisory committees that may be established (within the Department of Health and Human Services).
SEC. 546. AUTHORIZING USE OF ARRANGEMENTS TO PROVIDE CORE HOSPICE SERVICES IN CERTAIN CIRCUMSTANCES.
(a) In General.—Section 1861(d)(3)(D) (42 U.S.C. 1395x(dd)(3)(D)) is amended by adding at the end the following:
“(D) In extraordinary, exigent, or other non-routine circumstances, as such unanticipated periods of high patient loads, staffing shortages due to illness or other events, or temporary travel of a patient outside a hospice program location, a hospice program may enter into arrangements with another hospice program for the provision by that other program of services described in paragraph (2)(A)(i)(II). The provisions of paragraph (2)(A)(i)(II) shall apply with respect to the services provided under such arrangements.
(E) A hospice program may provide services described in paragraph (1)(A) other than directly by the program if the services are provided by properly licensed, registered, or certified professional personnel and are provided non-routinely and so infrequently so that the provision of such services directly would be impracticable or prohibitively expensive, and
(F) Conforming Payment Provision.—Section 18411 (42 U.S.C. 13955(1)), as amended by section 221(b), is amended by adding at the end the following:
“(5) In the case of hospice care provided by a hospice program for arrangements under section 1861(d)(3)(D) made by another hospice program, the hospice program that made the arrangements shall bill and be paid for the hospice care.”.
(b) Exception.—The amendments made by this section shall apply to hospice care provided on or after the date of the enactment of this Act.
SEC. 547. APPLICATION OF OSHA BLOODBORNE PATHOGENS STANDARD TO CERTAIN HOSPITALS.
(a) In General.—Section 1866 (42 U.S.C. 1395cc), as amended by section 206, is amended—
(1) in subsection (a)(1)—
(A) in subparagraph (T), by striking “and”; and
(B) in subparagraph (U), by striking the period at the end and inserting “,” and”; and
(C) by inserting after subparagraph (U) the following new subparagraph:
“(4)(A) A hospital that fails to comply with the requirement of section (a)(1)(V) (relating to the Bloodborne Pathogens standard and its implementation) on or after the date of the enactment of this Act.
“(B) Civil money penalty under this paragraph shall be imposed and collected in the same manner as civil money penalties imposed under section 17 of the Occupational Safety and Health Act of 1970 for a violation of the Bloodborne Pathogens standard referred to in subsection (a)(1)(U) by a hospital that is subject to the provisions of such Act.
“(C) A civil money penalty under this paragraph shall be imposed and collected in the same manner as civil money penalties imposed under section 17 of the Occupational Safety and Health Act of 1970 for a violation of the Bloodborne Pathogens standard referred to in subsection (a)(1)(U) by a hospital that is subject to the provisions of such Act.
“(D) The hospital’s failure to comply with the requirement of section (a)(1)(V) may be imposed and collected under this section.”;
(b) Effective Date.—The amendments made by this subsection shall apply to hospitals as of July 1, 2001.
SEC. 548. BIPA-RELATED TECHNICAL AMENDMENTS AND CORRECTIONS.
(a) Technical Amendments Relating to Advisory Committee Under BIPA Section 522.—(1) Subsection (i) of section 1114 (42 U.S.C. 1314)—
(A) is transferred to section 1862 and added at the end of such section; and
(B) is redesignated as subsection (j).
(2) Section 1862 (42 U.S.C. 1395y) is amended—
(A) in the last sentence of subsection (a), by striking “established under section 1114(k);” and
(B) in subsection (j), as so transferred and redesignated—
(i) by striking “and” and inserting “or”; and
(ii) by striking “section 1862(a)(1)” and inserting “section 1862(a)(i)”; and
(B) TERMINOLOGY CORRECTIONS.—(1) Section 1869(c)(3)(D)(i) (42 U.S.C. 1395f(c)(3)(D)(i)) is amended—
(A) in clause (II), by striking “‘policy’” and inserting “‘determination’; and
(B) in clause (IV), by striking “medical review policies” and inserting “coverage determinations.”.
(2) Section 1862(a)(2)(C) (42 U.S.C. 1395w–22(a)(2)(C)) is amended by striking “policy”
and “POLICY” and inserting “determination” each place it appears and “DETERMINATION”, respectively.

(c) REFERENCE CORRECTIONS.—Section 1862(b)(6) (42 U.S.C. 1395ww(b)(6)) is amended—
(1) in subparagraph (A)(v), by striking “subject to paragraph (A)” and inserting “subject to paragraph (A) and";
(2) in subparagraph (A), by striking “(i) and (ii)” and inserting “(i) and (ii)”, and
(3) in subparagraph (B)(i), by striking “clause (i)” and “clause (ii)” and inserting “clause (i)” and “clause (ii)”.

(d) OTHER CORRECTIONS.—Effective as if included in the enactment of section 221(c) of BIPA, section 119(e) (42 U.S.C. 1320c-3(e)) is amended by striking paragraph (5).

(e) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall be effective as if included in the enactment of BIPA.

SEC. 549. CONFORMING AUTHORITY TO WAIVE A PROGRAM EXCLUSION.

The first sentence of section 1128(c)(3)(B) (42 U.S.C. 1320e(c)(3)(B)) is amended by inserting the following as a separate sentence:—

“Subject to the Secretary’s discretion, as the case may be, the authority shall not apply to a claim that is not submitted by the date that is 60 days after the date of the enactment of this Act.”

SEC. 550. TREATMENT OF CERTAIN DENTAL CLAIMS.

(a) IN GENERAL.—Section 1128(c)(3)(B) (42 U.S.C. 1320e(c)(3)(B)) is amended—
(1) by striking “(C)(i)” and inserting “(C)(ii)”; and
(2) by adding at the end the following new subparagraph:

“(C) each succeeding fiscal year before fiscal year 2004 and, if in the opinion of the Administrator, necessary, before the beginning of the fiscal year 2004.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments on or after the date of the enactment of this Act.

SEC. 551. REVISIONS TO REASSIGNMENT PROVISIONS.

(a) GAO REPORTS ON THE PHYSICIAN COMPENSATION.—

(1) SUSTAINABLE GROWTH RATE AND UPDATES.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the compen- sation for physician services. Such report shall review alternatives for the physician compensation for services furnished under title XVIII of the Social Security Act, and how those aspects interact and the effect on appropriate compensation for physician services.

(b) ANNUAL PUBLICATION OF LIST OF NATIONAL COVERAGE DETERMINATIONS.—The Secretary shall submit to Congress a report on the appropriate national coverage determinations made under title XVIII of the Social Security Act in the previous year and informa- tion on how to get more information with respect to such determinations.

(c) GO REPORT ON FLEXIBILITY IN APPLYING HOME HEALTH CONDITIONS OF PARTICIPATION TO PATIENTS WHO ARE NOT MEDICARE BENEFICIARIES.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the implications if there were flexibility in the application of the Medicare conditions of participa- tion to groups or types of patients who are not Medicare beneficiaries. The report shall include an analysis of the potential impact of such flexible application on clinical oper- ations and the recipients of such services and an analysis of methods for monitoring the quality of care provided.

(d) OIG REPORT ON NOTICES RELATING TO USE OF HOSPITAL LIFETIME RESERVE DAYS.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Health and Human Services shall submit a report to Congress on—

(1) the extent to which hospitals provide notice to Medicare beneficiaries in accordance with applicable requirements before the 60 lifetime reserve days described in section 1812(a)(1) of the Social Security Act (42 U.S.C. 1395a(a)(1)); and

(2) the appropriateness and feasibility of hospitals providing a full list of such benefi- cies before they completely exhaust such lifetime reserve days.

V. MEDICAID AND MISCELLANEOUS PROVISIONS

Subtitle A—Medicaid Provisions

SEC. 601. MEDICAID DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS.

(a) TEMPORARY INCREASE IN ALLOWANCE FOR ALLOTTMENT FOR A LOW DSH STATE.—(1) In general.—Section 1923(f)(3) (42 U.S.C. 1396d(f)(3)) is amended—

(1) in subparagraph (A), by striking “(5) SPECIAL RULE FOR LOW DSH STATES .”—(5) and inserting “(5) SPECIAL RULE FOR LOW DSH STATES .”—(5) Special rule for low DSH states.

(2) the appropriateness and feasibility of hospitals providing a full list of such benefi- cies before they completely exhaust such lifetime reserve days.

(b) INCREASE IN FLOOR FOR TREATMENT AS A LOW DSH STATE.—Section 1923(f)(5) (42 U.S.C. 1396d(f)(5)) is amended as follows:

“(5) FISCAL YEAR SPECIFIED FOR LOW DSH STATES.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the appropriateness and feasibility of hospitals providing a full list of such benefi- cies before they completely exhaust such lifetime reserve days.

(c) SPECIAL RULE FOR LOW DSH STATES.—In the case of a State in which the total expen- ditures under the State plan (including expenditures for services furnished under title XVIII of the Social Security Act) increased by 16 percent during the fiscal year specified in subparagraph (D) for that State, theDSH allotment for that State shall be increased by 16 percent; and

(d) INCREASE FOR MEDICAID SERVICES PROVIDED TO MEDICAID BENEFICIARIES.—Section 1923(f)(4)(B) (42 U.S.C. 1396d(f)(4)(B)) is amended by striking “(B)” and inserting “(C)”. November 21, 2003
the State for the previous year subject to an increase for inflation as provided in paragraph (3)(A).

(c) ALLOTMENT ADJUSTMENT.—Section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)) is amended—

(1) in paragraph (3)(A), by striking ‘‘The DSH’’ and inserting ‘‘Except as provided in paragraph (6), the DSH’’;

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

‘‘(6) ALLOTMENT ADJUSTMENT.—Only with respect to fiscal year 2004 or 2005, if a state-wide waiver under section 1115 is revoked or terminated before the end of either such fiscal year and there is no DSH allotment for the State, the Secretary shall—

‘‘(A) permit the State whose waiver was revoked or terminated to submit an amendment to its State plan that would describe the methodology to be used by the State (after the effective date of such revocation or termination) to identify and make payments to disproportionate share hospitals, including children’s hospitals and institutions for mental diseases or other mental health facilities other than State-owned institutions, on the basis of the proportion of patients served by such hospitals that are low-income patients with special needs; and

‘‘(B) provide for purposes of this subsection for computation of an appropriate DSH allotment for the State for fiscal year 2004 or 2005 (or both) that would not exceed the amount allowed under paragraph (3)(B)(iii) and that does not result in greater expenditures under this title than would have been made if such waiver had not been revoked or terminated.

‘‘(7) In determining the amount of an appropriation made under this section, the Secretary determines necessary to ensure the appropriateness of the payment adjustments described in this section, and any payments made on behalf of the uninsured from payment adjustments under this section.’’.

(d) CLARIFICATION REGARDING NON-REGULATION OF TRANSFERS.—

(1) IN GENERAL.—Nothing in section 1903(c)(3)(A) of the Social Security Act (42 U.S.C. 1396r(w)) shall be construed by the Secretary as prohibiting a State’s use of funds as the non-Federal share of expenditures under title XVIII for the fiscal year preceding the fiscal year for which information is available for undocumented aliens in such State.

(2) EFFECTIVE PERIOD.—This subsection shall apply through December 31, 2005.

SEC. 602. CLARIFICATION OF INCLUSION OF IN-PATIENT DRUG PRICES CHARGED TO MEDICAID IN THE BEST PRICE EXEMPTIONS FOR THE MEDICAID DRUG REBATE PROGRAM.

(a) IN GENERAL.—Section 340B(a)(5)(C) of the Public Health Service Act (42 U.S.C. 256b(a)(5)(C)) is amended—

(1) by striking ‘‘(i) The extent to which hospitals in the State that comply with the requirements of section 340B(a)(4)(L) of the Public Health Service Act, as of January 2003, based on the 2000 decennial census.

The total number of such aliens residing in all States, as determined by the Statistics Division of the Immigration and Naturalization Service, as of January 2003, based on the 2000 decennial census.

(2) Based on Number of Undocumented Alien Apprehensions States.

(A) In General.—Out of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall use $83,000,000 of such amount to make allotments for each State for a fiscal year shall be equal to the product of—

(i) the total amount available for allotments under this paragraph for the fiscal year; and

(ii) the percentage of undocumented aliens apprehended in the State in the preceding fiscal year as compared to the total of such apprehensions for all such States for the preceding fiscal year.

(b) Use of Funds.—For purposes of this paragraph, the highest number of undocumented alien apprehensions for a fiscal year shall be based on the apprehension rates for the 4-consecutive-quarter period ending before the beginning of the fiscal year for which information is available for undocumented aliens in such States, as reported by the Department of Homeland Security.

(c) Use of Funds.—

(1) AUTHORITY TO MAKE PAYMENTS.—From the allotments made for a State under subsection (a) for a fiscal year, the Secretary shall pay the amount (subject to the total amount available from such allotments) determined under paragraph (2) directly to eligible service providers located in the State for the provision of eligible services to aliens described in paragraph (5) to the extent that

hospital services to individuals described in paragraph (1)(A) of such subsection are included in the calculation of the hospital-specific limits under such subsection.

(3) The allotments made under this title, including supplemental payments, in the calculation of such hospital-specific limits.

(4) The State has separately documented and retained a record of all of its costs under this title, claimed expenditures in determining payment adjustments described in this section, and any payments made on behalf of the uninsured from payment adjustments under this section.’’.
the eligible provider was not otherwise reimbursed (through insurance or otherwise) for such services during that fiscal year.

(2) DETERMINATION OF PAYMENT AMOUNTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the payment amount determined under this paragraph shall be an amount determined by the Secretary that is equal to the lesser of—

(i) the amount that the provider demonstrates was incurred for the provision of such services; or

(ii) amounts determined under a methodology established by the Secretary for purposes of this subsection.

(B) PRO-RATA REDUCTION.—If the amount of funds described in paragraph (1) for a fiscal year is insufficient to ensure that each eligible provider in that State receives the amount of payment calculated under subparagraph (A), the Secretary shall reduce that amount of payment with respect to each eligible provider to ensure that the entire amount allotted to the State for that fiscal year is paid to such eligible providers.

(3) METHODOLOGY.—In establishing a methodology under paragraph (2)(A)(ii), the Secretary—

(A) may establish different methodologies for types of eligible providers;

(B) may base payments for hospital services on estimated hospital charges, adjusted to estimated costs, through the application of hospital-specific cost-to-charge ratios;

(C) shall provide for the election by a hospital to receive either payments to the hospital for—

(i) hospital and physician services; or

(ii) hospital services and for a portion of the on-call payments made by the hospital to physicians;

(D) shall make quarterly payments under this section to eligible providers.

If a hospital makes the election under subparagraph (B), the hospital shall pay all amounts allotted to the hospital for—

(A) hospital and physician services; or

(B) hospital services and for a portion of the on-call payments made by the hospital to physicians.

(D) The Speaker of the House of Representatives shall appoint 2 members.

(g) DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate of basic pay for level IV of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(2) STAFF.—With the approval of the Commission, the Director may appoint and fix the rate of pay of such additional employees as the Director considers appropriate.

(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of level IV of the Executive Schedule.

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Director may contract for the services of experts and consultants under section 3109(b) of title 5, United States Code.

(5) STAFF OF FEDERAL AGENCIES.—(A) STAFF OF FEDERAL AGENCIES .—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of
that department or agency to the Commission to assist it in carrying out its duties under this Act.

(b) Powers of Commission.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) PROVISIONAL OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

(4) GIFTS, REQUESTS, AND DEVICES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited to the credit of the Commission and shall be available for disbursement upon order of the Commission. For purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

(5) MAIL.-The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide administrative support services to the Commission, on a reimbursable basis, necessary to carry out its responsibilities under this Act.

(7) CONTRACT AUTHORITY.—The Commission may enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)).

(8) PROVISIONAL FUND.—There are appropriated to the Commission such sums as may be necessary to carry out this section.

SEC. 613. RESEARCH ON OUTCOMES OF HEALTH CARE ITEMS AND SERVICES.

(a) RESEARCH, DEMONSTRATIONS, AND EVALUATIONS.

(1) IMPROVEMENT OF EFFECTIVENESS AND EFFICIENCY.—

(A) IN GENERAL.—To improve the quality, effectiveness, and efficiency of health care delivered, the programs established under titles XVIII, XIX, and XXI of the Social Security Act, the Secretary acting through the Director of the Agency for Healthcare Research and Quality (in this section referred to as the "Director"), shall conduct and support research to meet the priorities and requests for scientific evidence and other information identified by such programs with respect to—

(i) the outcomes, comparative clinical effectiveness, and appropriateness of health care items and services (including prescription drugs); and

(ii) strategies for improving the efficiency and effectiveness of such programs, including the delivery of health care items and services are organized, managed, and delivered under such programs.

(B) SPECIFICATION.—To respond to priorities and information requests in subparagraph (A), the Secretary may conduct or support, by grant, contract, or interagency agreement, the necessary research and development, the evaluations, technology assessments, or other activities, including the provision of technical assistance, scientific expertise, or methodological assistance.

(2) PRIORITIES.—

(A) IN GENERAL.—The Secretary shall establish a process to develop priorities that will support the linkage and coordination of evaluation activities undertaken pursuant to this section.

(B) INITIAL LIST.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish an initial list of priorities for research related to health care items and services (including prescription drugs).

(C) PROCESS.—In carrying out subparagraph (A), the Secretary—

(i) shall ensure that there is broad and ongoing consultation with relevant stakeholders in identifying the highest priorities for research, demonstrations, and evaluations with respect to programs established under titles XVIII, XIX, and XXI of the Social Security Act;

(ii) may include health care items and services which are likely to be associated with a high cost on such programs, as well as those which may be underutilized or overutilized and which may significantly improve the prevention, treatment, or cure of diseases and conditions (including chronic conditions) which impose high direct or indirect costs on patients or society; and

(iii) shall ensure that the research and activities undertaken pursuant to this section are responsive to the specified priorities and are conducted in a manner that—

(A) is based on the best available scientific evidence; and

(B) is performed in a manner that—

(i) is consistent with the best available scientific evidence;

(ii) is based on empirical research and evidence; and

(iii) is based on best evidence not protected from public disclosure under the Federal Food, Drug, and Cosmetic Act, section 1905 of title 18, United States Code, or other applicable law.

(3) EVALUATION AND SYNTHESIS OF SCIENTIFIC EVIDENCE.—

(A) IN GENERAL.—The Secretary shall—

(i) evaluate and synthesize available scientific evidence related to health care items and services (including prescription drugs) identified as priorities in accordance with paragraph (2) with respect to the comparative clinical effectiveness, outcomes, appropriateness, and provision of such items and services (including prescription drugs);

(ii) disseminate to public and private sector entities (as appropriate) the findings made under clauses (i) and (ii); and

(iii) disseminate to prescription drug plans and MA–PD plans under part D of title XVIII the Social Security Act, other health care items and services, and the findings made under clauses (i) and (ii).

(B) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require or prevent the disbursement of funds to the Secretary that is otherwise protected from disclosure under the Federal Food, Drug, and Cosmetic Act, section 1905 of title 18, United States Code, or other applicable law.

(5) EVALUATIONS.—The Secretary shall conduct and support evaluations of the activities carried out under paragraphs (1) and (2) to determine the extent to which such activities have had an effect on outcomes and utilization of health care items and services.

(A) IMPROVING INFORMATION AVAILABLE TO HEALTH CARE PROVIDERS, PATIENTS, AND POLICYMAKERS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall, in consultation with the Director, develop appropriate formats for prescription drugs plans and MA–PD plans under part C of title XVIII of the Social Security Act, other health care items and services, and the public the evaluations and syntheses prepared pursuant to subparagraph (A) and the findings of research conducted pursuant to paragraph (1).

(B) DISSEMINATION.—The Secretary shall disseminate the information and data identified pursuant to paragraph (1) in a manner that—

(i) is consistent with the best available scientific evidence; and

(ii) is performed in a manner that—

(A) is based on the best available scientific evidence;

(B) is based on empirical research and evidence; and

(C) is based on best evidence not protected from public disclosure under the Federal Food, Drug, and Cosmetic Act, section 1905 of title 18, United States Code, or other applicable law.

(C) DEVELOPMENT OF MANAGEMENT TOOLS.—The Secretary shall develop tools and methods to facilitate the availability of such evaluations and syntheses within 18 months after the date of enactment of this Act.
and XXI of the Social Security Act, and with respect to the programs established under such titles, assess the feasibility of using ad-
niministrative or claims data, to—
(1) consult with State officials; (ii) support Federal and State initiatives to improve the quality, safety, and efficiency of services provided under such programs; and
(iii) provide a basis for estimating the fis-
cal and coverage impact of Federal or State program and policy changes.
(c) REQUIREMENTS.—(1) DISCLAIMER.—In carrying out this sec-
tion, the Director shall—
(A) not mandate national standards of cli-
cial practice or quality health care standards;
and
(B) include in any recommendations re-
sulting from projects funded and published by the Director, a corresponding reference to the prohibition described in subparagraph (A).
(2) REQUIREMENT FOR IMPLEMENTATION.—Research, evaluation, and communication activities performed pursuant to this section shall reflect the principle that clinicians and patients should have the best available evi-
dence to make choices about the services they want cov-
ored, and the ability of a family to retain private cov-

America, and jeopardize access to public coverage.
(c) ESTABLISHMENT.—The Secretary, acting through the Agency for Healthcare Research and Quality, shall establish an entity to be known as the Citizens' Health Care Working Group (referred to in this section as the "Working Group").
(d) MEMBERSHIP.—
(A) NUMBER AND APPOINTMENT.—The Work-
ing Group shall be composed of 15 members. One member shall be the Secretary. The Comptroller General of the United States shall appoint 14 members.
(B) QUALIFICATIONS.—(A) IN GENERAL.—The membership of the Working Group shall include—
(i) representatives of health services that represent those individuals who have not had insurance within 2 years of appointment, that have had chronic illnesses, including mental illness, are disabled, and those who receive insurance coverage through medicare and medicaid; and
(ii) individuals with expertise in financing and paying for health care, business and labor perspectives, and prov-
iders of health care.
(C) LOCAL COMMUNITY SOLUTIONS.—The membership shall reflect a broad geo-
graphic representation and a balance be-
tween urban and rural representatives.
(D) LOCAL COMMUNITY SOLUTIONS.—The membership shall include—
(i) summaries of health services and costs that may be used by individuals throughout their life span;
(ii) the cost of health care services and their medical effectiveness in providing bet-
ter quality of care for different age groups;
(iii) the source of coverage and payment, including reimbursement, for health care services;
(iv) the reasons people are uninsured or underinsured and the cost to taxpayers, pur-
chasers of health services, and communities when Americans are uninsured or under-
insured;
(v) the impact on health care outcomes and costs when individuals are treated in all stages of disease;
(vi) health care cost containment strate-
gies; and
(vii) information on health care needs that need to be addressed;
(B) PROHIBITED APPOINTMENTS.—Members of the Working Group shall not include Mem-
bers of Congress or other elected government officials (Federal, State, or local). Individ-
uals appointed to the Working Group shall not be employees or representatives of associa-
tions or advocacy organizations in-
volved in the health care system.
(e) PERIOD OF APPOINTMENT.—Members of the Working Group shall be appointed for a life of the Working Group. Any vacancy shall not affect the duties of the Working Group but shall be filled in the same manner as the original appointment.
(f) DESIGNATION OF THE CHAIRPERSON.—Not later than 15 days after the date on which all members of the Working Group have been appointed under subsection (d)(1), the Com-
troller General shall designate the chair-
person of the Working Group.
(g) SUBCOMMITTEES.—The Working Group may establish subcommittees if doing so in-
creases the effectiveness of the Working Group in completing its tasks.
(h) DUTIES.—
(1) HEARINGS.—Not later than 90 days after the date of the designation of the chair-
person under subsection (f), the Working Group shall hold hearings to examine—
(A) the capacity of the public and private health care systems to expand coverage op-
tions; (B) the cost of health care and the effec-
tiveness of care provided at all stages of dis-
esses; and
(C) innovative State strategies used to ex-

(D) local community solutions to accessing health care coverage;
(E) efforts to enroll individuals currently eligible for public or private health care cov-
erage;
(F) the role of evidence-based medical practice that can be documented as restor-
ing, maintaining, or improving a patient's health, and the use of technology in sup-
porting providers in improving quality of care and lower-
ing costs;
(G) strategies to assist purchasers of health care, including consumers, to become more aware of the impact of costs, and to lower the costs of health care.
(2) ADDITIONAL HEARINGS.—The Working Group may hold additional hearings on sub-
jects other than those listed in paragraph (1) so long as such hearings are determined to be necessary by the Working Group in car-
rying out the purposes of this section. Such additional hearings do not have to be com-
pleted within the time period specified in paragraph (1) but shall not delay the other activities of the Working Group under this section.
(3) THE HEALTH REPORT TO THE AMERICAN PEOPLE.—Not later than 90 days after the hearings described in paragraphs (1) and (2) are completed, the Working Group shall pre-
pare and make available to health care con-
sumers through the Internet and other ap-
propriate public channels, a report to be en-
titled, "The Health Report to the American People". Such report shall be understandable to the general public and include—
(A) a summary of—
(i) health care and related services that may be used by individuals throughout their life span;
(ii) the cost of health care services and their medical effectiveness in providing bet-
ter quality of care for different age groups;
(iii) the source of coverage and payment, including reimbursement, for health care services;
(iv) the reasons people are uninsured or underinsured and the cost to taxpayers, pur-
chasers of health services, and communities when Americans are uninsured or under-
insured;
(v) the impact on health care outcomes and costs when individuals are treated in all stages of disease;
(vi) health care cost containment strate-
gies; and
(vii) information on health care needs that need to be addressed;
(B) examples of community strategies to provide health care services and access to care;
(C) information on geographic-specific issues relating to health care;
(D) information concerning the cost of care in different settings, including institutional-
based care and home and community-based care;
(E) a summary of ways to finance health care coverage; and
(F) the role of technology in providing fu-
ture health care including ways to support the information needs of patients and pro-
viders.
(4) COMMUNITY MEETINGS.—
(A) IN GENERAL.—Not later than 1 year after the date on which all the members of the Working Group have been appointed under subsection (d)(1) and appropriations are first made available to carry out this section, the Working Group shall initiate health care community meetings throughout the United States (in this paragraph referred to as "community meetings"). Such communi-
ty meetings may be geographically or re-
icronalized and shall be completed within 180 days after the initiation of the first meeting.
(B) NUMBER AND APPOINTMENT.—The Working Group shall hold a sufficient number of com-
munity meetings in order to receive infor-
a
The Working Group in consultation with the Executive Director of the Working Group shall be appointed by the chairperson of the Federal Government.

(II) How does the American public want health care delivered?

(III) How should health care coverage be financed?

What trade-offs are the American public willing to make in order to achieve a free, high-quality health care system?

(i) Additional views and comments on such recommendations;

(ii) Recommendations for such legislation and administrative actions as the President considers appropriate.

(c) Selection Criteria.—Not later than 45 days after receiving the final recommendations of the Working Group submitted under subsection (i), the President shall submit a report to Congress which shall contain:

(i) a detailed description of the expenditures of the Working Group used to carry out its duties under this section.

(d) Administration Review and Comments.—Not later than 45 days after receiving the report submitted by the President under subsection (c), each committee of jurisdiction of Congress may request a description of the purposes of the Working Group and shall report to Congress and make public a recommendation as to whether the expenditures of the Working Group used to carry out its duties under this section.

(e) Sunset of Working Group.—The Working Group shall terminate on the date that is specified in subsection (d).

(f) General Provisions.—The Working Group shall:

(1) adopt by the members of the Working Group a set of rules of procedure and practice for conducting its business;

(2) have the authority to retain such experts and make such expenditures as are necessary to carry out this section;

(3) maintain a central clearinghouse for data and information relating to health care infrastructure of the United States; and

(4) make available to the President and the Congress full reports and recommendations to enable Congress to make informed decisions on the establishment, administration, and form specified by the Secretary. A copy of each report shall be transmitted within 15 days to the authorizing committees of the House of Representatives and of the Senate.

SEC. 615. FUNDING START-UP ADMINISTRATIVE COSTS FOR MEDICARE REFORM.

(a) In General.—There are appropriated to carry out this Act (including the amendment made by this Act), to be transferred from the Federal Home Loan Mortgage Corporation.

(b) Availability.—Amounts provided under subsection (a) shall remain available until September 30, 2005.
provides services to multiple Indian tribes; and

(c) unique research resources (such as population databases); or

(ii) an investigator with an entity that has unique research resources.

(g) FUNDING.—

(1) IN GENERAL.—There are appropriated, out of amounts in the Treasury not otherwise appropriated, to carry out this section, $200,000,000, to remain available during the period beginning on July 1, 2004, and ending on September 30, 2008.

(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this section, not more than $2,000,000 for each fiscal year.

(3) AVAILABILITY.—Amounts appropriated under this section shall be available for obligation on July 1, 2004.

(h) REPORT TO CONGRESS.—Not later than 4 years after the date of the enactment of this section, the Secretary shall submit to Congress a report on the projects for which loans are provided under this section and a recommendation as to whether the Congress should appropriate, to carry out this section, the Secretary to continue loans under this section beyond fiscal year 2008.

By Mrs. CLINTON:

S. 192. A bill to establish an award program to encourage the development of effective bomb-scanning technology; to the Committee on Commerce, Science, and Transportation.

Mrs. CLINTON. Mr. President, ever since the events of September 11, 2001 awakened this Nation to the very real dangers of the world we live in, we have been struggling to defend ourselves against terrorism. Our aviation system remains a primary target for terrorists, and we must be very vigilant in the fight to keep that system safe. The economic viability, not to mention a safety and security, of our country is at stake in that fight.

Nowhere is this more obvious than in New York. Not only did we bear the brunt of the worst terrorist attack in our Nation’s history, but we also depend on additional airports to fuel our state’s economy. John F. Kennedy Airport in Queens is the Nation’s premier international gateway and contributes approximately $30 billion to the regional economy while employing 35,000 people. LaGuardia Airport, also in Queens, handles over 20 million passengers a year despite having only two 7000-foot runways on 680 acres. Our airports in Albany, Syracuse, Rochester, and Buffalo have shown strong growth in recent years with the arrival of low-cost carriers.

Unfortunately, our economic and physical security remains at risk because we still have not developed a way to effectively scan each piece of passenger luggage for explosives. We have recognized that in the current world environment, we must scan each bag, but technology has not kept up with our needs. The current technology used in most airports in this country is known to have a false-positive rate of approximately 10 percent. This means that machines incorrectly identify 20 percent of all bags going through them as containing explosives, thus slowing down the process considerably as well as costing time and money. Even more dangerous is the false-negative rate of these machines. This number, the percentage of bags going undetected through these machines with bombs inside of them during test runs, should be close to zero. The actual false-negative rate is not publicized for obvious reasons, but it is known to be well above zero.

I am proposing a bill today that seeks to create a major incentive for firms to invest in new bomb-scanning technology that actually works. It will award $20 million to any firm that can successfully produce a machine that has a false-positive rate less than 10 percent, a false-negative rate less than 2 percent, and is feasible for deployment en masse at our Nation’s airports. Although we are currently spending money on researching this technology, that funding is clearly not getting us there fast enough. This new award is to spur the private sector to develop new technology that will make a major difference in the safety of our aviation system.

By Mr. SARBANES (for himself, Mr. SCHUMER, Ms. STABENOW, Mr. CORZINE, Mr. DURBIN, Mr. KERRY, Ms. MIKULSKI, Mrs. CLINTON, Mr. LEVIN, Mr. LEAHY, Mr. AKAKA, Mr. KENNEDY, Mr. LUTENBERG, Mr. DAYTON, and Mr. JORDAN):

S. 192. A bill to amend the Truth in Lending Act to protect consumers against predatory practices in connection with high cost mortgage transactions, to strengthen the civil remedies available to consumers under existing law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Mr. President, in July of 2001, and continuing through January of this year, the Committee on Banking, Housing, and Urban Affairs held a series of hearings to shine a bright light on the deceptive and destructive practices of predatory mortgage lenders. At those hearings, the Committee heard from housing experts, community groups, legal advocates, industry representatives and victims of predatory lending in an effort to determine how best to address this problem. Today, I am introducing the “Predatory Lending Consumer Protection Act of 2003,” along with a number of my colleagues, that would begin to address the problems that came to light in those hearings.

Homeownership is the American Dream. Indeed, the Committee has already passed legislation this year that would authorize a new $200 million downpayment assistance program to ensure that more people can achieve this goal.

We have taken this step because homeownership is the best opportunity for most Americans to put down roots and start creating equity for themselves and their families. Homeownership has been the path to building wealth for generations of Americans, wealth that can be tapped to send children to college, pay for a secure retirement, or simply work as a reserve against unexpected emergencies. It has been the key to ensuring safe communities, good schools, and safe streets. Common sense tells us, and the evidence confirms, that homeowners are more engaged citizens and more active in their communities.

Little wonder, then, that so many Americans, young and old, aspire to achieve this dream.

Unfortunately, predatory lenders cynically play on these hopes and dreams to cheat people out of their wealth. These lenders target lower income, elderly, and, often, uneducated homeowners for their abusive practices. Study after study has shown that predatory lenders also target minorities, driving a wedge between these families and the hope of a productive life in the economic and financial mainstream of America.

We owe it to these hardworking families to provide protections against these unscrupulous players.

Let me share with you one of the stories we heard at our hearings. Mary Ann Podelco, a widowed waitress from West Virginia, used $19,000 from her husband’s life insurance to pay off the balance on her mortgage, thus owning her home free and clear. Before her husband’s death, she had never had a checking account or a credit card. She then took out a $11,921 loan for repairs. At the time, her monthly income from Social Security was $458, and her loan payments were more than half this amount. Ms. Podelco, who has a sixth grade education, explained later, after her first refinancing, “I began getting calls from people trying to refinance my mortgage all hours of the day and night.” Within 2 years, having been advised to refinance seven times—even telling high pressure being financed into her new loan—she owed $64,000, and lost her home to foreclosure.

Ms. Podelco’s story is all too typical. Unfortunately, most of the sharp practices used by unscrupulous lenders and brokers, while unethical and clearly illegal, are not illegal. The Federal Trade Commission (FTC) proposed unanimously in 2000 We often hear about the importance of improved enforcement as a way to combat this
problem. As the FTC pointed out, mandatory arbitration prevents homeowners from exercising any of their rights to enforce existing law. We cannot extol the virtues of homeownership, as we so often do, without seeking the time to preserve this benefit for so many elderly, minority, and unsophisticated Americans who are the targets of unscrupulous lenders and brokers. This legislation will not achieve this important goal. This bill has been endorsed by the Leadership Conference on Civil Rights, the U.S. Conference of Mayors, the National Council of La Raza, the National Consumer Law Center, ACORN, the National Community Investment Coalition, Consumer Federation of America, the NAACP, the Self-Help Credit Union, the National Association of Local Housing Finance Agencies, the National Community Development Association, the National Association of Consumer Advocates, and the National League of Cities, among others.

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. 1828

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 "Predatory Lending Consumer Protection Act of 2003'.

SEC. 2. TRUTH IN LENDING ACT DEFINITIONS. (a) HIGH COST MORTGAGES.—

(1) IN GENERAL.—The portion of section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)) that precedes paragraph (2) is amended to read as follows: "(aa) MORTGAGE REFERRED TO IN THIS SUBSECTION.—

'(1) Definition.—'

'(A) IN GENERAL.—A mortgage referred to in this subsection means a consumer credit transaction—'

'(i) that is secured by the principal dwelling of the consumer, other than a reverse mortgage transaction;

'(ii) the terms of which provide that—

'(I) the transaction is secured by a first mortgage on the principal dwelling of the consumer, and the annual percentage rate on the credit, at the consummation of the transaction, will exceed by more than 6 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; and

'(II) the transaction is secured by a junior or subordinate mortgage on the principal dwelling of the consumer, and the annual percentage rate on the credit, at the consummation of the transaction, will exceed by more than 8 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

'(III) the fees and points payable on the transaction will exceed the greater of 5 percent of the total loan amount, or $1,000, excluding not more than 2 bona fide discount points.

'(B) INTRODUCTORY RATES NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(i), the annual percentage rate of interest shall be determined—

'(i) in the case of a fixed-rate loan in which the annual percentage rate will not vary during the term of the loan, by subtracting the rate in effect on the date of consummation of the transaction;

'(ii) in the case of a loan in which the rate of interest may vary after the 15th day of the month immediately preceding the month in which the loan is made, plus 5 percentage points.

'(iii) in the case of any other loan in which the rate may vary at any time during the term of the loan for any reason, by including in the finance charge component of the annual percentage rate—

'(A) the interest charged on the loan at the maximum rate that may be charged during the term of the loan; and

'(B) any other applicable charges that would otherwise be included in accordance with section 106.'.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is amended by adding at the end the following:

'(b) POINTS AND FEES.—Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is amended—

'(1) by striking subparagraph (B) and inserting the following:

'(B) all compensation paid directly or indirectly by a consumer or a creditor to a mortgage broker;'';

'(2) by redesignating subparagraph (C) as subparagraph (D), and:

'(A) by striking subparagraph (D); and

'(B) by redesigning subparagraph (D) and inserting the following:

'(C) each of the charges listed in section 106(e) (except an escrow for future payment of taxes and insurance);

'(D) the cost of all premiums financed by the lender, directly or indirectly, for any credit life, credit disability, credit unemployment or credit property insurance, or any other life or health insurance, or any payments financed by the lender, directly or indirectly, for any debt cancellation or suspension fees, or for purposes of this subparagraph, insurance premiums or debt cancellation or suspension fees calculated and paid on a monthly basis shall not be considered financed by the lender;

'(E) the maximum prepayment penalties that may be charged or collected under the terms of the loan documents;

'(F) all prepayment fees or penalties that are charged to the borrower if the loan refinances a previous loan made by the same creditor or an affiliate of that creditor; and

'(G) the interest rate on this loan is much higher than most people pay. This means the chance that you will lose your home is much higher if you do not make all payments under the loan.';

'(D) You may be able to get a loan with a much lower interest rate. Before you sign any papers, you have the right to go see a housing or consumer credit counseling agency, as well as to consult other lenders to find ways to get a cheaper loan.';

'(2) if you are taking out this loan to repay other loans, look to see how many months it will take to pay for this loan and what the total amount is that you will have to pay before this loan is paid. Even though the total amount you have to pay each month for this loan may be less than the total amount you are paying each month for those other loans, you may have to pay on this loan for many more months than those other loans which will cost you more money in the end.';

(b) PREPAYMENT PENALTY PROVISIONS.—Section 103(aa)(6) of the Truth in Lending Act (15 U.S.C. 1602(aa)(6)) is amended to read as follows:

'(c) INTEREST RATE RELATED TERMS.—

'(1) BENCHMARK RATE.—The term ‘benchmark rate’ means an interest rate that the borrower may reduce through bona fide discount points, not to exceed the weekly average yield of United States Treasury securities having a maturity of 5 years, on the 15th day of the month immediately preceding the month in which the loan is made, plus 5 percentage points.

'(2) BONA FIDE DISCOUNT POINTS.—The term ‘bona fide discount points’ means loan discount points which are—

'(A) knowingly paid by the borrower;

'(B) paid for the express purpose of lowering the benchmark rate; and

'(C) in fact reducing the interest rate or time-price differential applicable to the loan from an interest rate which does not exceed the benchmark rate; and

'(D) recouped within the first 4 years of the scheduled loan payments.

'(3) REQUIREMENT.—For purposes of paragraph (2)(D), loan discount points shall be considered to be recouped within the first 4 years of the scheduled loan payments if the reduction in the interest rate that is achieved by the payment of the discount points reduces the interest charged on the scheduled payments, such that the dollar amount of savings in payments made by the borrower over the time period to or exceeding the dollar amount of loan discount points paid by the borrower.'.

SECT. 3. AMENDMENTS TO EXISTING REQUIREMENTS FOR HIGH COST CONSUMER MORTGAGES.

(a) ADDITIONAL DISCLOSURES.—Section 129(a)(1) of the Truth in Lending Act (15 U.S.C. 1639(a)(1)) is amended by adding at the end the following:

'(C) The interest rate on this loan is much higher than most people pay. This means the chance that you will lose your home is much higher if you do not make all payments under the loan.'.

(b) PREPAYMENT PENALTY PROVISIONS.—Section 129(c)(6) of the Truth in Lending Act (15 U.S.C. 1639(c)(6)) is amended to read as follows:

'(c) INTEREST RATE RELATED TERMS.—

'(1) NO PREPAYMENT PENALTIES AFTER END OF 24-MONTH PERIOD.—A mortgage referred to in section 103(aa)(4) may not contain terms under which a consumer must pay any prepayment penalty for any payment made at or before the end of the 24-month period beginning on the date the mortgage is consummated.

'(2) NO PREPAYMENT PENALTIES IF MORE THAN 3 PERCENT OF POINTS AND FEES WERE FINANCED.—Subject to subsection (1)(1), a mortgage referred to in section 103(aa)(4) may not contain terms under which a consumer must pay any prepayment penalty for any payment made at or before the end of the 24-month period referred to in paragraph (1) if...
the creditor financed points or fees in connection with the consumer credit transaction in an amount equal to or greater than 3 percent of the total amount of credit extended in the transaction.

(2) By striking ‘IMPROVEMENT CONTRACTS.—A creditor’ and inserting ‘IMPROVEMENT CONTRACTS.—

(1) In general.—A creditor’; and

(2) By striking ‘(A) AFFIRMATIVE CLAIMS AND DEFENSES.—Notwithstanding any other provision of law, any assignee or holder, in any capacity, of a mortgage referred to in section 103(aa) which was made, arranged, or assigned by a person financing home improvements to the dwelling of a consumer shall be subject to all affirmative claims and defenses which the consumer may have against the seller, home improvement contractor, broker, or creditor with respect to such mortgage or home improvements.’.

(3) CLARIFICATION OF RESCISSION RIGHTS.—Section 128(h) of the Truth in Lending Act (15 U.S.C. 1639(h)) is amended by striking the third sentence and inserting the following:

‘(1) CONSEQUENCE OF FAILURE TO COMPLY.—

(1) In general.—The consummation of a consumer credit transaction resulting in a mortgage referred to in section 103(aa) shall be treated as a failure to deliver the material disclosures required under this title for the purpose of section 125, if—

(A) the mortgage contains a provision prohibited by this section or does not contain a provision required by this section; or

(B) a creditor or other person fails to comply with the provisions of this section, whether by an act or omission, with regard to such mortgage at any time.

(2) Rule of application.—In any application for a loan or other extension of credit or in connection with the formation or consummation of any mortgage or other extension of credit, if the statement, action, or failure to act has the effect of encouraging or recommending the consumer to default on the existing loan or other extension of credit at any time before, or in connection with, the closing or any scheduled closing on the existing mortgage or other extension of credit, the creditor shall be deemed to have encouraged such default in violation of this section.

(3) Combination.—A combination of any of the following fees or other charges payable to the creditor or any affiliate of the creditor, is the creditor with respect to the loan or other extension of credit being refinanced.

(4) Assessment of ability to repay.—Section 129(h) of the Truth in Lending Act (15 U.S.C. 1639(h)) is amended by striking paragraphs (2) and (3) of section 129(h) and inserting the following:

‘(2) RULE OF APPLICATION.—In any application for a loan or other extension of credit or in connection with the formation or consummation of any mortgage or other extension of credit, if the statement, action, or failure to act has the effect of encouraging or recommending the consumer to default on the existing loan or other extension of credit at any time before, or in connection with, the closing or any scheduled closing on the existing mortgage or other extension of credit, the creditor shall be deemed to have encouraged such default in violation of this section.

‘(3) Combination.—A combination of any of the following fees or other charges payable to the creditor or any affiliate of the creditor, is the creditor with respect to the loan or other extension of credit being refinanced.

‘(4) Assessment of ability to repay.—Section 129(h) of the Truth in Lending Act (15 U.S.C. 1639(h)) is amended by inserting after paragraph (1) (as added by subsection (b) of this section) the following:

‘(m) CREDITOR CALL PROVISION.—

‘(1) IN GENERAL.—A mortgage referred to in section 103(aa) may not include terms under which the indebtedness may be accelerated by the creditor, in the sole discretion of the creditor.

‘(2) EXCEPTION.—Paragraph (1) shall not apply when repayment of the loan has been accelerated as a result of a bona fide default.

‘(n) PROHIBITION ON ACTIONS ENCOURAGING DEFAULT.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (m) (as added by subsection (c) of this section) the following:

‘(1) IN GENERAL.—Any creditor with respect to a mortgage referred to in section 103(aa) may not take any action before or in connection with the formation or consummation of any mortgage referred to in section 103(aa) to refinance all or any portion of the existing mortgage or other extension of credit, if the statement, action, or failure to act has the effect of encouraging or recommending the consumer to default on the existing loan or other extension of credit at any time before, or in connection with, the closing or any scheduled closing on the existing mortgage.

‘(2) MODIFICATION OR DEFERRAL FEES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (m) (as added by subsection (d) of this section) the following:

‘(o) MODIFICATION OR DEFERRAL FEES.—

‘(1) IN GENERAL.—Except as provided in paragraph (2), a creditor may not charge any consumer with respect to a mortgage referred to in section 103(aa) any fee or other charge.

‘(2) EXCLUSION.—A creditor may not charge any fee or other charge otherwise due under the terms of the mortgage.

‘(3) EXCEPTION FOR MODIFICATIONS FOR THE BENEFIT OF THE CONSUMER.—Paragraph (1) shall not apply with respect to any modification of the terms of a mortgage referred to in section 103(aa) if the consumer requests the modification of the terms of the mortgage and the modification is at the consumer’s request for the benefit of the consumer.

‘(4)＃ R EQUIREMENTS RELATING TO HOME IMPROVEMENT CONTRACTS.—Section 129(b) of the Truth in Lending Act (15 U.S.C. 1639(b)) is amended—

‘(1) LIMIT ON AMOUNT OF POINTS AND FEES THAT MAY BE FINANCED.—Subject to paragraphs (2) and (3) of subsection (c), no creditor may, in connection with the formation or consummation of a mortgage referred to in section 103(aa), finance, directly or indirectly, any portion of the points, fees, or other charges payable to the consumer or any third party in an amount in excess of the greater of 3 percent of the total loan amount or $500.

‘(2) PROHIBITION ON FINANCING CERTAIN POINTS, FEES, OR CHARGES.—No creditor may, in connection with the formation or consummation of a mortgage referred to in section 103(aa), finance, directly or indirectly, any of the following fees or other charges payable to the consumer or any third party:

‘(3) LIMITED PREPAYMENT PENALTY FOR EARLY REPAYMENT UNDER CERTAIN CIRCUMSTANCES.—Section 129(e) of the Truth in Lending Act (15 U.S.C. 1639(e)) is amended by redesignating subsections (k) and (l) of such section as subsections (s) and (t), respectively; and

‘(4) CONSTRUCTION.—For purposes of this subsection, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method (as that term is defined in section 933(d) of the Housing and Community Development Act of 1992).

‘(5) PREPAYMENT PENALTY DEFINED.—The term ‘prepayment penalty’ means any mone-
'(A) the action provides a material benefit to the consumer; and

'(B) the amount of the fee or charge does not exceed

'(i) a written statement containing the names, addresses, and telephone numbers of counseling agencies or programs reasonably available to the consumer that have been certified by the Secretary, the Federal Home Loan Mortgage Corporation, the Federal Housing Finance Board, a State housing finance authority (as defined in section 1437q of title 12, United States Code), or the agency referred to in subsection (a) or (c) of section 108 of the Truth in Lending Act (15 U.S.C. 1635(a)) is amended—

'(1) in the first sentence, by striking ''such as providing counseling services before agreeing to the terms of any mortgage referred to in section 103(aa); and

'(C) a written statement containing the names, addresses, and telephone numbers of counseling agencies or programs reasonably available to the consumer that have been certified by the Secretary, the Federal Home Loan Mortgage Corporation, the Federal Housing Finance Board, a State housing finance authority (as defined in section 1437q of title 12, United States Code), or the agency referred to in subsection (a) or (c) of section 108 with jurisdiction over the creditor as qualified to provide counseling services before agreeing to the terms of any mortgage referred to in section 103(aa); and

'(i) the advisability of a high cost loan transaction; and

'(ii) the appropriateness of a high cost loan for the consumer.

'(2) COMPLETE AND UPDATED LISTS REQUIRED.—Any failure to provide as complete or updated a list under paragraph (1)(C) as is reasonably possible shall constitute a violation of this section.

'(g) ARBITRATION.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (q) (as added by subsection (g) of this section) the following:

'(A) the waiver was required by the creditor as qualified to provide counseling services before agreeing to the terms of any mortgage referred to in section 103(aa); and

'(B) with regard to any other loan or extension of credit for the purpose or with the intent to evade the requirements of this title, including structuring or restructuring a consumer credit transaction as another form of loan, such as a business loan.

'(3) OTHER ACTIONS.—In addition to the actions provided under paragraph (1), a creditor may not take any action which the Board determines, by regulation, constitutes a bad faith effort to evade or circumvent any requirement of this section with regard to a consumer credit transaction.

'(3) REGULATIONS.—The Board shall prescribe such regulations as the Board determines to be appropriate to prevent circumstances or other actions with respect to this section or to facilitate compliance with the requirements of this section.

'SECTION 5. AMENDMENTS RELATING TO RIGHT OF CONSUMER TO ARBITRATE OF ADJUDICATE A CLAIM.

'(a) TIMING OF WAIVER BY CONSUMER.—Section 123(a) of the Truth in Lending Act (15 U.S.C. 1633(a)) is amended by inserting after subsection (g) (as added by subsection (f) of this section) the following:

'(A) the waiver was required by the creditor as qualified to provide counseling services before agreeing to the terms of any mortgage referred to in section 103(aa); and

'(B) the creditor advised or encouraged the consumer to waive such right of the consumer;

'(C) the creditor had any discussion with the consumer about a waiver of such right during the period beginning when the consumer provides written acknowledgement of the receipt of the disclosures and the delivery of facts required to be provided to the consumer under paragraph (1) and ending at such time as the Board determines, by regulation, to be appropriate.

'(d) NONCOMPLIANCE WITH REQUIREMENTS AS RECOURSE IN FORECLOSURE PROCEEDING.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by inserting after the second sentence the following: This section also does not bar a person from asserting a rescission under section 125, or from bringing suit as an assignee to a judicial or nonjudicial foreclosure after the expiration of the time periods for affirmative action set forth in this section and section 125.

'7. AMENDMENTS TO FAIR CREDIT REPORTING ACT.

'Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s-2) is amended by adding at the end the following:

'(c) DUTY OF CREDITORS WITH RESPECT TO HIGH COST MORTGAGES.—'(1) IN GENERAL.—Each creditor who enters into a consumer credit transaction which is a mortgage referred to in section 103(aa), and each successor to such creditor with respect to such transaction, shall report the complete payment history, favorable and unfavorable, of the obligor with respect to such transaction to a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis at least quarterly, or more frequently as required by regulation or in guidelines established by participants in the secondary mortgage market, while such transaction is in effect.

'(2) DEFINITIONS.—For purposes of paragraph (1), the term ‘creditor’ have the same meanings as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

'SECTION 8. REGULATIONS.

'The Board of Governors of the Federal Reserve System shall publish regulations implementing this Act and the amendments made by this Act in final form before the end of the 6-month period beginning on the date of enactment of this Act.

'By Mr. BROWNBACK. (For himself, Mr. ENZI, Mr. HAGEL, Mr. INHOFE, Mr. NICKLES, Mr. SANTORUM, and Mr. SESSIONS):

S. 930. A bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU-486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWNBACK. Mr. President, I rise today to introduce a very important piece of legislation, the RU-486 Suspension and Review Act of 2003. The abortion drug RU-486 increases in infamy as its lethal nature continues to reveal itself. As my colleagues may remember, in September, RU-486 claimed two more lives, one woman and an 18-year-old pregnant woman, Holly Patterson, a resident of the San Francisco suburb of Livermore, died from an infection caused by fragments of her baby left in
her uterus after she was administered RU–486 at a Planned Parenthood facility. This tragedy underscores the dangerous nature of this drug.

The available data from the U.S. trials of RU–486 raises serious questions as to whether this drug truly is ‘safe’ for the women who use it. Women who participated in the U.S. trials of this drug were carefully screened, and only those who were in the most physically ideal conditions were accepted. Even so, among these physically ideal participants, troubling results emerged. Two-percent of the women participating hemorrhaged; one-percent had to be hospitalized; several others required surgery to stop the bleeding; one percent received blood transfusions; and one woman in Iowa, after losing between one-half to two-thirds of her total blood volume, would have died if she had not undergone emergency surgery. If these side effects were even possible in the most physically ideal candidates, what about those who are not in the physically ideal category? Is this drug ‘safe’ for women? I believe medical results suggest it is not.

The bill I am introducing today will require the suspension of the Food and Drug Administration’s approval of RU–486. Following this suspension, the General Accounting Office is directed to review the process the FDA used to approve RU–486 and to determine whether the FDA followed its own guidelines. If it is determined that the FDA violated its guidelines, RU–486 will be suspended indefinitely. Monty and Helen Patterson, of parents drugged by RU–486, have expressed their firm support for this legislation and have requested that it be known as “Holly’s Law” in honor of their daughter whose life was prematurely ended. I ask that their open letter on this subject be printed in the Record.

The Food and Drug Administration should not have authorized this dangerous drug. RU–486 is perilous both to the baby and to the woman who uses it. I urgently call on my colleagues in this Chamber and Representatives to ‘Holly’s Law’ to prevent more unnecessary deaths.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Livemore, CA.

Dear Sir or Madam: The Alameda County Coroner’s report has validated what we already believed to be true. Holly has died from an RU–486 chemical induced abortion.

There are no quick fixes for a pregnancy or magical pills that will make it go away. Our family, friends and community are all deeply saddened and forever marred by Holly’s tragic and preventable death.

Holly lived as an adult by law for only 19 days, yet she became pregnant when she was just 17 years old. We now know that she learned about her pregnancy in the second week of August and was so distraught over her unplanned pregnancy that she sought help for depression from her family doctor on September 10, 2003—the very day that she began aborting her children.

Holly was a strong, healthy, intelligent and ambitious teenager who fell victim of a process that wholly failed her, beginning with the 24-year-old man who had unprotected sex with her, impregnated her, and then proceeded to facilitate the secrecy that ultimately contributed to her death.

Under this conspiracy of silence, Holly suffered and depended on the safety of the FDA approved pill administered by Planned Parenthood. Our daughter, who was on the mend by Valley Care Medical Center where she received pain killers for severe cramping and was sent home. On Saturday and Sunday, Holly crapped and vomited because of the cramping and constipation, and even allowed us to comfort her but could not tell us what she was really going through. September 17, 2003, she succumbed to septic shock and died while many members of our family waited anxiously, yet expectantly in the Critical Care Unit for her to recover until we were forced behind the curtain when it was clear that she was dying.

In those last moments of her life feeling utter disbelief and desperation we formed a circle just beyond the curtain and prayed aloud, cried and screamed, “We love you, Holly” hoping beyond hope that those words would somehow reach her soul. And then the other members of our family who drove and flew from all over the country to be by her side did not make it in time to say, “I love you, Holly,” just one was not alone, unloved, unprotected or unsupported; she had a large family who willingly supported her throughout her short life and tragic death.

In the weeks since we buried Holly’s body we are now able to recall and share the memories of our daughter’s brilliant blue eyes, engaging smile, laughter, unwavering determination and sheer gentle beauty that invoked our natural instinct to protect and love her. But we have to forget those last moments of her life when she was too weak to talk and could barely squeeze our hands in acknowledgement of our words of encouragement. “We love you, Holly.” “Just hang in there, the whole family is coming.” “You fight this Holly, you can do it.”

Because Holly has died this way, we have educated ourselves about the grave dangers of this drug, become conscious of the current lack of parental notification/consent laws in California and educate ourselves about the critical need for accurate, impartial sources of information and resources for parents, teenagers and young women who want to learn about the real risks involved in RU–486 pregnancy and abortion and the dire need for a national movement to encourage prevention and open dialogue in the home about unplanned pregnancy and abortion.

We will actively support “Holly’s Law” in Congress by Reps. DeMint, Bartlett and Senator Brabender. I attended and reviewed the abortion drug RU–486, the Tell-A-Parent (TAP) bill, which requires parental notification laws in California and a campaign to encourage parents to speak about unplanned pregnancy and abortion in the home.

As parents, we cannot allow our beautiful Holly’s horrible death to be in vain. RU–486 has caused serious injury and has been implicated in the deaths of other young women. Now it has killed our daughter. We have learned that the initial trials were rushed and the drug was lumped in and approved with drugs designed for life threatening illnesses such as cancer and AIDS. Pregnancy is a sickness and her broken body is not designed to support and has never been classified as a life threatening illness. We need help to develop a website and provide a place for teenagers and parents to support their stories and testimonials of their experience on the serious and adverse affects using RU–486.

The FDA has failed to carry out its mission of ensuring RU–486 is a safe and effective abortion drug regimen. According to the FDA, it is “responsible for protecting the public health by ensuring the safety, efficacy, and security of human and veterinary drugs, biological products, medical devices, our nation’s food supply, cosmetics, and products that emit radiation.”

The FDA approved RU–486 for use in emergency situations. Holly was in the market immediately pending an extensive investigation by the Comptroller General of the United States before more parents and women die.

We respectfully request the name of the corporation that marketed this drug to us, to review the process the FDA used to approve this drug and to determine whether or not this drug truly is ‘safe’ for the women who use it. Women who participated in the U.S. trials of this drug were carefully screened, and only those who were in the most physically ideal conditions were accepted. Even so, among these physically ideal participants, troubling results emerged. Two-percent of the women participating hemorrhaged; one-percent had to be hospitalized; several others required surgery to stop the bleeding; one-percent received blood transfusions; and one woman in Iowa, after losing between one-half to two-thirds of her total blood volume, would have died if she had not undergone emergency surgery.

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We have lost our daughter, Holly, but we can still help to prevent this terrible tragedy from happening in other families. Holly’s drive and determination to accomplish her goals gives us strength to pursue these critical issues in her name. Holly’s memory and light will live on in our hearts, family, friends, and our work. We will actively support the bill to suspend and review “Holly’s Law” in Congress by Reps. DeMint and Bartlett and Senator Brownback to suspend and review the abortion bill RU-486, the Tell-A-Parent (TAP) bill, which requires parental notification laws in California and a campaign to encourage prevention and open dialogue about unplanned pregnancy and abortion in the home. Please contact us with any questions or requests for support of these very important issues.

Sincerely,

Monty and Helen Patterson.
Nations. The resolution urges the President and all members of the United States diplomatic corps to disassociate themselves from the United Nations from voting in support of General Assembly resolutions that unfairly castigate Israel, and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

On October 21, 2003, the United Nations General Assembly rejected a resolution condemning Israeli security measures. The resolution did not call by the Palestinian Authority to dismantle terrorist organizations, nor did it name those organizations. Yet it passed by a vote of 144–4, with 12 abstentions. Other than the United States, only Micronesia, the Marshall Islands, and Israel itself voted against the resolution.

This resolution was only the latest in a long line of General Assembly resolutions that unfairly castigate Israel, which the United States diplomat with little regard to the security threats that Israel faces. For decades, the Assembly has devoted a disproportionate amount of time and resources to resolutions related to Israel—conducting, for example, 22 votes on United Nations General Assembly resolutions that related to Israel out of the 69 for all of the 57th Session of the Assembly. Besides distracting the United Nations from the countless other critical issues the world faces, resolutions undermine efforts to achieve peace in the Middle East by casting blame almost entirely on one party. They are also unfair in that they subject Israel to discriminatory treatment not accorded to any other member state of the UN.

It is long past time for the General Assembly to stop ratifying these biased, unproductive resolutions. Voting patterns that discriminate against Israel appeared during the Cold War, when the Middle East was fueled by the rivalry between the West and the Soviet bloc. The Cold War has ended. So, too, should the polarization it engendered. We have also seen new alliances and relationships emerge in the global war on terrorism, and have witnessed the world come together in condemning terrorist violence. I refer to UN Security Council Resolution 1373, passed on September 28, 2001, which reaffirmed that any act of international terrorism constitutes a threat to international peace and security and called on states to work together to prevent and suppress terrorist acts.

Resolution 1373 reminded us of what the United Nations was meant to be—a forum for the world to come together to identify common threats and find common ways to address them. It offered the hope of a world united in its resolve to fight terrorism, with the United States leading that fight—in Afghanistan and in other parts of the world where international terrorists operate.

It is therefore with great disappointment that we witness business as usual at the General Assembly. The spirit of unity that prevailed for a time after September 11 has not led to a common approach to the conflict in the Middle East, and the United States has thus far been unable to enlist its friends and allies in its effort to ensure that Israel is treated fairly.

Since the inception of the United Nations, the United States has played a unique and critical role in ensuring that the U.N. lives up to the promise of its Charter—to maintain peace and security. As the sole remaining superpower, we have an opportunity to shape a global consensus on terrorism and security, one that requires new, more productive approaches to the conflict in the Middle East. This requires that we recognize the harm that comes from repeated, biased condemnations of a valuable ally in the United Nations General Assembly. It also requires sustained efforts, in the United Nations and within our bilateral and multilateral relationships, to promote patterns of friends, allies, and other member states.

We must bring our own values and our own vision of peace and security to the United Nations. Voting against resolutions that unfairly castigate Israel is not enough, particularly when we find ourselves in a tiny minority. We must seek to ally the world with us on this critical matter. The resolution we are introducing today thus urges the President and all members of the United States diplomatic corps to disassociate member states of the United Nations from voting in support of General Assembly resolutions that unfairly castigate Israel, and to promote within the General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

The United Nations can be—must be—a forum for defending our values. Through dedicated leadership, we can begin to change how other countries approach the General Assembly and how they vote on issues related to the Middle East. By doing so, we will be taking an important step toward peace.

SENATE CONCURRENT RESOLUTION 84—RECOGNIZING THE SACRIFICING MADE BY THE REGULAR AND RESERVE COMPONENTS OF THE ARMED FORCES, EXPRESSING CONCERN ABOUT THEIR SAFETY AND SECURITY, AND URGING THE SECRETARY OF DEFENSE TO TAKE IMMEDIATE STEPS TO ENSURE THAT THE RESERVE COMPONENTS ARE PROVIDED WITH THE SAME EQUIPMENT AS REGULAR COMPONENTS

Mr. DASCHLE (for Mr. KERRY) submitted the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 84

Whereas, on September 11, 2001, the National Guard and Reserve responded to the horrific terrorist attacks on the United States with professionalism and courage, rescued the injured, saved lives in New York City, provided protection to the Pentagon, and flew combat air patrols over Washington, D.C., and other cities;

Whereas, on September 14, 2001, in Executive Order 13223, President Bush proclaimed a national emergency, and exercised his authority under section 1202 of the United States Code, to allow him to call up as many as 1,000,000 National Guard and Reserve members to active duty for up to two years;

Whereas more than 300,000 National Guard and Reserve members have been called to active duty under this Executive Order, serving on the front lines by fighting terrorists in Afghanistan and Asia and keeping the peace in Afghanistan, the Balkans, and Iraq;

Whereas the National Guard and Reserve are taking on unprecedented challenges;

Whereas 64 percent of National Guard and Reserve members have been called up for active duty during at least one of the seven major mobilizations since 1990;

Whereas education employees, whether they provide educational, administrative, technical, or custodial services, work tirelessly to serve the children and communities of the United States with care and professionalism;

Whereas schools are the keystones of communities in the United States, bringing together students and children, educators and volunteers, business leaders, and elected officials in a common enterprise; and

Whereas public school educators first observed American Education Week in 1921 and are now celebrating the 82nd annual observance of American Education Week: Now, therefore, be it:

Resolved, That the Senate—

(1) designates the week beginning November 16, 2003, as American Education Week;

(2) recognizes the importance of public education and the accomplishments of the many education professionals who contribute to the achievement of students across the United States.
carriages, laser sights, night vision goggles, desert boots, Camel Back water carriers, aviation holsters, aviation protective masks, radios, and desert camouflage uniforms;

Whereas the dashing freedom of expression and individual liberties that are essential to any functioning democracy;

Whereas the rise to influence within the Russian Government of unelected security officials from the KGB of the former Soviet Union is increasingly undermining the commitment of the Russian Government to democratic principles, accountability, and transparency;

Whereas the suppression by the Russian Government of independent media enterprises has resulted in widespread government control and influence over the media in Russia and the repression of expression and individual liberties that are essential to any functioning democracy;

Whereas the arrest and prosecution of prominent Russian business leaders and prominent Russian political opposition figures is premised on the Russian Government’s promotion of the political opposition to President Putin are examples of selective application of the rule of law for political purposes;

Whereas congressional leaders of the United States and leaders of the Russian Federation have been engaged in direct communication to ensure that the United States does not allow the Russian Federation to undermine the political independence of the Russian Federation;

Whereas the suppression by the Russian Government of independent media enterprises has resulted in widespread government control and influence over the media in Russia and the repression of expression and individual liberties that are essential to any functioning democracy;

Whereas the rise to influence within the Russian Government of unelected security officials from the KGB of the former Soviet Union is increasingly undermining the commitment of the Russian Government to democratic principles, accountability, and transparency.

Whereas many National Guard and Reserve units lack the latest equipment and technology.

Whereas the equipment available to members of the National Guard and Reserve units is using older and outdated equipment;

Whereas, due to equipment shortages throughout the United States, National Guard and Reserve units are being stripped of equipment in favor of units being deployed, leaving other units without equipment with which to train;

Whereas at least one National Guard and Reserve unit asked hospitals in the United States to donate medical supplies to cover its shortages; and

Whereas a poll taken in Iraq by Stars & Stripes reveals that 48 percent of National Guard and Reserve troops consider their morale "low" or "very low", compared with only 15 percent reporting "high" or "very high" morale; now, therefore, be it

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

(1) recognizes the sacrifices made by the members in the regular and reserve components of the Armed Forces;

(2) expresses concern about their safety and security; and

(3) urges the Secretary of Defense to take immediate steps to ensure that the National Guard and Reserves are provided with the same equipment as the regular components.

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the selective prosecution of political opponents and the suppression of free media by the Russian Federation, and the continued commission of widespread atrocities in the conduct of the brutal war in Chechnya, do not reflect the minimum standards of democratic governance and rule of law that characterize every other member state in the Group of 8 nations;

(2) the continued participation of the Russian Federation in the Group of 8 nations; and

(3) the President of the United States and the Secretary of State should work with the other members of the Group of 7 nations to take all necessary steps to suspend the participation of the Russian Federation in the Group of 8 nations until the President, after consultation with the other members of the Group of 7 nations, determines and reports to Congress that the Russian Government is committed to respecting and upholding the

SENATE CONCURRENT RESOLUTION 85—EXPRESSING THE SENSE OF CONGRESS THAT THE CONTINUED PARTICIPATION OF THE RUSSIAN FEDERATION IN THE GROUP OF 8 NATIONS SHOULD BE CONDITIONED ON THE RUSSIAN GOVERNMENT VOLUNTARILY ACCEPTING AND ADHERING TO THE NORMS AND STANDARDS OF DEMOCRACY

Mr. MCCAIN (for himself and Mr. LIEBERMAN) submitted the following concurrent resolution: which was referred to the Committee on Foreign Relations:

S. CON. RES. 85

Whereas the countries that comprise the Group of 7 nations are pluralistic societies with democratic political institutions and practices, committed to the observance of universally recognized standards of human rights, respect for individual liberties, and democratic principles;

Whereas the leaders of the Group of 7 nations, heads of the governments of the major free market economies of the world who meet annually in a summit meeting, invited then-Russian President Boris Yeltsin to a post-summit dialogue;

Whereas in 1998, the leaders of the Group of 7 nations formally invited President Boris Yeltsin of Russia to participate in an annual gathering that subsequently was known as the Group of 8 nations, although the Group of 7 nations hold informal summit meetings and ministerial meetings that do not include the Russian Federation;

Whereas the invitation to President Yeltsin to participate in the annual summits was in recognition of his commitment to democratization and economic liberalization, despite the fact that the Russian economy remained weak and the commitment of the Russian Government to democratic principles was uncertain;

Whereas the leadership of President Vladimir Putin of Russia, who had supported the political opposition to President Putin is examples of selective application of the rule of law for political purposes; and

Whereas the courts of Great Britain, Spain, and Greece have consistently ruled against extradition warrants issued by the Russian Government after finding that the request presented by the government of the Russian Federation have been inherently political in nature;

Whereas Russian military forces continue to commit brutal atrocities against the civilian population in Chechnya;

Whereas Russian military forces continue to commit brutal atrocities against the civilian population in Chechnya;

Whereas the rise to influence within the Russian Government of unelected security officials from the KGB of the former Soviet Union is increasingly undermining the commitment of the Russian Government to democratic principles, accountability, and transparency;

Whereas a wide range of observers at think tanks and nongovernmental organizations have expressed deep concern that the Russian Federation is using both the political and legal underpinnings of a market economy; and

Whereas the continued participation of the Russian Federation in the Group of 8 nations, including the opportunity for the Russian Government to host the Group of 8 nations in 2008 as planned, is a privilege that is premised on the Russian Government voluntarily accepting and adhering to the norms and standards of democracy: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the selective prosecution of political opponents and the suppression of free media by the Russian Federation, and the continued commission of widespread atrocities in the conduct of the brutal war in Chechnya, do not reflect the minimum standards of democratic governance and rule of law that characterize every other member state in the Group of 8 nations;

(2) the continued participation of the Russian Federation in the Group of 8 nations; and

(3) the President of the United States and the Secretary of State should work with the other members of the Group of 7 nations to take all necessary steps to suspend the participation of the Russian Federation in the Group of 8 nations until the President, after consultation with the other members of the Group of 7 nations, determines and reports to Congress that the Russian Government is committed to respecting and upholding the

Whereas the suppression by the Russian Government of independent media enterprises has resulted in widespread government control and influence over the media in Russia and the repression of expression and individual liberties that are essential to any functioning democracy;

Whereas the arrest and prosecution of prominent Russian business leaders and prominent Russian political opposition figures is premised on the Russian Government’s promotion of the political opposition to President Putin are examples of selective application of the rule of law for political purposes;

Whereas congressional leaders of the United States and leaders of the Russian Federation have been engaged in direct communication to ensure that the United States does not allow the Russian Federation to undermine the political independence of the Russian Federation.

Whereas many National Guard and Reserve units lack the latest equipment and technology.

Whereas the equipment available to members of the National Guard and Reserve units is using older and outdated equipment;

Whereas, due to equipment shortages throughout the United States, National Guard and Reserve units are being stripped of equipment in favor of units being deployed, leaving other units without equipment with which to train;

Whereas at least one National Guard and Reserve unit asked hospitals in the United States to donate medical supplies to cover its shortages; and

Whereas a poll taken in Iraq by Stars & Stripes reveals that 48 percent of National Guard and Reserve troops consider their morale "low" or "very low", compared with only 15 percent reporting "high" or "very high" morale; now, therefore, be it

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

(1) recognizes the sacrifices made by the members in the regular and reserve components of the Armed Forces;

(2) expresses concern about their safety and security; and

(3) urges the Secretary of Defense to take immediate steps to ensure that the National Guard and Reserves are provided with the same equipment as the regular components.

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the selective prosecution of political opponents and the suppression of free media by the Russian Federation, and the continued commission of widespread atrocities in the conduct of the brutal war in Chechnya, do not reflect the minimum standards of democratic governance and rule of law that characterize every other member state in the Group of 8 nations;

(2) the continued participation of the Russian Federation in the Group of 8 nations; and

(3) the President of the United States and the Secretary of State should work with the other members of the Group of 7 nations to take all necessary steps to suspend the participation of the Russian Federation in the Group of 8 nations until the President, after consultation with the other members of the Group of 7 nations, determines and reports to Congress that the Russian Government is committed to respecting and upholding the

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Whereas the equipment available to members of the National Guard and Reserve units is using older and outdated equipment;

Whereas, due to equipment shortages throughout the United States, National Guard and Reserve units are being stripped of equipment in favor of units being deployed, leaving other units without equipment with which to train;

Whereas at least one National Guard and Reserve unit asked hospitals in the United States to donate medical supplies to cover its shortages; and

Whereas a poll taken in Iraq by Stars & Stripes reveals that 48 percent of National Guard and Reserve troops consider their morale "low" or "very low", compared with only 15 percent reporting "high" or "very high" morale; now, therefore, be it

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

(1) recognizes the sacrifices made by the members in the regular and reserve components of the Armed Forces;

(2) expresses concern about their safety and security; and

(3) urges the Secretary of Defense to take immediate steps to ensure that the National Guard and Reserves are provided with the same equipment as the regular components.

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the selective prosecution of political opponents and the suppression of free media by the Russian Federation, and the continued commission of widespread atrocities in the conduct of the brutal war in Chechnya, do not reflect the minimum standards of democratic governance and rule of law that characterize every other member state in the Group of 8 nations;

(2) the continued participation of the Russian Federation in the Group of 8 nations; and

(3) the President of the United States and the Secretary of State should work with the other members of the Group of 7 nations to take all necessary steps to suspend the participation of the Russian Federation in the Group of 8 nations until the President, after consultation with the other members of the Group of 7 nations, determines and reports to Congress that the Russian Government is committed to respecting and upholding the

Whereas the suppression by the Russian Government of independent media enterprises has resulted in widespread government control and influence over the media in Russia and the repression of expression and individual liberties that are essential to any functioning democracy;

Whereas the arrest and prosecution of prominent Russian business leaders and prominent Russian political opposition figures is premised on the Russian Government’s promotion of the political opposition to President Putin are examples of selective application of the rule of law for political purposes;
democratic principles described in paragraph (2).

AMENDMENTS SUBMITTED & PROPOSED

SA 2209. Mr. FRIST (for Mr. DODD) proposed an amendment to the bill S. 1680, to reauthorize the Defense Production Act of 1950, and for other purposes.

SA 2210. Mr. FRIST (for Mr. INHOFE (for himself, Mr. JEFFFORDS, Mr. VOINOVICH, and Mrs. CLINTON)) proposed an amendment to the bill S. 1680, to reauthorize the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area.

SA 2211. Mr. FRIST (for Mr. McCAIN (for himself and Mr. HOLLINGS)) proposed an amendment to the bill S. 579, to reauthorize the National Transportation Safety Board, and for other purposes.

TEXT OF AMENDMENTS

SA 2209. Mr. FRIST (for Mr. DODD) proposed an amendment to the bill S. 1680, to reauthorize the Defense Production Act of 1950, and for other purposes.

On page 6, strike line 1 and all that follows through page 7, line 2, and insert the following:

SEC. 7. REPORT ON IMPACT OF OFFSETS ON DOMESTIC CONTRACTORS AND LOWER TIER SUBCONTRACTORS.

(a) EXAMINATION OF IMPACT REQUIRED. — (1) IN GENERAL.—As part of the annual report required under section 306(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2099(a)), the Secretary of Commerce (in this section referred to as the "Secretary") shall—

(A) detail the number of foreign contracts involving domestic contractors that use offsets, industrial participation agreements, or similar arrangements during the preceding 5-year period;

(B) calculate the aggregate, median, and mean number of foreign contracts and, to the extent practicable, the first 3 tiers of domestic contractors and subcontractors during the preceding 5-year period; and

(C) describe the impact of international or foreign sales of United States defense products and related offsets, industrial participation agreements, and similar arrangements on domestic prime contractors and, to the extent practicable, the first 3 tiers of domestic contractors and subcontractors during the preceding 5-year period in terms of domestic employment, including any job losses, on an annual basis.

(2) USE OF INTERNAL DOCUMENTS.—To the extent that the Department of Commerce is already in possession of relevant data, the Department shall use internal documents or existing departmental records to carry out paragraph (1).

(b) INFORMATION FROM NON-FEDERAL ENTITIES.—

(A) EXISTING INFORMATION.—In carrying out paragraph (1), the Secretary shall only require a non-Federal entity to provide information that is available through the existing data collection and reporting systems of that non-Federal entity.

(B) FEDERAL AGENCIES.—The Secretary may require a non-Federal entity to provide information to the Secretary in the same form that is already provided to a foreign government in fulfillment of the authority provided by subsection (a) of such arrangement, or similar arrangement.

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 8-month period beginning on the date of enactment of this Act, the Secretary shall submit to Congress a report containing the findings and conclusions of the Secretary with regard to the examination made pursuant to subsection (a).

(2) COPIES OF REPORT.—The Secretary shall also transmit copies of the report prepared under paragraph (1) to the United States Trade Representative and the interagency team established pursuant to section 129(c) of the Defense Production Act Amendments of 1992 (50 U.S.C. App. 2099 note).

(c) RESPONSIBILITIES REGARDING CONSULTATION.—Section 129(c) of the Defense Production Act Amendments of 1992 (50 U.S.C. App. 2099 note) is amended to read as follows:

(1) INTERAGENCY TEAM.—

(A) IN GENERAL.—It is the policy of Congress that the President shall designate a chairman of an interagency team comprised of the Secretary of Commerce, Secretary of Defense, United States Trade Representative, Secretary of Labor, and Secretary of State to consultation on identifying the adverse effects of offsets in defense procurement without damaging the economy or the defense industrial base of the United States and other nations for the identification of the Defense Production Act or defense preparedness.

(B) MEETINGS.—The President shall direct the interagency team to meet on a quarterly basis.

(2) REPORTS.—The President shall direct the interagency team to submit to Congress an annual report, to be included as part of the report required under section 306(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2099(a)), that describes the results of the consultations of the interagency team under subparagraph (A) and the meetings of the interagency team under subparagraph (B).

(3) RECOMMENDATIONS FOR MODIFICATIONS.—The interagency team shall submit to the President any recommendations for modifications of any existing or proposed memorandum of understanding between officials that authorizes the President to enter into agreements or contracts with foreign nations, including any recommendations made with respect to such contract.

(4) APPEALS.—

(A) ANNUAL SECRETARIAL REGULATORY STAFFS.—

(A) IN GENERAL.—From the date of enactment of this Act and every 5 years thereafter, the President shall designate a chairman of an interagency team comprised of the Secretary of Commerce, the Secretary of Labor, the Secretary of State, and the Secretary of Defense, United States Trade Representative, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Energy, the Secretary of Transportation, and the Senate Committee on Commerce, Science, and Transportation, and the Senate Committee on Government Affairs that—

(I) reviews and approves the policies, rules, and regulations to be issued by the Federal agencies that promulgate regulations under this section;

(II) reviews and approves the policies, rules, and regulations to be issued by the Federal agencies that promulgate regulations under this section; and

(III) provides the Federal agencies involved with the advice and assistance of the interagency team.

(B) APPEALS.—The President shall establish an appeals process for persons affected by any regulations issued by the Federal agencies that promulgate regulations under this section.

(C) LIMITATION ON APPLICABILITY.—This section shall not apply in the case of an accident that results in a loss of life.

SEC. 4. PREDISASTER HAZARD MITIGATION.

Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking "December 31, 2003" and inserting "September 30, 2006".

SA 2211. Mr. FRIST (for Mr. McCAIN (for himself and Mr. HOLLINGS)) proposed an amendment to the bill S. 579, to reauthorize the National Transportation Safety Board, and for other purposes; as follows:

On page 2, line 15, strike "$3,000,000." and insert "$4,000,000."

On page 3, line 6, strike paragraph "and insert "subsection".

On page 3, line 16, strike the closing quotation marks and the second period.

On page 3, line 17, strike "(c)" and insert "(d)."

On page 3, line 21, insert closing quotation marks and a period after the period.

On page 5, strike lines 7 through 21, and insert the following:

SEC. 4. RELIEF FROM CONTRACTING REQUIREMENTS FOR INVESTIGATIONS SERVICES.

(a) IN GENERAL.—From the date of enactment of this Act through September 30, 2006, the National Transportation Safety Board may enter into agreements or contracts with foreign governments or the defense industrial base of the United States and other nations for the identification of the Defense Production Act or defense preparedness.

(b) REPORT ON USAGH.—On February 1, 2006, the National Transportation Safety Board shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Government Reform, the Senate Committee on Commerce, Science, and Transportation, and the Senate Committee on Government Affairs that—

(1) describes each contract for $25,000 or more executed by the Board to which the authority provided by subsection (a) was applied; and

(2) sets forth the rationale for dispensing with competition requirements with respect to such contract.

On page 5, after line 21, add the following:

SEC. 5. ACCIDENT AND DISASTER RESPONSE TO SAFETY RECOMMENDATIONS.

Section 1119 of title 49, United States Code, is amended by adding at the end the following:

(c) APPEALS.—

(1) NOTICE OF RIGHTS.—In any case in which an employee of the Board determines that an occurrence associated with the operation of an aircraft constitutes an accident, the employee shall notify the owner or operator of the aircraft of the right to appeal that determination to the Board.

(2) PROCEDURE.—The Board shall establish and publish the procedures for appeals under this subsection.

(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply in the case of an accident that results in a loss of life.

SEC. 6. SECRETARY OF TRANSPORTATION'S RESPONSES TO SAFETY RECOMMENDATIONS.

Section 1135(d) of title 49, United States Code, is amended by adding at the end the following:

(d) REPORTING REQUIREMENTS.—

(1) ANNUAL SECRETARIAL STATUTORY STATUS REPORTS.—On February 1 of each year, the Secretary shall submit a report to Congress and the Board containing the regulatory status of each recommendation made by the Board to the Secretary (or to an Administrator within the Department of
Transportation) that is on the Board’s ‘most wanted list.’ The Secretary shall continue to report on the regulatory status of each such recommendation in the report due on February 1 of subsequent years until final regulatory action is taken on that recommendation or the Secretary (or an Administration within the Department) determines and states in such a report that no action should be taken.

‘‘(2) FAILURE TO REPORT.—If on March 1 of each year the Board has not received the Secretary’s report required by this subsection, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate concerning—

(a) the Secretary’s failure to submit the required report.

(b) the case in which regulations are under consideration.

(3) TERMINATION.—This subsection shall cease to be in effect after the report required to be filed on February 1, 2008, is filed.”

SEC. 7. TECHNICAL AMENDMENTS.

Section 1313(a)(2) of title 49, United States Code, is amended by moving subparagraphs (B) and (C) 2 ens. to the left.

SEC. 8. DOT INSPECTOR GENERAL INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—Section 228 of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1773) is transferred to, and added at the end of, subchapter III of chapter 3 of title 49, United States Code, as section 354 of that title.

(b) CONFORMING AMENDMENTS.—

(1) The caption of the section is amended to read as follows:

“§ 354. Investigative authority of Inspector General.”

(2) The chapter analysis for chapter 3 of title 49, United States Code, is amended by adding at the end the following:

“354. Investigative authority of Inspector General.”

SEC. 9. REPORTS ON CERTAIN OPEN SAFETY RECOMMENDATIONS.

(a) INITIAL REPORT.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to Congress and the National Transportation Safety Board containing the regulatory status of each open safety recommendation made by the Board to the Secretary concerning—

(1) a commercial driver’s license; and

(2) railroad grade crossing safety; and

(3) medical certifications for a commercial driver’s license.

(b) BIENNIAL UPDATES.—The Secretary shall continue to report on the regulatory status of each recommendation (and any subsequent recommendation made by the Board to the Secretary concerning a matter described in paragraph (1), (2), or (3) of subsection (a)) at 2-year intervals until—

(1) final regulatory action has been taken on the recommendation;

(2) the Secretary determines, and states in the report, that no action should be taken on that recommendation;

(3) the report, if any, required to be submitted in 2008 is submitted.

(c) FAILURE TO REPORT.—If the Board has not received a report required to be submitted under subsection (a) or (b) within 30 days after the date on which that report is required to be submitted, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, November 21 at 9:30 a.m.

The purpose of the oversight hearings is to receive testimony on the implementation of the Energy Employees Occupational Illness Compensation Program.

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

COMMITTEE ON FINANCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session of the Senate on Friday, November 21, 2003; to consider nomination of Arnold I. Havens, to be General Counsel for the Department of the Treasury.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 21, 2003 at 9 a.m. to hold a hearing on Nominations.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Friday, November 21, 2003 at a time and location to be determined to hold a business meeting to consider the nominations of James M. Loy to be Deputy Secretary of Homeland Security, Department of Homeland Security; and Scott J. Bloch to be Special Counsel, Office of Special Counsel.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on The Nomination of Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor during the session of the Senate on Friday, November 21, 2003 at 10 a.m. in SD–430.

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

The purpose of this hearing is to consider the nomination of Steven J. Law, to be Deputy Secretary of Labor, to be considered by the Committee on Health, Education, Labor, and Pensions.

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on November 21, 2003, for a markup on the nominations of Gordon H. Mansfield to be Deputy Secretary of Veterans Affairs, Cynthia R. Church to be Assistant Secretary of Veterans Affairs for Public and Intergovernmental Affairs, Robert N. McFarland to be Assistant Secretary of Veterans Affairs for Information and Technology, Lawrence B. Hagel to be Judge, U.S. Court of Appeals for Veterans Claims, and Alan G. Lance, Sr. to be Judge, U.S. Court of Appeals for Veterans Claims.

The meeting will be held in the Senate Reception Room in the Capitol after the first rollcall vote of the day.

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

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Mr. Chad Littleton, a Congressional Fellow in my office, be granted the privilege of the floor for the remainder of the Senate’s consideration of this bill.

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

Ms. LANDRIEU. Mr. President, I ask unanimous consent that Neil Naraine be granted the privileges of the floor for the duration of the debate.

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

Mr. GRASSLEY. I ask unanimous consent that Christine Evans, of the Finance Committee staff, be afforded the privileges of the floor for the remainder of today’s session.

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

FEDERAL RECOGNITION TO CONFERRED TRIBES OF GRAND RONDE COMMUNITY OF OREGON MEMORIALIZED

Mr. FRIST. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of S. Res. 246 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 246) expressing the sense of the Senate that November 22, 1983, the date of the restoration by the Federal Government of Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon, should be memorialized.

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

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the Record.

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

The resolution (S. Res. 246) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 246

Whereas the Grand Ronde Restoration Act (25 U.S.C. 713 et seq.), which was signed by the President on November 22, 1983, restored
Mr. FRIST. I ask unanimous consent that the bill be printed in the RECORD. 

SEC. 5. CLARIFICATION OF PRESIDENTIAL AUTHORITY. 

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152(a)) is amended by inserting after the end of the 1st sentence the following new sentence: "The authority of the President under this section includes the authority to order information in order to perform industry studies assessing the capabilities of the United States industrial base to support the national defense and national security." 

SEC. 6. REPORT ON CONTRACTING WITH MINORITY AND WOMEN-OWNED BUSINESSES. 

(a) REPORT REQUIRED.—Before the end of the 1-year period beginning on the date of enactment of this Act, the Secretary of Defense shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing—

(1) The types of goods and services obtained under contracts with minority- and women-owned businesses during the 5-year period beginning on the date of enactment of this Act; and 

(2) The dollar amounts of such contracts.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall include the following:

(1) The types of goods and services obtained under contracts with minority- and women-owned businesses during the Defense Production Act of 1950 in the fiscal year covered in the report. 

(c) REPORT ON IMPACT OF OFFSETS ON DOMESTIC CONTRACTORS AND HIGH-TIER SUBCONTRACTORS. 

(a) ASSESSMENT OF IMPACT REQUIRED.—In addition to the information required to be included in the annual report under section 309 of the Defense Production Act of 1950, the Secretary of Commerce shall assess the impact, in the defense industry, of foreign arms and offset contracts that have been awarded through offsets, industrial participation agreements, or similar arrangements on domestic prime contractors and at least the first 2 tiers of domestic subcontractors during the 5-year period beginning on January 1, 1998. 

(b) REPORT.—Before the end of the 1-year period beginning on the date of enactment of this Act, the Secretary of Commerce shall submit a report to the Congress containing findings and the conclusions of the Secretary with regard to the assessment made pursuant to subsection (a). 

(c) COPY OF REPORT.—Copies of the report prepared pursuant to subsection (b) shall also be transmitted to the United States Trade Representative and the interagency team established pursuant to section 123(c)(3) of the Defense Production Act Amendments of 1992.
(C) describe the impact of international or foreign sales of United States defense products and related offsets, industrial participation agreements, and similar arrangements on domestic prime contractors and the extent practicable, the first 3 tiers of domestic contractors and subcontractors during the preceding 5-year period in terms of domestic employment, including any job losses, on an annual basis.

(2) USE OF INTERNAL DOCUMENTS.—To the extent that the Department of Commerce is already in possession of relevant data, the Department shall use internal documents or existing departmental records to carry out paragraph (1).

(3) INFORMATION FROM NON-FEDERAL ENTITIES.—

(A) EXISTING INFORMATION.—In carrying out paragraph (1), the Secretary shall only require a non-Federal entity to provide information that is available through the existing data collection and reporting systems of that non-Federal entity.

(B) FORMAT.—The Secretary may require a non-Federal entity to provide information to the Secretary in the same form that is already provided to a foreign government in fulfilling an arrangement, industrial participation agreement, or similar arrangement.

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 8-month period beginning on the date of enactment of this Act, the Secretary shall submit to Congress a report containing the findings and conclusions of the Secretary with regard to the examination made pursuant to subsection (a).

(2) COPIES OF REPORT.—The Secretary shall also transmit copies of the report prepared under paragraph (1) to the United States Trade Representative and the interagency team established pursuant to section 123(c) of the Defense Production Act Amendments of 1992 (50 U.S.C. App. 2099 note).

(c) RESPONSIBILITIES REGARDING CONSULTATION WITH FOREIGN NATIONS.—Section 123(c) of the Defense Production Act Amendments of 1992 (50 U.S.C. App. 2099 note) is amended to read as follows:

"(A) research, development, or production of defense equipment; or

"(B) the reciprocal procurement of defense items."

MENTAL HEALTH PARITY REAUTHORIZATION ACT OF 2003

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1929, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1929) to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions, and for other purposes.

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

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, as follows:

The bill (S. 1929) was read the third time and passed, as follows:

"Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mental Health Parity Reauthorization Act of 2003."

SECTION 2. EXTENSION OF MENTAL HEALTH PROVISIONS.

(a) ERISA.—Section 721(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185(a)) is amended by striking "December 31, 2003" and inserting "December 31, 2004."

(b) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking "December 31, 2003" and inserting "December 31, 2004."

VETERANS’ COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2003

Mr. FRIST. I ask unanimous consent that the Veterans Affairs Committee be discharged from further consideration of H.R. 1683 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1683) to increase, effective as of December 1, 2003, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

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

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, as follows:

The bill (H.R. 1683) was read the third time and passed.

SERVICEMEMBERS CIVIL RELIEF ACT

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 393, S. 1136. The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1136) to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940. 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 strike all after the enacting clause and insert in lieu thereof the following:

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

S. 1136

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

SECTION 1. RESTATEMENT OF ACT.

The Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.) is amended to read as follows:

S. 1136

TITLE I—GENERAL PROVISIONS

Sec. 1. Definition.

Sec. 2. Jurisdiction and applicability of Act.

Sec. 3. Protection of persons secondarily liable.

Sec. 4. Extension of protections to citizens serving with allied forces.

Sec. 5. Notification of benefits.

Sec. 6. Extension of limitations and protections to Reserves ordered to report for military service and to persons ordered to report for induction.

Sec. 7. Waiver of rights pursuant to written agreement.

Sec. 8. Exercise of rights under Act not to affect certain future financial transactions.

Sec. 9. Legal representatives.

TITLE II—GENERAL RELIEF

Sec. 1. Protection of servicemembers against default judgments.

Sec. 2. Stay of proceedings when servicemember defendant has no objection.

Sec. 3. Fines and penalties under contracts.

Sec. 4. Stay or vacation of execution of judgments, attachments, and garnishments.

Sec. 5. Duration and term of stays; co-defendants not in service.

Sec. 6. Statute of limitations.

Sec. 7. Maximum rate of interest on debts incurred before military service.

TITLE III—INSTALLMENT CONTRACTS, MORTGAGES, AND LEASES

Sec. 1. Evictions and distress.
Section 302. Protection under installment contracts for purchase or lease.

Section 303. Mortgages and trust deeds.

Section 304. Settlement of stayed cases relating to personal property.

Section 305. Termination of leases by leesees.

Section 306. Protection of life insurance policy.

Section 307. Enforcement of storage liens.

Section 308. Extension of protections to dependents.

Section 309. Regulations.

Section 310. Review of findings of fact and conclusions of law.

Section 311. Residence for tax purposes.

Section 312. Federal proceedings.

Section 313. Vacancy or set-aside of judicial proceeding.

Section 314. Waiver not precluded.

Section 315. Waiver invalidated upon entrance to military service.

Section 316. Extension of protections to citizens serving with allied forces.

Section 317. Jurisdiction and applicability of Act.

Section 318. Application to proceedings.

Section 319. Court in which application may be made.

Section 320. Extension of protection when actions stayed, postponed, or suspended.

Section 321. Operation of an obligation or liability.

Section 322. Benefits accorded by this Act.

Section 323. Extension of protections to reservists ordered to report for military service.

Section 324. Extension of protections to persons ordered to report for induction.

Section 325. Waivers ordered to report for military service.

Section 326. Ensuring benefits for reservists.

Section 327. Authority to extend protection.

Section 328. Extension of protections to reservists who are ordered to report for military service.

Section 329. Notice of benefits accorded by this Act.

Section 330. Notice of availability of protections.

Section 331. Waivers not precluded.

Section 332. Waiver invalidated upon entrance to military service.

Section 333. Provisions applicable to reservists.

Section 334. Extension of protections to reservists.

Section 335. Jurisdiction and applicability.

Section 336. Application to proceedings.

Section 337. Court in which application may be made.

Section 338. Extension of protection when actions stayed, postponed, or suspended.

Section 339. Operation of an obligation or liability.

Section 340. Benefits accorded by this Act.

Section 341. Extension of protections to reservists ordered to report for military service.

Section 342. Extension of protections to persons ordered to report for induction.

Section 343. Waivers ordered to report for military service.

Section 344. Ensuring benefits for reservists.

Section 345. Authority to extend protection.

Section 346. Extension of protections to reservists who are ordered to report for military service.

Section 347. Notice of benefits accorded by this Act.

Section 348. Notice of availability of protections.

Section 349. Waivers not precluded.

Section 350. Waiver invalidated upon entrance to military service.

Section 351. Provisions applicable to reservists.

Section 352. Extension of protections to reservists.

Section 353. Jurisdiction and applicability.

Section 354. Application to proceedings.

Section 355. Court in which application may be made.

Section 356. Extension of protection when actions stayed, postponed, or suspended.

Section 357. Operation of an obligation or liability.

Section 358. Benefits accorded by this Act.

Section 359. Extension of protections to reservists ordered to report for military service.

Section 360. Extension of protections to persons ordered to report for induction.

Section 361. Waivers ordered to report for military service.

Section 362. Ensuring benefits for reservists.

Section 363. Authority to extend protection.

Section 364. Extension of protections to reservists who are ordered to report for military service.

Section 365. Notice of benefits accorded by this Act.

Section 366. Notice of availability of protections.

Section 367. Waivers not precluded.

Section 368. Waiver invalidated upon entrance to military service.

Section 369. Provisions applicable to reservists.

Section 370. Extension of protections to reservists.

Section 371. Jurisdiction and applicability.

Section 372. Application to proceedings.

Section 373. Court in which application may be made.

Section 374. Extension of protection when actions stayed, postponed, or suspended.

Section 375. Operation of an obligation or liability.

Section 376. Benefits accorded by this Act.

Section 377. Extension of protections to reservists ordered to report for military service.

Section 378. Extension of protections to persons ordered to report for induction.

Section 379. Waivers ordered to report for military service.

Section 380. Ensuring benefits for reservists.

Section 381. Authority to extend protection.

Section 382. Extension of protections to reservists who are ordered to report for military service.

Section 383. Notice of benefits accorded by this Act.

Section 384. Notice of availability of protections.

Section 385. Waivers not precluded.

Section 386. Waiver invalidated upon entrance to military service.

Section 387. Provisions applicable to reservists.

Section 388. Extension of protections to reservists.
the practice of assembling or evaluating consumer credit information, identifying the servicemember as a member of the National Guard or a reserve component.


(1) Application by a servicemember for, or receipt by a servicemember of, a stay, postponement, or suspension pursuant to this Act in the payment of a tax, fine, penalty, insurance premium, or other civil obligation or liability of that servicemember shall not itself (without regard to other considerations) provide the basis for any of the following:

(a) A determination by a lender or other person that the servicemember is unable to pay the civil obligation or liability in accordance with its terms.

(b) A denial or revocation of credit by the creditor.

(c) A refusal by the creditor to grant credit to the servicemember in substantially the amount or on substantially the terms requested.

(d) An adverse report relating to the creditworthiness of the servicemember to a person engaged in the business of assembling or evaluating consumer credit information.

(e) A refusal by an insurer to insure the servicemember.

(f) An annotation in a servicemember's record by a creditor or a person engaged in performing a financial transaction for or on behalf of the servicemember.


(a) Waivers shall be treated as a period of military service.

(b) Application.—Whenever the term "servicemember" is used in this Act, such term shall be treated as including a reference to a legal representative of the servicemember.

108. EXERCISE OF RIGHTS UNDER ACT.

(a) APPLICABILITY OF SECTION.—This section applies to any civil action or proceeding in which the defendant does not make an appearance.

(b) AFFIDAVIT REQUIREMENT.—

(1) Plaintiff to File Affidavit.—In any action or proceeding under this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

(A) stating whether or not the defendant in military service; and

(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating the facts to support the affidavit; or

(2) The defendant is in military service; and

(3) The defendant is not in military service.

(c) AFFIDAVIT REQUIREMENT.—

(1) Plaintiff to File Affidavit.—In any action or proceeding under this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

(A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or

(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating the facts to support the affidavit.

(d) STAY OF PROCEEDINGS.—In an action covered by this section it appears that the defendant in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

(e) DEFENDANT'S MILITARY STATUS NOT ASCERTAINED BY AFFIDAVIT.—If based upon the affidavit the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file with the court an amount, as the court finds to be necessary, to cover the cost of advertising a default judgment.

(f) TO FILE AFFIDAVIT.—If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the court enter such judgments as the court determines necessary to protect the rights of the defendant under this Act.

(g) TITLE II—GENERAL RELIEF

SEC. 201. PROTECTION OF SERVICEMEMBERS AGAINST DEFAULT JUDGMENTS.

(a) APPLICABILITY OF SECTION.—This section applies to any civil action or proceeding in which the defendant does not make an appearance.

(b) AFFIDAVIT REQUIREMENT.—

(1) Plaintiff to File Affidavit.—In any action or proceeding under this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

(A) stating whether or not the defendant is in military service; and

(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating the facts to support the affidavit; or

(2) The defendant is in military service; and

(3) The defendant is not in military service.

(c) AFFIDAVIT REQUIREMENT.—

(1) Plaintiff to File Affidavit.—In any action or proceeding under this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

(A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or

(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating the facts to support the affidavit.

(d) STAY OF PROCEEDINGS.—In an action covered by this section it appears that the defendant in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

(e) DEFENDANT'S MILITARY STATUS NOT ASCERTAINED BY AFFIDAVIT.—If based upon the affidavit the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file with the court an amount, as the court finds to be necessary, to cover the cost of advertising a default judgment.

(f) TO FILE AFFIDAVIT.—If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the court enter such judgments as the court determines necessary to protect the rights of the defendant under this Act.

(g) TITLE II—GENERAL RELIEF

SEC. 202. STAY OF PROCEEDINGS WHEN SERVICEMEMBER DEFENDANT HAS NOTICE.

(a) APPLICABILITY OF SECTION.—This section applies to any civil action or proceeding in which the defendant at the time of filing an application under this section is in military service; and

(b) STAY OF PROCEEDINGS.—In an action covered by this section it appears that the defendant in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

(c) DEFENDANT'S MILITARY STATUS NOT ASCERTAINED BY AFFIDAVIT.—If based upon the affidavit the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file with the court an amount, as the court finds to be necessary, to cover the cost of advertising a default judgment.

(d) TO FILE AFFIDAVIT.—If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the court enter such judgments as the court determines necessary to protect the rights of the defendant under this Act.

(e) TITLE II—GENERAL RELIEF

SEC. 203. PROTECTION OF BONA FIDE PURCHASER.

(a) APPLICABILITY OF SECTION.—This section applies to any civil action or proceeding in which the defendant at the time of filing an application under this section is in military service; and

(b) AUTOMATIC STAY.—At any stage before final judgment in a civil action or proceeding in which a servicemember described in subsection (a) is a party, the court, in its discretion, may grant a stay of proceedings for a minimum period of 90 days from the date of the application for the stay, or at any time thereafter, if the court determines that—

(1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant; or

(2) the defendant has exhibited due diligence but has been unable to contact the defendant or otherwise determine if a meritorious defense exists.

(c) INAPPLICABILITY OF SECTION 202 PROCEDURES.—A stay of proceedings under subsection (d) shall not be controlled by procedures or requirements under section 202.

(d)(1) AUTHORITY FOR COURT TO VACATE OR SET ASIDE JUDGMENT.—If a default judgment is entered in an action or proceeding against a servicemember during the servicemember's period of military service (or within 90 days after termination of or release from such military service), the court, upon a showing of necessary facts to support the affidavit, may vacate, set aside, or reopen the judgment for the purpose of allowing the servicemember to defend the action if it appears that—

(1) The servicemember was materially affected by reason of that military service in making a defense to the action; and

(2) The servicemember has a meritorious or legal defense to the action or some part of it.

(e) TIME FOR FILING APPLICATION.—An application under this subsection must be filed not later than 90 days after the date of the termination of or release from military service.

(f)(1) PROTECTION OF BONA FIDE PURCHASER.—If a court vacates, sets aside, or reverses a default judgment against a servicemember or the judgment is vacated, set aside, or reversed because of a provision of this Act, that action shall not impair a right or title acquired by a bona fide purchaser for value under the default judgment.
current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear.

(2) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

(3) APPLICATION NOT A WAIVER OF DEFENSE.—An application for a stay by a servicemember or a servicemember's representative under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense (including a defense relating to lack of personal jurisdiction).

(4) ADDITIONAL STAY.—

(1) APPLICATION.—A servicemember who is granted a stay of a civil action or proceeding under subsection (b) may apply for an additional stay based on continuing material affect of military duty on the servicemember's ability to appear. Such an application may be made by the servicemember or the initial applicant under subsection (b) or when it appears that the servicemember is unavailable to prosecute or defend the action. The same information or other evidence that shall be included in an application under subsection (b) or (c) shall be included in a motion for an additional stay.

(2) APPOINTMENT OF COUNSEL WHEN ADDITIONAL STAY IS DENIED.—If the court denies an additional stay of proceedings under paragraph (1), the court shall appoint counsel to represent the servicemember in the action or proceeding.

(5) COORDINATION WITH SECTION 201.—A servicemember who applies for a stay under this section and is unsuccessful may not seek a stay of the proceeding provided by section 201.

(6) INAPPLICABILITY TO SECTION 301.—The protections of this section do not apply to the provisions of section 301.

SEC. 203. FINES AND PENALTIES UNDER CONTRACTS.

(1) PROHIBITION OF PENALTIES.—When an action for compliance with the terms of a contract is stayed pursuant to this Act, a penalty shall not accrue for failure to comply with the terms of the contract during the period of the stay.

(2) REDUCTION OR WAIVER OF FINES OR PENALTIES.—If a reducing or waiving a fine or penalty is incurred arising from that nonperformance, a court may reduce or waive the fine or penalty as is considered reasonable by the court.

(3) CODEFENDANTS.—If the servicemember is a codefendant with others who are not entitled to the relief and protections provided under this Act, the plaintiff may proceed against those other defendants with the approval of the court.

(4) INAPPLICABILITY OF SECTION.—This section does not apply to sections 202 and 701.

SEC. 204. STATUTE OF LIMITATIONS.

(1) TOLLING OF STATUTES OF LIMITATION DURING MILITARY SERVICE.—The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or the ringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State or political subdivision of a State or of the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns.

(2) STAY OF EXECUTION.—A period of military service may not be included in computing any period provided by law for the redemption of real property sold or forfeited to enforce an obligation, tax, or assessment.

(3) INAPPLICABILITY TO INTERNAL REVENUE LAWS.—This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.

SEC. 205. MAXIMUM RATE OF INTEREST ON DEBTS INCURRED BEFORE MILITARY SERVICE.

(1) 6-PERCENT LIMIT.—An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's heirs, executors, administrators, or assigns during the period of military service may not be in excess of 6 percent per year; provided that, if the court grant an additional stay based on continuing material affect of military duty on the servicemember's ability to appear, the court may set a reasonable rate of interest to achieve the objectives of this Act, the plaintiff may proceed against those other defendants with the approval of the court.

(2) RELIEF TO LANDLORD.—If a stay of a civil action or proceeding made by or on behalf of a servicemember to the landlord (or other person with paramount title) may not—

(3) LIMITATION EFFECTIVE AS OF DATE OF ORDER TO ACTIVE DUTY.—Upon an application for an order to active duty, the plaintiff may proceed against those other defendants with the approval of the court.

(4) PREVENTION OF ACCELERATION OF PRINCIPAL.—The amount of any periodic payment due from a servicemember under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven pursuant to paragraph (3) that is allocable to the period for which such payment is made.

(5) IMPLEMENTATION OF LIMITATION.—

(1) WRITTEN NOTICE TO CREDITOR.—In order for the court to order a servicemember to be subject to the interest rate limitation in subsection (a), the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service under this Act, after the date of the servicemember's termination or release from military service.

(2) LIMITATION EFFECTIVE AS OF DATE OF ORDER TO ACTIVE DUTY.—Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with this section. A creditor that requests a copy of the written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with this section and is entitled to further relief under this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.

TITLES III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES

SEC. 301. EVICTION AND DISTRESS.

(1) COURT-ORDERED EVICTION.—Except by court order, a landlord (or other person with paramount title) may not—

(2) STAY OF EXECUTION.—

(3) RELIEF TO LANDLORD.—If a stay of a civil action or proceeding made by or on behalf of a servicemember to the landlord (or other person with paramount title) may not—

(4) PRESERVATION OF OTHER REMEDIES.—Upon an application for an order to active duty, the plaintiff may proceed against those other defendants with the approval of the court.

(5) INAPPLICABILITY TO SECTION 303.—This section does not apply to the provisions of section 303.

SEC. 303. DURATION AND TERM OF STAYS; CO-DEFENDANTS; NONPERFORMANCE.

(1) WRITTEN NOTICE TO CREDITOR.—In order for the court to order a servicemember to be subject to the interest rate limitation in subsection (a), the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service under this Act, after the date of the servicemember's termination or release from military service.

(2) LIMITATION EFFECTIVE AS OF DATE OF ORDER TO ACTIVE DUTY.—Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with this section and is entitled to further relief under this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.

SEC. 304. STAY OR VACATION OF EXECUTION OF JUDGMENTS, ATTACHMENTS, AND GARNISHMENTS.

(1) COURT ACTION UPON MATERIAL AFFECT DETERMINATION.—If a servicemember, in the opinion of the court, is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember—

(2) VACATE OR STAY AN ATTACHMENT OR GARNISHMENT.—A court may vacate or stay an attachment or garnishment made by or on behalf of a servicemember, and the possession of the servicemember or a third party, whether before or after such judgment.

(3) APPLICABILITY.—This section applies to an action or proceeding commenced in a court against a servicemember before or during the period of the servicemember's military service or within 60 days after such service terminates.

SEC. 206. DURATION AND TERM OF STAYS; CO-DEFENDANTS NOT IN SERVICE.

(1) APPLICATION.—A stay of an action, proceeding, attachment, or execution made pursuant to the provisions of this Act by a court may be ordered for the period of military service and 90 days thereafter, or for any part of that period. The court may set the terms and amounts for such installment payments as is considered reasonable by the court.

(2) CODEFENDANTS.—If the servicemember is a codefendant with others who are not entitled to the relief and protections provided under this Act, the plaintiff may proceed against those other defendants with the approval of the court.

(3) INAPPLICABILITY OF SECTION.—This section does not apply to sections 202 and 701.

SEC. 206. STATUTE OF LIMITATIONS.

(1) APPLICATION.—A servicemember who is in military service and who is not entitled to the relief and protections provided under this Act, the plaintiff may proceed against those other defendants with the approval of the court.

(2) ADDITIONAL STAY.—

(1) WRITTEN NOTICE TO CREDITOR.—In order for the court to order a servicemember to be subject to the interest rate limitation in subsection (a), the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service under this Act, after the date of the servicemember's termination or release from military service.

(2) LIMITATION EFFECTIVE AS OF DATE OF ORDER TO ACTIVE DUTY.—Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with this section and is entitled to further relief under this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.

SEC. 207. MAXIMUM RATE OF INTEREST ON DEBTS INCURRED BEFORE MILITARY SERVICE.

(1) 6-PERCENT LIMIT.—An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's heirs, executors, administrators, or assigns during the period of military service may not be in excess of 6 percent per year; provided that, if the court grant an additional stay based on continuing material affect of military duty on the servicemember's ability to appear, the court may set a reasonable rate of interest to achieve the objectives of this Act, the plaintiff may proceed against those other defendants with the approval of the court.

(2) RELIEF TO LANDLORD.—If a stay of a civil action or proceeding made by or on behalf of a servicemember to the landlord (or other person with paramount title) may not—

(3) LIMITATION EFFECTIVE AS OF DATE OF ORDER TO ACTIVE DUTY.—Upon an application for an order to active duty, the plaintiff may proceed against those other defendants with the approval of the court.

(4) PRESERVATION OF OTHER REMEDIES.—Upon an application for an order to active duty, the plaintiff may proceed against those other defendants with the approval of the court.

(5) INAPPLICABILITY TO SECTION 303.—This section does not apply to the provisions of section 303.
(d) Right to Take Action Upon Breach of Contract.—To the extent required by a court order related to property which is the subject of a court action under this section, the Secretary concerned shall make an allotment from the pay of a servicemember to satisfy the terms of such order, except that any such allotment shall be subject to regulation by the Secretary concerned establishing the maximum amount of pay of servicemembers that may be allotted under this subsection.

SEC. 302. PROTECTION UNDER INSTALLMENT CONTRACTS FOR PURCHASE OR LEASE OF PROPERTY.—

(1) Protection Upon Breach of Contract.—After a servicemember enters military service, a contract by the servicemember for the purchase of real or personal property (including a motor vehicle); or (b) the lease or bailment of such property, may not be rescinded or terminated for a breach of terms of the contract occurring before or during that person's military service, nor may the property be repossessed for such breach without a court order.

(2) Applicability.—This section applies only to a contract for which a deposit or installment has been paid by the servicemember before the servicemember enters military service.

(3) Penalities.—

(1) Misdemeanor.—A person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property that is prohibited by subsection (c), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

(2) Preservation of Other Remedies and Rights.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

SEC. 303. MORTGAGES AND TRUST DEEDS.—

(1) Mortgage as Security.—This section applies only to an obligation on real or personal property owned by a servicemember that—

(1) originated before the period of the servicemember's military service and for which the servicemember is still obligated; and

(2) is secured by a mortgage, trust deed, or other security in the nature of a mortgage.

(2) Stay of Proceedings and Adjustment of Obligation.—In an action filed during the adjustment period of the military service of a servicemember's period of military service to enforce an obligation described in subsection (a), the court may—

(1) stay the proceedings for a period of time as justice and equity require, or

(2) order the obligor to preserve the interests of all parties.

(3) Sale or Foreclosure.—A sale, foreclosure, or seizure of property that is prohibited by subsection (c), or that may not be rescinded or terminated for a breach of terms of the contract occurring before such sale, foreclosure, or seizure with a return made and approved by the court; or

(4) Penalties.—

(1) Misdemeanor.—A person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property that is prohibited by subsection (c), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

(2) Preservation of Other Remedies and Rights.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

SEC. 304. SETTLEMENT OF STAYED CASES RELATING TO PERSONAL PROPERTY.—

(1) Appraisal of Property.—When a stay is granted pursuant to this Act in a proceeding to order a mortgagor to repossess personal property, or to rescind or terminate a contract for the purchase of personal property, the court may appoint three disinterested parties to appraise the property.

(2) Equity Payment.—Based on the appraisal, and if undue hardship to the servicemember's dependents will not result, the court shall order that the amount of the servicemember's equity in the property be paid to the servicemember, or that the interest in the property as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.

SEC. 305. TERMINATION OF LEASES BY LESSEES.—

(1) Covered Leases of Real Property.—This section applies to the lease of premises occupied, or to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, agricultural, or similar purpose if—

(1) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service; or

(2) the lease is executed by a servicer in connection with a mortgage on a residence described in this subsection, which mortgage is made or caused to be made by the servicemember or a servicemember's dependents if the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service.

(2) Notice to Lessor.—

(1) Delivery of Notice.—A lease described in subsection (a) or (b) is terminated as of the date on which the lessee to the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee).

(2) Time for Notice.—The written notice may be delivered at any time after the lessee's entry into military service or, in the case of a lease described in subsection (a), the service of the military service for a permanent change of station or to deploy for a period of not less than 90 days.

(3) Nature of Notice.—Delivery may be accomplished by—

(1) hand delivery;

(2) private business carrier; or

(3) by placing the written notice in an envelope with suitable postage and addressed to the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee) and depositing the written notice in the United States mail.

(4) Effective Date of Termination.—(1) Lease with Monthly Rent.—Termination of a lease providing for monthly payment of rent shall be effective 30 days after the first date on which the next rental payment is due and payable after the date on which the notice is delivered.

(2) Other Lease.—All other leases terminate on the last day of the month following the month in which the notice is delivered.

(5) Rents.—Rents or lease amounts unpaid for the period preceding termination shall be paid on a prorated basis.

(6) Amounts Paid in Advance.—Amounts paid in advance for a period succeeding termination shall be refunded to the lessee by the lessor's assignee or assignee's agent.

(7) Relief to Lessor.—Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a servicemember may be modified as justice and equity require.

(8) Penalties.—

(1) Misdemeanor.—Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember's dependents who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to the satisfaction of any lien or other claim, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

(2) Preservation of Other Remedies.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

SEC. 306. PROTECTION OF LIFE INSURANCE POLICY.—

(1) Assignment of Policy Prohibited.—If a life insurance policy on the life of a servicemember is assigned before military service to secure the payment of an obligation, the interest of the military service in the policy (in connection with a policy loan) may not exercise, during a period of military service of the servicemember or within one year thereafter, any right or option obtained under the assignment without a court order.

(2) Exception.—The prohibition in subsection (1) shall not apply—

(1) if the assignee has the written consent of the insured made during the period described in subsection (a);

(2) when the premiums on the policy are due and unpaid; or

(3) upon the death of the insured.

(3) Order Refused Because of Military Service.—A court may refuse to apply for an order required under subsection (a) may refuse to grant such order if
the court determines the ability of the servicemember to comply with the terms of the obligation is materially affected by military service.

(2) TREATMENT OF GUARANTEED PREMIUMS.—For purposes of this subsection, premiums guaranteed under the provisions of title IV shall not be considered due and unpaid.

(3) PENALTIES.—

(a) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

(b) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

SEC. 307. ENFORCEMENT OF STORAGE LIENS.

(a) LIENS.—

(1) LIMITATION ON FORECLOSURE OR ENFORCEMENT.—A person holding a lien on the property or effects of a servicemember may not, during any period of military service of the servicemember and for 90 days thereafter, exercise, enforce any lien on such property or effects without a court order granted before foreclosure or enforcement.

(2) STAY OF PROCEEDINGS.—In a proceeding to foreclose or enforce a lien subject to this section, the court may on its own motion, and shall if requested by a servicemember whose ability to comply with the obligations resulting in the proceeding is materially affected by service,

(a) stay the proceeding for a period of time as justice and equity require; or

(b) adjust the obligation to preserve the interests of all parties.

The provisions of this subsection do not affect the scope of section 303.

(4) PENALTIES.—

(a) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

(b) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

SEC. 308. EXTENSION OF PROTECTIONS TO DEFENDANTS.

Upon application to a court, a dependent of a servicemember is entitled to the protections of this title if the dependent’s ability to comply with the obligations arising out of membership in any fraternal or beneficial association which—

(a) provides that the insured may not—

(i) decrease the amount of coverage or the cash surrender value.

(ii) limit or restrict coverage for any activity required by military service; and

(iii) limit or restrict coverage for any activity required by military service.

(B) is in force not less than 180 days before the date of the insured’s entry into military service or at the time of application under this title.

(2) PREMIUM.—The term ‘premium’ means the amount specified in an insurance policy and paid in force.

(3) INSURED.—The term ‘insured’ means a servicemember whose life is insured under a policy.

(4) INSURER.—The term ‘insurer’ includes any firm, corporation, partnership, association, or business that is chartered or authorized to provide insurance and issue contracts or policies by the laws of a State or the United States.

SEC. 402. INSURANCE RIGHTS AND PROTECTIONS

(a) RIGHTS AND PROTECTIONS.—The rights and protections under this title apply to the insured when the insured, the insured’s designee, or the insured’s beneficiary applies in writing for protection under this title, unless the Secretary of Veterans Affairs determines that the insured’s policy is not entitled to protection under this title.

(b) NOTIFICATION.—The Secretary of Veterans Affairs shall notify the Secretary concerned of the procedures to be used to apply for the protections provided under this title. The Secretary shall send the original application to the insurer and a copy to the Secretary of Veterans Affairs.

(c) LIMITATION ON AMOUNT.—The total amount of life insurance coverage protection provided by this title for a servicemember may not exceed $250,000, or an amount equal to the Servicemember’s Group Life Insurance maximum limit, whichever is greater, regardless of the number of policies submitted.

SEC. 403. APPLICATION FOR INSURANCE PROTECTION

(a) APPLICATION PROCEDURE.—An application for protection under this title shall—

(1) be in writing and signed by the insured, the insured’s designee, or the insured’s beneficiary, as the case may be;

(2) identify the policy and the insurer; and

(3) include an acknowledgement that the insured’s rights under the policy are subject to and modified by the provisions of this title.

(b) ADDITIONAL REQUIREMENTS.—The Secretary of Veterans Affairs may require additional information from the applicant, the insured, and the insurer to determine if the policy is entitled to protection under this title.

(c) NOTICE TO THE SECRETARY BY THE INSURED.—Upon receipt of the application of the insured, the insurer shall furnish a report concerning the policy to the Secretary of Veterans Affairs as required by regulations prescribed by the Secretary.

(d) POLICY TERMINATION.—If, upon application to a servicemember for protection under this title, the insurer refuses to protect the policy, the insurer shall immediately provide to the Secretary of Veterans Affairs the cash surrender value of the policy to the United States.

SEC. 404. POLICIES ENTITLED TO PROTECTION

(a) DETERMINATION.—The Secretary of Veterans Affairs shall determine whether a policy is entitled to protection under this title and shall notify the insured and the insurer of that determination.

(b) NOTICE OF DETERMINATION.—A policy that the Secretary determines is entitled to protection under this title shall not lapse or otherwise terminate or be forfeited for the reason that the policy is protected under this title.

(c) TIME APPLICATION.—The protection provided by this title applies during the insured’s period of military service and for a period of two years thereafter.

SEC. 405. POLICY RESTRICTIONS

(a) DIVIDENDS.—While a policy is protected under this title, a dividend or other monetary benefit under a policy may not be paid or credited to the policy owner or the insured’s beneficiary without the approval of the Secretary of Veterans Affairs.

(b) INTEREST.—If the interest rate is not specifically fixed in the policy, the rate shall be the same for all policies of similar character that may not be available to the insured without the approval of the Secretary of Veterans Affairs. The right of the insured to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of this title.

SEC. 406. DEDUCTION OF UNPAID PREMIUMS

(a) SET-LEAS.—If a policy matures as a result of a servicemember’s death or otherwise during the period of protection of the policy under this title, the proceeds from the insurance proceeds from the amount of the unpaid premiums guaranteed under this title, together with interest due at the rate fixed in the policy for dividends.

(b) INTEREST RATE.—If the interest rate is not specifically fixed in the policy, the rate shall be the same for all policies and for other policies issued by the insurer at the time the insured’s policy was issued.

SEC. 407. PREMIUMS AND INTEREST GUARANTEED BY UNITED STATES

(a) GUARANTEE OF PREMIUMS AND INTEREST BY THE UNITED STATES.—If the Secretary, after an examination of premiums, and interest on premiums at the rate specified in section 406, which become due on a policy under the protection of this title, determines the amount of the guaranty is not paid to the insurer before the period of insurance protection under this title expires, the amount due shall be treated by the insurer as a policy loan on the policy.

(b) POLICY TERMINATION.—If, at the expiration of the insurance period under this title, the cash surrender value of the policy is less than the amount due to pay premiums and interest on premiums on the policy, the policy shall terminate. Upon such termination, the United States shall pay the insurer the difference between the amount due and the cash surrender value.

(c) RECOVERY FROM INSURED OF AMOUNTS PAID BY THE UNITED STATES.—

(1) DEBT PAYABLE TO THE UNITED STATES.—The amount paid by the United States for an insurance provided under this title shall be a debt payable to the United States by the insurer on whose policy payment was made.

(2) COLLECTION.—Such amount may be collected by the United States, either as an offset from any amount due the insured by the United States or as otherwise authorized by law.

(3) DEBT NOT DISCHARGEABLE IN BANKRUPTCY.—Such debt payable to the United States is not dischargeable in bankruptcy proceedings.

(b) CREDITING OF AMOUNTS RECEIVED.—Any amounts received by the United States as repayment of debts incurred by an insured shall be considered appropriate for the payment of claims under this title.
SEC. 408. REGULATIONS.

(a) The Secretary of Veterans Affairs shall prescribe regulations for the implementation of this title.

SEC. 409. REVIEW OF FINDINGS OF FACT AND CONCLUSIONS OF LAW.

(a) The findings of fact and conclusions of law made by the Secretary of Veterans Affairs under this title may be reviewed by the Board of Veterans' Appeals and the United States Court of Appeals for Veterans Claims.

TITLE V—TAXES AND PUBLIC LANDS

SEC. 501. TAXES RESPECTING PERSONAL PROPERTY, MONEY, CREDITS, AND REAL PROPERTY.

(a) APPLICATION.—This section applies in any case in which a tax or assessment, whether general or special (other than a tax on personal incomes), falls due and remains unpaid before or during a period of military service with respect to a servicemember—

(1) personal property; or

(2) real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember's dependents or employees—

(A) before the servicemember's entry into military service; and

(B) during the time the tax or assessment remains unpaid.

(b) SALE OF PROPERTY.

(A) TAX ON SALE OF PROPERTY TO ENFORCE TAX ASSESSMENT.—Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment.

(B) STAY OF COURT PROCEEDINGS.—A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the servicemember and for a period not more than 180 days after the termination of, or release from, the servicemember from military service.

(c) REDEMPTION.—When property described in subsection (a) is sold or forfeited to enforce the collection of a tax or assessment, the servicemember shall have the right to redeem or commence an action to redeem the servicemember's property during the period of military service or within 180 days after the period of military service, and shall be entitled to the same rights under this section applied to nonmilitary property.

(d) INTEREST ON TAX OR ASSESSMENT.—Whenever a servicemember does not pay a tax or assessment on property described in subsection (a), the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per annum. An additional penalty or interest shall be added only if reasonable for the payment. A lien for such unpaid tax or assessment may include interest under this subsection.

(e) FIRST OWNERSHIP APPLICATION.—This section applies to all forms of property described in subsection (a) owned individually by a servicemember or jointly by a servicemember and a dependent of the servicemember.

SEC. 502. RIGHTS IN PUBLIC LANDS.

(a) RIGHTS NOT FORFEITED.—The rights of a servicemember to lands owned or controlled by the United States, and initiated or acquired by the servicemember under the laws of the United States (including the mining and mineral leasing laws) before military service, shall not be forfeited or prejudiced as a result of being absent from the land, or by failing to begin or complete any work or improvements to the land, during the period of military service.

(b) TEMPORARY SUSPENSION OF PERMITS OR LICENSES.—If a permit or license under the Act of July 26, 1934 (35 U.S.C. 315 et seq.), enters military service, the permittee or licensee may suspend the permit or license for the period of military service and for 180 days after termination of or release from military service.

(c) REGULATIONS.—Regulations prescribed by the Secretary of the Interior shall provide for suspension of permits and licenses and for the remission, reduction, or refund of grazing fees during the period of such suspension.

SEC. 503. DESERT-LAND ENTRIES.

(a) DESERT-LAND RIGHTS NOT FORFEITED.—A desert-land entry made or held by the servicemember or the entryman's successor in interest before or during the period of military service shall not be subject to contest or cancellation—

(1) for failure to expend any required amount per acre per year in improvements upon the claim; and

(2) for failure to effect the reclamation of the claim during the period the entryman or the entryman's successor in interest in the military service, or for 180 days after termination of or release from military service.

(b) COMPENSATION.—When a claim made during the period of military service is sold or forfeited, the entryman or claimant shall, within 180 days after termination of or release from military service, cause to be filed in the land office of the district where the claim is situated a notice communicating the fact of military service and the desire to hold the mining claim under this section.

(c) FILING REQUIREMENT.—In order to obtain the protection of this section, the permittee or lessee shall, within 180 days after entry into military service, notify the Secretary of the Interior of the fact that military service has begun and of the desire to hold the mining claim under this section.

(d) FILING REQUIREMENT.—In order to obtain the protection of this section, the permittee or lessee shall, within 180 days after entry into military service, notify the Secretary of the Interior of the fact that military service has begun and of the desire to hold the mining claim under this section.

(1) In general.—A servicemember during a period of military service may make any affidavit or submit any proof required by law, practice, or regulation of the Department of the Interior in connection with the entry, perfection, defense, or further assertion of rights initiated or acquired before entering military service.

(2) Affidavits and proofs.—Such affidavits shall be binding in law and subject to the same penalties as provided by section 1044a of title 10, United States Code, or any superior commissioned officer.

(3) Status and authority.—Such affidavits shall be binding in law and subject to the same penalties as provided by section 1044a of title 10, United States Code, or any superior commissioned officer.

(4) Information from Secretary of the Interior.—The Secretary of the Interior shall furnish to the Secretary concerned information explaining the provisions of this title.

(5) Application forms.—The Secretary concerned shall provide application forms to servicemembers requesting relief under this title.

(6) Information from Secretary of the Interior.—The Secretary of the Interior shall furnish to the Secretary concerned information explaining the provisions of this title (other than sections 501, 510, and 511) and related application forms.

(7) Land rights of servicemembers.—

(a) No age limitations.—Any servicemember under the age of 21 in military service shall be entitled to the same rights under the laws relating to lands owned or controlled by the United States, including mining and mineral leasing laws, as those servicemembers who are 21 years of age or over for any period of military service or reclamation of the land entered or claimed.

(b) Residency requirement.—Any requirement related to the establishment of a
residence within a limited time shall be suspended as to entry by a servicemember in military service until 180 days after termination of or release from military service.

[(g) PLACEMENT OF REVENUE CODE.—The Revenue Code of 1986.]

[(h) DEFERRAL OF TAX.—Upon notice to the Internal Revenue Service or the tax authority of the political subdivision of a State, the collection of income tax on the income of a servicemember falling due before or during military service shall be deferred for a period not more than 180 days after termination of or release from military service, if a servicemember's ability to pay such income tax is materially affected by military service.

[(i) ACCRUAL OF INTEREST OR PENALTY.—No interest or penalty shall accrue for the period of deferment by reason of nonpayment on any amount of tax deferred under this section.

[(j) STATUTE OF LIMITATIONS.—The running of limitations as to the collection of tax deferred under this section, by seizure or otherwise, shall be suspended for the period of military service of the servicemember and for an additional period of 270 days thereafter.

[(k) LIMITATION.—This section shall not apply to the tax imposed on employment income by section 3101 of the Internal Revenue Code of 1986.

[(l) RESIDENCE OR DOMICILE.—A servicemember shall not lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States, solely in compliance with military orders.

[(m) MILITARY SERVICE COMPENSATION.—Compensation of a servicemember for military service performed or from sources within a tax jurisdiction of the United States, as a member is not a tenant or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

[(n) PERSONAL PROPERTY.—(1) RELIEF FROM PERSONAL PROPERTY TAXES.—The personal property of a servicemember shall not be deemed to be income for income tax purposes performed or from sources within a tax jurisdiction of the United States, as a member is not a tenant or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

[(o) EXCLUSION FOR PROPERTY WITHIN MEMBER'S DOMICILE OR RESIDENCE.—This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's domicile or residence.

[(p) EXCEPTION FOR PROPERTY USED IN TRADE OR BUSINESS.—This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

[(q) RELATIONSHIP TO LAW OF STATE OF DOMICILE OR RESIDENCE.—For relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

[(r) TAX LIABILITY.—A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

[(s) FEDERAL INDIAN RESERVATIONS.—An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations, in the State where the reservation is located.

[(t) DEFINITIONS.—For purposes of this section:

[(u) PERSONAL PROPERTY.—The term 'personal property' means intangible and tangible property (including motor vehicles).

[(v) TAXATION.—The term 'taxation' includes taxes imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile.

[(w) TAX JURISDICTION.—The term 'tax jurisdiction' means a State or a political subdivision of a State.

[**TITLE VI—ADMINISTRATIVE REMEDIES**

[SEC. 509. REGULATIONS.—The Secretary of the Interior may issue regulations necessary to carry out this title (other than sections 501, 510, and 511).

[SEC. 510. INCOME TAXES.—(a) DEFERRAL OF TAX.—Upon notice to the Internal Revenue Service or the tax authority of the political subdivision of a State, the collection of income tax on the income of a servicemember falling due before or during military service shall be deferred for a period not more than 180 days after termination of or release from military service, if a servicemember's ability to pay such income tax is materially affected by military service.

[(b) ACCRUAL OF INTEREST OR PENALTY.—No interest or penalty shall accrue for the period of deferment by reason of nonpayment on any amount of tax deferred under this section.

[(c) STATUTE OF LIMITATIONS.—The running of limitations as to the collection of tax deferred under this section, by seizure or otherwise, shall be suspended for the period of military service of the servicemember and for an additional period of 270 days thereafter.

[(d) APPLICATION LIMITATION.—This section shall not apply to the tax imposed on employment income by section 3101 of the Internal Revenue Code of 1986.

[(e) RESIDENCE OR DOMICILE.—A servicemember shall not lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

[(f) MILITARY SERVICE COMPENSATION.—Compensation of a servicemember for military service performed or from sources within a tax jurisdiction of the United States, as a member is not a tenant or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

[(g) PERSONAL PROPERTY.—(1) RELIEF FROM PERSONAL PROPERTY TAXES.—The personal property of a servicemember shall not be deemed to be income for income tax purposes performed or from sources within a tax jurisdiction of the United States, as a member is not a tenant or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

[(h) EXCLUSION FOR PROPERTY WITHIN MEMBER'S DOMICILE OR RESIDENCE.—This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's domicile or residence.

[(i) EXCEPTION FOR PROPERTY USED IN TRADE OR BUSINESS.—This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

[(j) RELATIONSHIP TO LAW OF STATE OF DOMICILE OR RESIDENCE.—For relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

[(k) TAX LIABILITY.—A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

[(l) FEDERAL INDIAN RESERVATIONS.—An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations, in the State where the reservation is located.

[(m) DEFINITIONS.—For purposes of this section:

[(n) PERSONAL PROPERTY.—The term 'personal property' means intangible and tangible property (including motor vehicles).

[(o) TAXATION.—The term 'taxation' includes taxes imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile.

[(p) TAX JURISDICTION.—The term 'tax jurisdiction' means a State or a political subdivision of a State.

[**TITLE VI—ADMINISTRATIVE REMEDIES**

[SEC. 501. INAPPROPRIATE USE OF ACT.—(1) That a person named is, is not, has been, or has not been in military service.

[(a) PEIMA FASCIC EVIDENCE.—In any proceeding under this Act, a certificate signed by the Secretary concerned is prima facie evidence as to any of the following facts stated in the certificate:

[(b) The time and the place the person entered military service.

[(c) The person's residence at the time the person entered military service.

[(d) The rank, branch, and unit of military service.

[(e) The inclusive dates of the person's military service.

[(f) The monthly pay received by the person in an official certificate of issuance.

[(g) The time and place of the person's termination of or release from military service, or the person's death during military service.

[(h) CERTIFICATES.—The Secretary concerned shall furnish a certificate under subsection (a) upon receipt of an application for such a certificate. A certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer's authority to issue it.

[(i) TREATMENT OF SERVICEMEMBERS IN MISSING STATUS.—A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this Act to cease or end with the death of a servicemember does not begin or end until the servicemember's death is reported to, or determined by, the Secretary concerned or by a court of competent jurisdiction.

[(j) RELIEF FOR PERSONS REPORTED MISSING.—(1) STAY OF ENFORCEMENT OF REAL ESTATE CONTRACTS.—(a) A stay of the enforcement of a real estate mortgage may, if the ability of the servicemember to comply with the terms of the obligation is materially affected by reason of military service, after appropriate notice and hearing, grant the following relief:

[(b) Any stay under this paragraph shall be—

[(c) TREATMENT OF SERVICEMEMBERS IN MISSING STATUS.—When a court grants a stay under this Act, a certificate signed by the Secretary concerned or by a court of competent jurisdiction.

[(d) AFFECT OF STAY ON FINE OR PENALTY.—(1) That a person named is, is not, has been, or has not been in military service.

[(e) Certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer's authority to issue it.

[(f) TREATMENT OF SERVICEMEMBERS IN MISSING STATUS.—A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this Act to cease or end with the death of a servicemember does not begin or end until the servicemember's death is reported to, or determined by, the Secretary concerned or by a court of competent jurisdiction.

[(g) RELIEF FOR PERSONS REPORTED MISSING.—(1) STAY OF ENFORCEMENT OF REAL ESTATE CONTRACTS.—(a) A stay of the enforcement of a real estate mortgage may, if the ability of the servicemember to comply with the terms of the obligation is materially affected by reason of military service, after appropriate notice and hearing, grant the following relief:

[(b) Any stay under this paragraph shall be—

[(c) TREATMENT OF SERVICEMEMBERS IN MISSING STATUS.—When a court grants a stay under this Act, a certificate signed by the Secretary concerned or by a court of competent jurisdiction.

[(d) AFFECT OF STAY ON FINE OR PENALTY.—(1) That a person named is, is not, has been, or has not been in military service.

[(e) Certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer's authority to issue it.

[(f) TREATMENT OF SERVICEMEMBERS IN MISSING STATUS.—A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this Act to cease or end with the death of a servicemember does not begin or end until the servicemember's death is reported to, or determined by, the Secretary concerned or by a court of competent jurisdiction.

[(g) RELIEF FOR PERSONS REPORTED MISSING.—(1) STAY OF ENFORCEMENT OF REAL ESTATE CONTRACTS.—(a) A stay of the enforcement of a real estate mortgage may, if the ability of the servicemember to comply with the terms of the obligation is materially affected by reason of military service, after appropriate notice and hearing, grant the following relief:

[(b) Any stay under this paragraph shall be—

[(c) TREATMENT OF SERVICEMEMBERS IN MISSING STATUS.—When a court grants a stay under this Act, a certificate signed by the Secretary concerned or by a court of competent jurisdiction.

[(d) AFFECT OF STAY ON FINE OR PENALTY.—(1) That a person named is, is not, has been, or has not been in military service.

[(e) Certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer's authority to issue it.
The servicemember, after the date of execution expires on the date specified even though under subsection (a) if the document by its terms clearly indicates that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.

(b) LIMITATION ON POWER OF ATTORNEY EXTENSION.—A power of attorney executed by a servicemember may not be extended under subsection (a) if the document by its terms clearly indicates that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.

SEC. 703. PROFESSIONAL LIABILITY PROTECTION.

(a) APPLICABILITY.—This section applies to a servicemember who—

(1) July 31, 1990, is ordered to active duty (other than for training) pursuant to sections 688, 12301(a), 12301(g), 12302, 12304, 1206, or 12867 of title 10, United States Code, or which active duty has been extended under section 12301(d) of such title during a period when members are on active duty pursuant to any of the preceding sections; and

(2) designates the servicemember’s spouse, parent, or other named relative as the servicemember’s attorney in fact for certain, specified, or all purposes; and

(b) LIMITATION ON FORMATION.—A servicemember who, by reason of military service as defined in section 101(d)(1) of title 10, United States Code, is entitled to the rights and protections of this Act shall also be entitled upon application under this section:

(1) to reinstatement of any health insurance that—

(II) was in effect on the day before such service commenced; and

(III) was terminated effective on a date during the period of such service.

SEC. 704. HEALTH INSURANCE REINSTATEMENT.

(a) REINSTATEMENT OF HEALTH INSURANCE.—A servicemember who, by reason of military service as defined in section 101(d)(1) of title 10, United States Code, is entitled to the rights and protections of this Act shall also be entitled upon application under this section:

(1) to reinstatement of any health insurance that—

(I) was in effect on the day before such service commenced; and

(II) was terminated effective on a date during the period of such service.

(c) EXCEPTIONS.—Subsection (a) does not apply to a servicemember entitled to participate in employer-offered insurance benefits pursuant to the provisions of chapter 68 of title 38, United States Code.

(d) TIME FOR APPLYING FOR REINSTATEMENT.—An application under this section shall be filed not later than 120 days after the date of the termination of or release from military service.
SEC. 705. GUARANTEE OF RESIDENCY FOR MILITARY PERSONNEL.

(1) For the purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

(1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

(2) be deemed to have acquired a residence or domicile in any other State; or

(3) become a resident in or a resident of any other State.

SEC. 706. BUSINESS OR TRADE OBLIGATIONS.

(a) Availability of Non-Business Assets To Satisfy Obligations.—If the trade or business (without regard to the form in which such trade or business is carried out) of a servicemember has an obligation or liability for which the servicemember is personally liable, the assets of the servicemember may not be available for satisfaction of the obligation or liability during the servicemember’s military service.

(b) Relief to Obligors.—Upon application to a court by the holder of an obligation or liability covered by this section, relief granted to a servicemember may be modified as justice and equity require.

SEC. 707. RETURN TO CLASSES AT NO ADDITIONAL COST.

(a) In General.—Each institution of higher education that receives Federal assistance or participates in a program assisted by Education Act of 1965 (20 U.S.C. 1001 et seq.) shall permit each student who is enrolled in the institution and enters into military service—

(1) to return to the institution of higher education after completion of the period of military service; and

(2) complete, at no additional cost, each class the student was unable to complete as a result of the period of military service.

(b) Institution of Higher Education Defined.—In this section, the term ‘institution of higher education’ has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)."

SEC. 2. CONFORMING AMENDMENTS.

(a) Military Selective Service Act.—Section 14 of the Military Selective Service Act (50 U.S.C. App. 464) is repealed.

(b) Title 5, United States Code.—(1) Section 501 of title 5, United States Code, is amended by striking ‘‘Soldiers’ and Sailors’ Civil Relief Act of 1940’’ and inserting ‘‘Servicemembers Civil Relief Act’’; and

(2) Section 5569(e) of title 5, United States Code, is amended by substituting ‘‘Servicemembers Civil Relief Act’’ for ‘‘Soldiers’ and Sailors’ Civil Relief Act of 1940’’.

SEC. 3. EFFECTIVE DATE.

The amendment made by section 1 shall apply to any case received after the date of the enactment of this Act.

SECTION 1. RESTATEMENT OF ACT.

The Soldiers’ and Sailors’ Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.) is amended to read as follows:

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the ‘‘Servicemembers Civil Relief Act’’.

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

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

TITLE I—GENERAL PROVISIONS

Sec. 101. Definitions.
Sec. 102. Jurisdiction and applicability of Act.
Sec. 103. Protection of persons secondarily liable.
Sec. 104. Extension of protections to citizens serving with allied forces.
Sec. 105. Notification of benefits.
Sec. 106. Extension of rights and protections to Reserves ordered to report for military service and to persons ordered to report for induction.
Sec. 107. Waivers of rights pursuant to written agreement.
Sec. 108. Exercise of rights under Act not to affect certain future financial transactions.
Sec. 109. Legal representatives.

TITLE II—GENERAL RELIEF

Sec. 201. Protection of servicemembers against default judgments.
Sec. 202. Stay of proceedings when servicemember has notice.
Sec. 203. Fines and penalties under contracts.
Sec. 204. Stay or vacation of execution of judgments, attachments, and garnishments.
Sec. 205. Duration and term of stays; co-ownership and security interests.
Sec. 206. Statute of limitations.
Sec. 207. Maximum rate of interest on debts incurred before military service.

TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LiENS, ASSIGNMENT, LEASES

Sec. 301. Evictions and distress.
Sec. 302. Protection under installment contracts for nondurable personal property.
Sec. 303. Mortgages and trust deeds.
Sec. 304. Settlement of stayed cases relating to personal property.
Sec. 305. Termination of nondurable or motor vehicle leases.
Sec. 306. Protection of life insurance policy.
Sec. 307. Enforcement of storage lien.
Sec. 308. Extension of protections to dependents.

TITLE IV—LIFE INSURANCE

Sec. 401. Definitions.
Sec. 402. Insurance rights and protections.
Sec. 403. Application for insurance protection.
Sec. 404. Policies entitled to protection and lapse of policies.
Sec. 405. Policy restrictions.
Sec. 406. Deduction of unpaid premiums.
Sec. 407. Premiums and interest guaranteed by United States.
Sec. 408. Regulations.
Sec. 409. Review of findings of fact and conclusions of law.

TITLE V—TAXES AND PUBLIC LANDS

Sec. 501. Taxes respecting personal property, money, credit, and real property.
Sec. 502. Rights in public lands.
Sec. 503. Desert-land entries.
Sec. 504. Mining claims.
Sec. 505. Mineral permits and leases.
Sec. 506. Perfection or defense of rights.
Sec. 507. Distribution of information concerning benefits of title.
Sec. 508. Land rights of servicemembers.
Sec. 509. Regulations.
Sec. 510. Income taxes.
Sec. 511. Residence for tax purposes.

TITLE VI—ADMINISTRATIVE REMEDIES

Sec. 601. Inapplicability of Act.
Sec. 602. Certificates of service; persons reporting missing.
Sec. 603. Interlocutory orders.

TITLE VII—FURTHER RELIEF

Sec. 701. Anticipatory relief.
Sec. 702. Power of attorney.
Sec. 703. Professional liability protection.
Sec. 704. Health insurance reinstatement.
Sec. 705. Guarantee of residency for military personnel.
Sec. 706. Business or trade obligations.

SECOND PURPOSE.

The purposes of this Act are—

(1) to provide for, strengthen, and expedite the national defense through protection extended by this Act to any person of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and

(2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

TITLE I—GENERAL PROVISIONS

SEC. 101. DEFINITIONS.

For the purposes of this Act:

(1) SERVICEMEMBER.—The term ‘‘servicemember’’ means a member of the uniformed services, as such term is defined in title 10, United States Code.

(2) MILITARY SERVICE.—The term ‘‘military service’’ means—

(A) in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard—

(i) active duty, as defined in section 101(d)(1) of title 10, United States Code, and

(ii) in the case of a member of the National Guard, includes service under a call to active duty (other than inactive National Guard duty) by the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds;

(B) in the case of a servicemember who is a commissioned officer of the Public Health Service and the National Oceanic and Atmospheric Administration, active service; and

(C) in every period during which a servicemember is absent from duty on account of sickness, invalidity, or other cause and causes the servicemember—

(i) to be unable to perform active duty, as defined in section 101(d)(1) of title 10, United States Code, and

(ii) to be absent from duty on account of sickness, invalidity, or other cause;

(2) PERIOD OF MILITARY SERVICE.—The term ‘‘period of military service’’ means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

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“(4) DEPENDENT.—The term ‘dependent’, with respect to a servicemember, means—

(A) the servicemember’s spouse;

(B) the servicemember’s child (as defined in section 101(a)(9) of title 10, United States Code); or

(C) an individual for whom the servicemember provided more than one-half of the individual’s support for 180 days immediately preceding an application under this Act.

“(5) COURT.—The term ‘court’ means a court or an administrative agency of the United States or of any State (including any political subdivision of a State or of a court or any administrative agency of record.

“(6) STATE.—The term ‘State’ includes—

(A) a commonwealth, territory, or possession of the United States; and

(B) the District of Columbia.

“(7) SECRETARY CONCERNED.—The term ‘Secretary concerned’—

(A) with respect to a servicemember of the Public Health Service, means the Secretary of Health and Human Services; and

(C) with respect to a commissioned officer of the National Oceanic and Atmospheric Administration, means the Secretary of Commerce.

“(8) MOTOR VEHICLE.—The term ‘motor vehicle’ has the meaning given that term in section 30102(a)(6) of title 49, United States Code.

“SEC. 102. JURISDICTION AND APPLICABILITY OF ACT.

“(a) JURISDICTION.—This Act applies to—

(1) the United States;

(2) each of the States, including the political subdivisions thereof; and

(3) all territory subject to the jurisdiction of the United States.

“(b) JURISDICTION TO PROCEEDINGS.—This Act applies to any judicial or administrative proceeding commenced in any court or agency in any jurisdiction subject to this Act. This Act does not apply to any internal proceeding.

“(c) COURT IN WHICH APPLICATION MAY BE MADE.—When under this Act any application is required to be made to a court in which no proceeding has been commenced with respect to the matter, such application may be made to any court which would have jurisdiction over the matter.

“SEC. 103. PROTECTION OF PERSONS SECONDARILY LIABLE.

“(a) EXTENSION OF PROTECTION WHEN ACTIONS STAYED, POSTPONED, OR SUSPENDED.—When under this Act an action is stayed, postponed, or suspended (1) the enforcement of an obligation or liability, (2) the prosecution of a suit or proceeding, (3) the entry or enforcement of an order, writ, judgment, or decree, or (4) the performance of any other act, the court may likewise grant such a stay, postponement, or suspension to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily subject to the obligation or liability the performance of which is stayed, postponed, or suspended.

“(b) VACATION OR SET-ASIDE OF JUDGMENTS.—When a judgment or decree is vacated or set aside, in whole or in part, pursuant to this Act, the court may also set aside or vacate, as the case may be, the judgment or decree as to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily liable on an obligation or liability for the enforcement of the judgment or decree.

“(c) BAIL BOND NOT TO BE ENFORCED DURING PERIOD OF MILITARY SERVICE.—A court may not enforce a bail bond during the period of military service of the principal on the bond when military service prevents the surety from obtaining the attendance of the principal. The court may discharge the surety and exonerate the bail, in accordance with principles of equity and justice, during or after the period of military service of the principal.

“(d) WAIVER OF RIGHTS.—

(1) WAIVERS NOT PRECLUDED.—This Act does not preclude a waiver in writing by a surety, guarantor, endorser, accommodation maker, comaker, or other person (whether primarily or secondarily liable) of the protections provided under subsections (a) and (b). Any such waiver is effective only if it is executed as an instrument separate from the obligation or liability with respect to which it applies.

(2) WAIVER INVALIDATED UPON ENTRANCE TO MILITARY SERVICE.—If a waiver under paragraph (1) is executed by an individual who after the execution of the waiver enters military service, or by a dependent of an individual who after the execution of the waiver enters military service, the waiver is not valid after the beginning of the period of such military service unless the waiver was executed by such individual or dependent during the period specified in section 106.

“SEC. 104. EXTENSION OF PROTECTIONS TO CITIZENS SERVING WITH ALLIED FORCES.

“A citizen of the United States who is serving with the forces of a nation with which the United States is allied in the prosecution of a war or military action is entitled to the relief and protections provided under this Act if that service with the allied force is similar to military service for the defense of the United States. The relief and protections provided to such citizen shall terminate on the date of discharge or release from such service.

“SEC. 105. NOTIFICATION OF BENEFITS.

“The Secretary concerned shall ensure that notice of the benefits accorded by this Act is provided in writing to persons in military service and to persons engaged in the practice of assembling or evaluating consumer credit information, that the servicemember (or, if the person engaged in the practice of assembling or evaluating consumer credit information, the legal representative of the servicemember) is entitled to the relief and protections accorded by this Act.

“SEC. 106. EXTENSION OF RIGHTS AND PROTECTIONS TO RESERVES ORDERED TO REPORT FOR MILITARY SERVICE AND TO PERSONS ORDERED TO REPORT FOR INDUCTION.

“(a) RESERVES ORDERED TO REPORT FOR MILITARY SERVICE.—A member of a reserve component who is ordered to report for military service is entitled to the rights and protections of this title and titles II and III during the period beginning on the date of the member’s receipt of the order and ending on the date on which the member reports for military service or, if the member reports for military service before the member’s receipt of the order, the date on which the order is revoked.

“(b) PERSONS ORDERED TO REPORT FOR INDUCTION.—A person ordered to report for induction under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) is entitled to the rights and protections provided a servicemember under this title and titles II and III during the period beginning on the date of receipt of the order for induction and ending on the date on which the person reports for induction or, if the order for induction is revoked before the date on which the person reports for induction, on the date on which the order is revoked.

“SEC. 107. WAIVER OF RIGHTS PURSUANT TO WRITTEN AGREEMENT.

“(a) IN GENERAL.—A servicemember may waive any of the rights and protections provided by this Act in the case of a waiver that permits an action described in subsection (b), the waiver is effective only if made pursuant to a written agreement of the parties that is executed during or after the period of military service. The written agreement shall specify the legal instrument to which the waiver applies and, if the servicemember is not a party to that instrument, the person concerned.

“(b) ACTIONS REQUIRING WAIVERS IN WRITING.—The requirement in subsection (a) for a written agreement is—

(1) The modification, termination, or cancellation of—

(2) An obligation secured by a mortgage, trust deed, lien, or other security in the nature of a mortgage.

“The reposssession, retention, foreclosure, sale, seizure, or taking possession of property that—

(1) is security for any obligation; or

(2) was purchased or received under a contract, lease, or bailment.

“(c) COVERAGE OF PERIODS AFTER ORDERS RECEIVED.—For the purposes of this section—

(1) a person to whom section 106 applies shall be considered to be a servicemember; and

(2) the period with respect to such person specified in subsection (a) or (b), as the case may be, of section 106 shall be considered to be a period of military service.

“SEC. 108. EXERCISE OF RIGHTS UNDER ACT NOT TO AFFECT CERTAIN FUTURE FINANCIAL TRANSACTIONS.

“Application by a servicemember for, or receipt by a servicemember of, a stay, postponement, or suspension pursuant to this Act in the payment of a tax, fine, penalty, insurance premium, or other civil obligation or liability of the servicemember shall not itself (without regard to other considerations) provide the basis for any of the following:

(1) A determination by a lender or other person that the servicemember is unable to pay the civil obligation or liability in accordance with its terms.

(2) With respect to a credit transaction between a creditor and the servicemember—

(A) A denial or revocation of credit by the creditor.

(B) A change by the creditor in the terms of an existing credit arrangement; or

(C) A refusal by the creditor to grant credit to the servicemember in substantially the amount or on substantially the terms requested.

(3) An adverse report relating to the credit-worthiness of the servicemember by or to a person engaged in the practice of assembling or evaluating consumer credit information.

(4) A refusal by an insurer to insure the servicemember.

(5) An annotation in a servicemember’s record by a creditor or a person engaged in the practice of assembling or evaluating consumer credit information, identifying the servicemember as a servicemember of the National Guard or a reserve component.

(6) A change in the terms offered or conditions required for the issuance of insurance.

“SEC. 109. LEGAL REPRESENTATIVES.

“(a) REPRESENTATIVE.—A legal representative of a servicemember for purposes of this Act is either of the following:

(1) An attorney acting on the behalf of a servicemember.

(2) An individual possessing a power of attorney.

“(b) APPLICATION.—Whenever the term ‘servicemember’ is used in this Act, such term shall be extended to a legal representative of the servicemember.

“TITLE II—GENERAL RELIEF

“SEC. 201. PROTECTION OF SERVICEMEMBERS AGAINST DEFAULT JUDGMENTS.

“(a) APPLICABILITY OF SECTION.—This section applies to any civil proceeding in which the defendant does not make an appearance.

“(b) AFFIDAVIT REQUIREMENT.—

(1) AFFIDAVIT TO FILE AFFIDAVIT.—In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

(A) Notifying whether or not the defendant is in military service and showing necessary facts to support the affidavit; or
“(b) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service, the court may enter a judgment after the court appoints an attorney to represent the defendant. The requirement for an affidavit under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember unless the court determines that—

“(2) APPOINTMENT OF ATTORNEY TO REPRESENT DEFENDANT IN MILITARY SERVICE.—If in an action covered by this section the court determines that—

(a) PROHIBITION OF PENALTIES.—When an action or proceeding commenced in a court against a servicemember before or during the period of the servicemember’s military service or within 90 days thereafter, or for any part of that period, a court may be ordered to stay the execution of any judgment or other process made pursuant to the provisions of this Act by a court during the period of military service.

(b) REDUCTION OR WAIVER OF FINES OR PENALTIES.—If a servicemember fails to perform an obligation arising under a contract and a penalty is incurred arising from that nonperformance, a court may reduce or waive the fine or penalty or perform the obligation be materially affected by such military service.

“SEC. 204. STAY OR VACATION OF EXECUTION OF JUDGMENTS, ATTACHMENTS, AND GARNISHMENTS.

“(a) COURT ACTION UPON MATERIAL AFFECT DETERMINATION.—If a servicemember, in the opinion of the court, is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember—

“(1) stay the execution of any judgment or order entered against the servicemember; and

“(2) vacate or stay an attachment or garnishment of property, money, or other thing in the possession of the servicemember or a third party, whether before or after judgment.

“(a) APPLICABILITY.—This section applies to an action or proceeding commenced in a court against a servicemember before or during the period of the servicemember’s military service or within 90 days thereafter.

“SEC. 205. DURATION AND TERM OF STAYS; CODEFENDANTS NOT IN SERVICE.

“(a) PERIOD OF STAY.—A stay of an action, proceeding, attachment, or execution made pursuant to the provisions of this Act by a court during the period of military service may be ordered for the period of military service and 90 days thereafter, or for any part of that period. The court may set the terms and conditions for such stays as it considers reasonable by the court.

“(b) CODEFENDANTS.—If the servicemember is a codefendant with others who are not in military service and who are not entitled to the relief and protections provided under this Act, the plaintiff may proceed against those other defendants with the approval of the court.

“SEC. 206. STATUTE OF LIMITATIONS.

“(a) TOLLING OF STATUTES OF LIMITATION DURING MILITARY SERVICE.—A claim against a servicemember’s military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember’s heirs, executors, administrators, or assigns.

“(b) REDEMPTION OF REAL PROPERTY.—A period of military service may not be included in computing any period prescribed by law for the redemption of real property sold or forfeited to enforce an obligation, tax, or assessment.

“(c) INAPPLICABILITY TO INTERNAL REVENUE LAWS.—This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.

“SEC. 207. MAXIMUM RATE OF INTEREST ON ACCESSION INCURRED BEFORE MILITARY SERVICE.

“(a) INTEREST RATE LIMITATION.—

“(1) LIMITATION TO 6 PERCENT.—An obligation arising out of the bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember’s spouse jointly, before the servicemember enters military service shall not accrue for failure to comply with the terms of the contract during the period of the stay.
“(2) Forgiveness of interest in excess of 6 percent.—Interest at a rate in excess of 6 percent per year that would otherwise be incurred but for the prohibition in paragraph (1) is forgiven.

“(3) Prevention of acceleration of principal.—The amount of any periodic payment due from a servicemember under the terms of the instrument governing an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (2) that is allocable to the period for which the payment was made.

“(b) Implementation of Limitation.—

“(1) Written Notice to Creditor.—In order for an obligation or liability of a servicemember to be subject to the interest rate limitation in this section, the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service, not later than 180 days after the date of the servicemember’s termination or release from military service.

“(2) Limitation Effective as of Date of Order to Active Duty.—Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt as being in accordance with subsection (a) and effective as of the date on which the servicemember is called to military service.

“…

“TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES

“SEC. 301. EVICTIONS AND DISTRESS.

“(a) Court-Ordered Eviction.—

“(1) In General.—Except by court order, a landlord or other person with paramount title may not—

“(A) evict a servicemember, or the dependents of a servicemember, during a period of military service, except upon the order of a court of competent jurisdiction that—

“(i) that are occupied or intended to be occupied primarily as a residence; and

“(ii) in which the monthly rent does not exceed $2,400; or

“(B) subject such premises to a distress during the period of military service.

“(b) Housing Price Inflation Adjustment.—(A) For calendar years beginning with 2004, the amount in effect under paragraph (1)(A)(ii) shall be increased by the housing price inflation adjustments prescribed by the Secretary of Defense each year pursuant to paragraph (2). Such publication shall be made for a year not later than 60 days after such adjustment is made for that year.

“(b) Stay of Execution.—

“(1) Court Authority.—Upon an application for enforcement of an obligation or liability covered by this section, the court may not, during, or within 90 days after, the period of military service to enforce an obligation described in subsection (a), a person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property that—

“(A) is secured by a mortgage, trust deed, or other security interest; or

“(B) is secured by a mortgage, trust deed, or other security interest, and in violation of section 107.

“(2) Relief to Landlord.—If a stay is granted under paragraph (1), the court may grant to the landlord (or other person with paramount title) such relief as equity may require.

“(c) Penalties.—

“(1) Misdeemeanor.—Except as provided in subsection (a), a person who knowingly takes or causes to be taken any action described in subsection (a), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

“(d) Preservation of Other Remedies and Rights.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

“(2) Presumption of Consequential and Punitive Damages.—When a claim is made for consequential and punitive damages, the burden of production and persuasion as to both elements rests with the party asserting such damages.

“SEC. 302. PROTECTION UNDER INSTALLMENT CONTRACTS FOR PURCHASE OR LEASE.

“(a) Protection Upon Breach of Contract.—

“(1) Protection After Entering Military Service.—After a servicemember enters military service, a contract by the servicemember for—

“(A) the purchase of real or personal property (including all associated services);

“(B) the lease or bailment of such property, to the extent that the lease or bailment is granted pursuant to this Act, or

“(C) the services of a landlord (or another person with paramount title) to repair or maintain any property

“shall cause to be published in the Federal Register, at the opinion of the court, justice and equity requires, including any award for consequential and punitive damages.

“(2) Presumption of Consequential and Punitive Damages.—When a claim is made for consequential and punitive damages, the burden of production and persuasion as to both elements rests with the party asserting such damages.

“SEC. 303. SETTLEMENT OF STATED CASES RELATING TO MILITARY SERVICE.

“(a) Appraisal of Property.—When a case is granted pursuant to this Act in a proceeding to foreclose a mortgage on or to repossess personal property, or to rescind or terminate a contract for the purchase of personal property, the court may appoint three disinterested parties to appraise the property.

“(b) Equitable Payment.—Based on the appraisal, and on due process to the servicemember, the court may order that the amount of the servicemember’s equity in the property be paid to the servicemember, or the servicemember’s dependents, as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.
(b) COVERED LEASES.—This section applies to the following leases:

(1) LEASES OF PREMISES.—A lease of premises occupied, or intended to be occupied, by a servicemember or a servicemember’s dependents for a residential, professional, business, agricultural, or similar purpose if—

(A) the lease is executed by or on behalf of a person acting under the supervisor’s direction and during the term of the lease enters military service; or

(B) the servicemember, while in military service, executes the lease and thereafter receives military orders to pay rent or to terminate the lease or to transfer the property covered thereby to a person other than the lessor or the lessee or to the lessor’s assignee or to the assignee’s agent.

(2) LEASE OF MOTOR VEHICLES.—A lease of a motor vehicle used, or intended to be used, by a servicemember or a servicemember’s dependents for personal or business transportation if—

(A) the lease is executed by or on behalf of a person acting under the supervisor’s direction and during the term of the lease enters military service under a call or order specifying a period of not less than 180 days (or who enters military service under a call or order specifying a period of 180 days or less who, without a break in service, receives orders extending the period of military service to a period of not less than 180 days).

(B) the servicemember, while in military service, executes the lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit for a period of not less than 90 days.

(3) LEASE OF PERSONAL EFFECTS.—A lease of personal effects if—

(A) the lease is executed by or on behalf of a person acting under the supervisor’s direction and during the term of the lease enters military service and a written notice in the United States mails, executed by the lessor, is returned unopened with sufficient postage and with return receipt requested as delivered by the lessor (or the lessor’s grantee), and deposited in the United States mails in one year, or both.

(B) the lessor, while in military service, executes the lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit for a period of not less than 90 days.

(c) MANNER OF TERMINATION.—

(1) IN GENERAL.—A termination of a lease under subsection (a) is made—

(A) by delivery by the lessee of written notice of such termination and a copy of the servicemember’s military orders, to the lessor (or the lessor’s grantee), or to the lessor’s agent (or the agent’s grantee); and

(B) by the return of the motor vehicle by the lessee to the lessor (or the lessor’s grantee), or to the lessor’s agent (or the agent’s grantee), not later than 15 days after the date of the delivery of written notice under subparagraph (A).

(2) DELIVERY OF NOTICE.—Delivery of notice under paragraph (1)(A) may be accomplished—

(A) by hand delivery;

(B) by private business carrier; or

(C) by placing the written notice in an envelope with sufficient postage and with return receipt requested as delivered by the lessor (or the lessor’s grantee), or to the lessor’s agent (or the agent’s grantee), and depositing the written notice in the United States mails.

(d) EFFECTIVE DATE OF LEASE TERMINATION.—

(1) LEASE OF PREMISES.—In the case of a lease described in subsection (b)(1) that provides for monthly payment of rent, termination of the lease under subsection (a) is effective 30 days after the first date on which the next rent payment is due and payable after the date on which the notice under subsection (c) is delivered. In the case of any other lease described in subsection (b)(1), termination of the lease under subsection (a) is effective on the last day of the month following the month in which the notice is delivered.

(2) LEASE OF MOTOR VEHICLES.—In the case of a lease described in subsection (b)(2), termination of the lease under subsection (a) is effective on the day on which the requirements of subsection (c) are met for such termination.

(e) ARREARAGES AND OTHER OBLIGATIONS AND LIABILITIES.—Rents or lease amounts unpaid for the period preceding the effective date of termination of the lease shall be paid on a terminated basis. In the case of the lease of a motor vehicle, the lessor may not impose an early termination charge, but any taxes, summonses, and fines are in addition to and are not reduced by any other obligation and liability of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, use and mileage, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

(f) RENT PAID IN ADVANCE.—Rents or lease amounts paid in advance for a period after the effective date of the termination of the lease shall be refunded to the lessor by the lessee (or the lessee’s assignee or the lessee’s agent) within 30 days of the effective date of the termination of the lease.

(g) RELIEF TO LESSOR.—Upon application by the lessor or by the lessor’s agent (or the agent’s grantee), and relief granted by this section to a servicemember may be modified as justice and equity require.

(h) PENALTIES.—

(1) MISDEMEANOR.—Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember’s dependents who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential or punitive damages.

SEC. 306. PROTECTION OF LIFE INSURANCE POLICIES.

(a) ASSIGNMENT OF POLICY PROTECTED.—If a life insurance policy on the life of a servicemember is assigned before military service to secure the payment of an obligation, the assignee of the policy (except in connection with a policy loan) may not exercise, during a period of military service of the servicemember or within one year thereafter, any right or option obtained under the assignment without a court order.

(b) EXCEPTION.—The prohibition in subsection (a) shall apply—

(1) if the assignee has the written consent of the insured made during the period described in subsection (a);

(2) when the premiums on the policy are due and unpaid;

(3) upon the death of the insured.

(c) ORDER REFUSED BECAUSE OF MATERIAL AFFECTION.—A court shall not grant an application for an order required under subsection (a) if a request is made for an order under law to the person claiming relief under this section, including any award for consequential or punitive damages.

(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

(3) the insured’s beneficiary in the case of an annuity policy; or

(4) the insured’s beneficiary in the case of any policy other than an annuity policy.

(d) TREATMENT OF GUARANTEED PREMIUMS.—For purposes of this section, pre¬miums guaranteed under the provisions of title IV of this Act shall not be considered due and unpaid.

(e) PENALTIES.—

(1) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

SEC. 307. ENFORCEMENT OF STORAGE LIENS.

(a) LIENS.—The lessee shall have, in addition to any lien on the property or effects of a servicemember, a lien on, and security interest in, any personal property or effects of the servicemember, or for and on any lien on such property or effects for or on account of any breach or default under a court order granted before foreclosure or enforcement.

(b) LIEN DEFINED.—For the purposes of paragraph (1), the term ‘lien’ includes a lien for storage charges to the lessee for excess wear, use and mileage, and for damages of any kind, that are due and unpaid at the time of termination of the lease which shall be paid by the lessee.

(c) RELEASE TO LESSOR.—Upon application by the lessor, and relief granted by this section to a servicemember may be modified as justice and equity require.

(d) PENALTIES.—

(1) MISDEMEANOR.—A person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember, while in military service under a call or order specifying a period of not less than 180 days; or

(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

SEC. 308. EXTENSION OF PROTECTIONS TO DEPENDENTS.

(1) GENERAL.—A dependent of a servicemember or a dependent of a servicemember whose military orders, to the lessor (or the lessor’s grantee) or to the lessee (or the lessee’s agent) and deposited in the United States mails in one year, or both.

(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

SEC. 309. DEFINITIONS.

(1) POLICY.—The term ‘policy’ means any individual, group, term, universal, or term life insurance (other than group term life insurance coverage), including any benefit in the nature of such insurance arising out of a membership in any fraternal or beneficial association which—

(A) provides that the insurer may not—

(1) decrease the amount of coverage or require the payment of an additional amount as premiums if the insured engages in military service (except increases in premiums in individual term insurance based upon age); or

(2) limit or restrict coverage for any activity required by military service; and

(3) limit or restrict coverage for any activity required by military service; and

(3) in force not less than 180 days before the date of the insured’s entry into military service and at the time of application under this title.

(2) PREMIUM.—The term ‘premium’ means the portion of the term life insurance policy to be paid to keep the policy in force.

(3) INSURED.—The term ‘insured’ means a servicemember whose life is insured under a policy.

(4) INSURER.—The term ‘insurer’ includes any firm, corporation, partnership, association, or business that is chartered or authorized to provide insurance and issue contracts or policies by the laws of a State or the United States.

SEC. 402. INSURANCE RIGHTS AND PROTECTIONS.

(a) RIGHTS AND PROTECTIONS.—The rights and protections under this title apply to the insured when—

(1) the insured

(2) the insured’s legal representative, or

(3) the insured’s beneficiary in the case of an insured who is outside a State.
applies in writing for protection under this title, unless the Secretary of Veterans Affairs determines that the insured’s policy is not entitled to protection under this title.

(b) NOTIFICATION AND APPLICATION.—The Secretary of Veterans Affairs shall notify the Secretary concerned of the procedures to be used to apply for the protections provided under this title. The Secretary may send the application to the insurer and a copy to the Secretary of Veterans Affairs.

(c) LIMITATION ON AMOUNT.—The total amount a servicemember may receive coverage protection provided by this title for a servicemember may not exceed $250,000, or an amount equal to the Servicemember’s Group Life Insurance maximum limit, whichever is less. The determination shall be made regardless of the number of policies submitted.

**SEC. 403. APPLICATION FOR INSURANCE PROTECTION.**

(a) APPLICATION PROCEDURE.—An application for protection under this title shall—

(1) be in writing and signed by the insured, the insured’s legal representative, or the insured’s beneficiary, as the case may be;

(2) identify the policy and the insurer; and

(3) include an acknowledgement that the insured’s right under the policy are subject to and administered by regulations prescribed by the Secretary.

(b) ADJUSTMENT REQUIREMENTS.—The Secretary of Veterans Affairs may require additional information from the application prior to notification or approval of the application. The insured and the insurer shall cooperate to determine if the policy is entitled to protection under this title.

(c) NOTICE TO THE SECRETARY BY THE INSURER.—If the application for protection is made and a policy is not issued, the insurer shall furnish a report concerning the policy to the Secretary of Veterans Affairs as required by regulations prescribed by the Secretary.

(d) POLICY MODIFICATION.—Upon application for protection under this title, the insured and the insurer shall have constructively agreed to any modification or improvement necessary to give this title full force and effect.

**SEC. 404. POLICIES ENTITLED TO PROTECTION AND LAPSE OF POLICIES.**

(a) DETERMINATION.—The Secretary of Veterans Affairs shall determine whether a policy is entitled to protection under this title and shall notify the insured and the insurer of that determination.

(b) LAPSE PROTECTION.—A policy that the Secretary determines is entitled to protection under this title shall not lapse or otherwise terminate due to the nonpayment of a premium, or interest or indebtedness on a premium, except for the cases described in subsection (a) of this section.

(c) RECOVERY FROM INSURED OF AMOUNTS PAID BY THE UNITED STATES.—

(1) DEBT PAID TO THE UNITED STATES.—The amount paid by the United States to an insured under this title shall be a debt payable to the United States by the insured on whose policy payment was made.

(2) COLLECTION.—Such amount may be collected by the United States, either as an offset from any amount due the insured by the United States or as otherwise authorized by law.

(3) DEBT NOT DISCHARGEABLE IN BANKRUPTCY.—Such debt payable to the United States is not dischargeable in bankruptcy proceedings.

(d) CREDITING OF AMOUNTS TO THE UNITED STATES.—Any amounts received by the United States as repayment of the debt incurred under this title shall be credited to the appropriation for the payment of claims under this title.

**SEC. 406. DEDUCTION OF UNPAID PREMIUMS.**

(a) SETTLEMENT OF PREMIUMS.—If a policy matures as a result of a servicemember’s death or otherwise during the period of protection of the policy under this title, the insurer in making settlement shall deduct from the insurance proceeds the amount of the unpaid premiums guaranteed under this title, together with interest due at the rate fixed in the policy for policy loans.

(b) INTEREST RATE.—If the interest rate is not specifically fixed in the policy, the rate shall be equal to the rate of interest that the military service member would pay at the time the insured’s policy was issued.

(c) REPORT OF REQUIREMENT.—The amount deducted under this section, if any, shall be reported by the insurer to the Secretary of Veterans Affairs.

**SEC. 407. PREMIUMS AND INTEREST GUARANTEED BY UNITED STATES.**

(a) GUARANTEES OF PREMIUMS AND INTEREST UNDER THE UNITED STATES.—

(1) GUARANTEE.—Payment of premiums and interest on premiums at the rate specified in section 406, which become due on a policy under the protection of this title is guaranteed by the United States. If the amount guaranteed is not paid to the insurer before the period of insurance protection under this title expires, the amount due shall be treated by the insurer as a policy loan on the policy.

(2) POLICY TERMINATION.—If, at the expiration of insurance protection under this title, the cash surrender value of a policy is less than the amount guaranteed, the proceeds due on the policy shall terminate.

Upon such termination, the United States shall pay the insurer the difference between the amount due and the surrender value, less any amounts due and unpaid. Such amount may be collected by the United States, either as an offset from any amount due the insured by the United States, or as otherwise authorized by law.

(b) RECOVERY FROM INSURED OF AMOUNTS PAID BY THE UNITED STATES.—

(1) DEBT PAID TO THE UNITED STATES.—The amount paid by the United States to an insured under this title shall be a debt payable to the United States by the insured on whose policy payment was made.

(2) COLLECTION.—Such amount may be collected by the United States, either as an offset from any amount due the insured by the United States or as otherwise authorized by law.

**SEC. 501. TAXES RESPECTING PERSONAL PROPERTY, MONEY, CREDITS, AND REAL PROPERTY.**

(a) TAXES PAID TO THE UNITED STATES.—The amount paid by the United States to an insured under this title shall be included with interest due and paid at the rate of 6 percent per year. An additional 5 percent per year shall be charged on the amount due and unpaid until paid.

(b) TAXES NOT FORFEITED.—The rights of a servicemember to lands owned or controlled by the United States, and initiated or acquired by the servicemember under the laws of the United States (including the mining and mineral leasing laws) before military service, shall not be forfeited or prejudiced as a result of being assessed, or the collection of a tax or assessment, a lien for such unpaid tax or assessment may include interest, costs, and fees during the period of military service.

(c) REGULATIONS.—Regulations prescribed by the Secretary of the Interior shall provide for the suspension of permits and licenses and for the remission, reduction, or refund of grazing fees during the period of such suspension.

**TITLE V—TAXES AND PUBLIC LANDS**

**SEC. 502. RIGHTS IN PUBLIC LANDS.**

(a) RIGHTS NOT FORFEITED.—The rights of a servicemember to lands owned or controlled by the United States, and initiated or acquired by the servicemember under the laws of the United States (including the mining and mineral leasing laws) before military service, shall not be forfeited or prejudiced as a result of being assessed, or the collection of a tax or assessment, a lien for such unpaid tax or assessment may include interest, costs, and fees during the period of military service.

(b) TEMPORARY SUSPENSION OF PERMITS OR LICENSES.—If a permit or license is purchased before the Act of June 28, 1934 (43 U.S.C. 315 et seq.), enters military service, the permittee or licensee may suspend the permit or license for the period of military service and for a period not more than 180 days after the termination of, or release from, military service. This subsection may not be construed to shorten any period provided by the law of a State (including any political subdivision of a State) for redemption.

(c) REDEEM.—Whenever a servicemember does not pay a tax or assessment due and unpaid, such tax or assessment may be collected by the United States or as otherwise authorized by law.

**SEC. 503. DESERT-LAND ENTITIES.**

(a) DEEDS—LAND RIGHTS NOT FORFEITED.—A desert-land entry made or held under the desert-land laws before the entrance of the entrant or the entrant’s successor in interest into military service shall not be subject to contest or cancellation—

(1) for failure to expend any required amount per acre per year in improvements upon the land;

(2) for failure to perfect the claim during the period the entrant or the entrant’s successor in interest into military service, or for 180 days after termination of, or release from, military service; or

(3) during any period of hospitalization or rehabilitation due to an injury or disability incurred in the line of duty.

The time within which the entrant or claimant is required to make such expenditures and
effect reclamation of the land shall be exclusive of the time periods described in paragraphs (2) and (3).

(b) SERVICE-RELATED DISABILITY.—If an entrant or claimant is honorably discharged and is unable to accomplish reclamation of, and payment for, desert land due to a disability incurred in the line of duty, the entrant or claimant shall not be subject to forfeiture for nonperformance of annual reclamation or royalties, or for a failure to pay or acquire reclamation or royalties, under regulations prescribed by the Secretary of the Interior, and receive a patent for the land entered or claimed.

(c) AFFIDAVITS.—In order to obtain the protection of this section, the entrant or claimant shall, within 180 days after entry into military service, cause to be filed in the land office of the district where the claim is situated a notice communicating the fact of military service and the desire to hold the claim under this section.

SEC. 504. MINERAL CLAIMS.

(a) REQUIREMENTS SUSPENDED.—The provisions of section 2324 of the Revised Statutes of the United States (30 U.S.C. 28) shall not apply to a servicemember’s claims or interests in claims, regularly located and recorded, during a period of military service and 180 days thereafter, or during any period of hospitalization or rehabilitation described in subsection (a).

(b) PERIOD OF PROTECTION FROM FORFEITURE.—A mining claim or an interest in a claim that has been regularly located and recorded, during a period of military service and 180 days thereafter, or during any period of hospitalization or rehabilitation described in subsection (a), shall not be subject to forfeiture for nonperformance of annual assessments during the period of military service and for 180 days thereafter, or for any period of hospitalization or rehabilitation described in subsection (a).

(c) FILING REQUIREMENT.—In order to obtain the protection of this section, the claimant of a mining location shall, before the end of the assessment year in which military service is begun or within 60 days after the end of such assessment year, cause to be filed in the office of the district where the claim is situated a notice communicating the fact of military service and the desire to hold the claim under this section.

SEC. 505. MINERAL PERMITS AND LEASES.

(a) SUSPENSION DURING MILITARY SERVICE.—A person holding a permit or lease on the public domain under the Federal mineral leasing laws who enters military service may suspend all operations under the permit or lease for the duration of military service and for 180 days thereafter, or for any period of hospitalization or rehabilitation described in subsection (a).

(b) FILING REQUIREMENT.—In order to obtain the protection of this section, the permittee or lessee shall, within 180 days after entry into military service, notify the Secretary of the Interior by registered or certified mail of the fact that military service has begun and of the desire to hold the claim under this section.

(c) MODIFICATION.—This section shall not be construed to supersede the terms of any contract for operation of a permit or lease.

SEC. 506. PERFECTION OR DEFENSE OF RIGHTS.

(a) RIGHT TO TAKE ACTION NOT AFFECTED.—This section does not affect the right of a servicemember to take action during a period of military service that is authorized by law or regulations of the Department of the Interior, for the perfection of, further assertion of, or acquisition of rights, or the commencement of court proceedings initiated or acquired before entering military service.

(b) AFFIDAVITS AND PROOFS.—

(1) IN GENERAL.—A servicerember during a period of military service may make any affidavit or submit any proof required by law, practice, or regulation if the servicerember is in the interior in connection with the entry, perfection, defense, or further assertion of rights initiated or acquired before entering military service, or if the servicerember is in the interior in connection with the perfection of any notary services under section 1044a of title 10, United States Code, or any superior commissioned officer.

(2) LEGAL STATUS OF AFFIDAVITS.—Such affidavits shall be binding in law and subject to the same penalties as prescribed by section 1001 of title 18, United States Code.

(c) DISTRIBUTION OF INFORMATION CONCERNING BENEFITS OF TITLE.

(1) DISTRIBUTION OF INFORMATION.—The Secretary concerned shall issue to serviceremembers information explaining the provisions of this title.

(2) APPLICATION FORMS.—The Secretary concerned shall provide application forms to serviceremembers requesting relief under this title.

SEC. 507. DEFENSE OF RIGHTS OF SERVICEMEMBERS.

(a) NO AGE LIMITATIONS.—Any servicerember under the age of 21 in military service shall be entitled to the same rights under the laws relating to lands owned or controlled by the United States, including mining and mineral leasing laws, as those servicemembers who are 21 years of age.

(b) RESIDENCY REQUIREMENT.—Any requirenent related to the establishment of a residence within a limited time shall be suspended as to entry by a servicerember in military service until 180 days after termination of or release from military service.

(c) ENTRY APPLICATIONS.—Applications for entry may be verified before a person authorized to administer oaths under section 1044a of title 10, United States Code, or under the laws of the State where the land is situated.

SEC. 509. REGULATIONS.

The Secretary of the Interior may issue regulations necessary to carry out this title.

SEC. 510. INCOME TAXES.

(a) DEFERRAL OF TAX.—Upon notice to the Internal Revenue Service of the tax authority of a State or a political subdivision of a State, the collection of income tax on the income of a servicerember falling due before or during military service and not more than 180 days after termination of or release from military service, if the servicerember’s ability to pay such income tax is materially affected by military service, or entry into military service, or actual or constructive intent to delay the just enforcement of such right by taking advantage of this Act, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

(b) ACCRUAL OF INTEREST OR PENALTY.—No interest or penalty shall accrue for the period of deferment by reason of nonpayment on any amount of the income tax due as provided in this section.

(c) STATUTE OF LIMITATIONS.—The running of a statute of limitations against the collection of taxes deferred under this section, by sequestration, or entry into military service, or during the period of military service of the servicerember and for an additional period of 270 days thereafter.

(d) APPLICATION.—This section shall apply only to income taxes imposed on employees by section 3101 of the Internal Revenue Code of 1986.

SEC. 511. RESIDENCE FOR TAX PURPOSES.

(a) RESIDENCE OR DOMICILE.—A servicerember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicerember, or any other services rendered present in any tax jurisdiction of the United States solely in compliance with military orders.

(b) MILITARY SERVICE COMPENSATION.—Compensation of a servicerember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction in which the servicerember is not a resident or domiciliary of the jurisdiction in which the servicerember is serving in compliance with military orders.

(c) PERSONAL PROPERTIES.

(1) RELIEF FROM PERSONAL PROPERTY TAXES.—The personal property of a servicerember shall not be deemed to be located or present within any tax jurisdiction other than the servicerember’s domicile or residence.

(2) EXEMPTION FROM PROPERTY WITHIN MEMBERSHIP IN OR AFFILIATION WITH A MILITARY OR MILITARY-RELATED ORGANIZATION.—This subsection applies to personal property or its use within any tax jurisdiction other than the servicerember’s domicile or residence.

(3) EXEMPTION FROM PROPERTY USED IN TRADE OR BUSINESS.—This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

(d) INCREASE OF TAX LIABILITY.—A tax jurisdiction may increase the tax liability imposed on other income earned by the nonresident servicerember or spouse subject to tax by the jurisdiction by an amount equal to the increase in the tax liability imposed by the Federal Indian reservations and not the State where the reservation is located.

(2) DEFINITIONS.—For purposes of this section:

(1) PERSONAL PROPERTY.—The term ‘personal property’ means intangible and tangible property (including motor vehicles).

(2) TAXATION.—The term ‘taxation’ includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicerember in the servicerember’s State of domicile.

(3) TAX JURISDICTION.—The term ‘tax jurisdiction’ means a State or a political subdivision of a State.

TITLE VI—ADMINISTRATIVE REMEDIES

SEC. 601. INAPPROPRIATE USE OF ACT.

(a) NOT A RESIDENT OR DOMICILE.—If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to defeat the just enforcement of such right by taking advantage of this Act, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

(b) PERSONAL PROPERTY.—The term ‘personal property’ means intangible and tangible property (including motor vehicles).

(c) INCREASE OF TAX LIABILITY.—A tax jurisdiction may increase the tax liability imposed on other income earned by the nonresident servicerember or spouse subject to tax by the jurisdiction by an amount equal to the increase in the tax liability imposed by the Federal Indian reservations and not the State where the reservation is located.

(d) TAX JURISDICTION.—The term ‘tax jurisdiction’ means a State or a political subdivision of a State.
(b) CERTIFICATES.—The Secretary concerned shall furnish a certificate under subsection (a) upon receipt of an application for such a certificate. A certificate appearing to be signed by the Secretary concerned shall be deemed to contain its contents and of the signee’s authority to issue it.

(c) TREATMENT OF SERVICEMEMBERS IN MISSING STATUS.—A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this Act that begins or ends with the death of a servicemember is deemed to continue until the servicemember’s death is reported to, or determined by, the Secretary concerned or by a court of competent jurisdiction.

SEC. 702. POWER OF ATTORNEY

(1) AUTOMATIC EXTENSION.—A power of attorney of a servicemember that occurs during the servicemember’s military service or any part of such period shall be automatically extended for the period the servicemember is in a missing status (as defined in section 5312 of title 37, United States Code) if the power of attorney—

(a) was duly executed by the servicemember; and

(b) before entry into military service but after the servicemember—

(i) was received a call or order to report for military service; or

(ii) was notified by an official of the Department of Defense that the person could receive a call or order to report for military service;

(c) designates the servicemember’s spouse, parent, or other named relative as the attorney-in-fact for a period equal to the remaining life of the person, determined by the Secretary of Defense to be professional services; and

(d) expires by its terms after the servicemember enters a missing status.

(2) LIMITATION ON POWER OF ATTORNEY EXTENSION.—A power of attorney executed by a servicemember may not be extended under subsection (1) if the terms clearly indicate that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.

SEC. 703. PROFESSIONAL LIABILITY PROTECTION

(1) APPLICABILITY.—This section applies to a servicemember who—

(a) after July 31, 1990, is ordered to active duty (other than for training) pursuant to sections 600, 12301(a), 12302, 12304, 12306, or 12207 of title 10, United States Code, or who is ordered to active duty under subsection 12301(d) of such title during a period when members are on active duty pursuant to any of the preceding sections; and

(b) immediately before receiving the order to active duty—

(i) engaged in the furnishing of healthcare or legal services or other services determined by the Secretary of Defense to be professional services; and

(ii) had in effect a professional liability insurance policy that continues to cover claims filed with respect to the servicemember during the period of the servicemember’s active duty unless the premiums are paid for such coverage for such period.

(2) SUSPENSION OF COVERAGE.—

(A) SUSPENSION.—Coverage of a servicemember referred to in subsection (a) by a professional liability insurance policy shall be suspended by the insurer in accordance with this subsection upon receipt of a written request from the servicemember by the insurance carrier.

(B) PREMIUMS FOR SUSPENDED CONTRACTS.—A professional liability insurance carrier—

(i) may not require that premiums be paid by or on behalf of a servicemember for any professional liability insurance coverage suspended pursuant to paragraph (1); and

(ii) shall refund any amount paid for coverage before the date of termination or release from military service, or from the date of application in equal installments during the combined period at the rate of interest as may be prescribed for such coverage for such period.

(3) REIMBURSEMENT OF INSURANCE CARriers.—The request of a servicemember for reinstatement shall be effective only if the insurance carrier reimburses the servicemember transmits to the insurance carrier a written request for reinstatement.

SEC. 704. PENSION.—A professional liability insurance coverage suspended in the case of any servicemember pursuant to subsection (b) shall be reinstated by the insurance carrier no later than 30 days after the date on which the servicemember is released from active duty. The insurance carrier shall notify the servicemember of the due date for payment of the premium required under subsection (c). Such premium shall be paid by the servicemember within 30 days after receipt of that notice.

(4) CERTAIN CLAIMS CONSIDERED TO ARISE BEFORE SUSPENSION.—For the purposes of paragraph (3), a claim based upon the failure to take any action on the basis of the professional negligence of a servicemember whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed upon the end of the period of suspension if that period of suspension of that servicemember’s professional liability insurance under this subsection, except in a case in which professional services were provided after the date of the beginning of such period.

(5) STAY OF CIVIL OR ADMINISTRATIVE ACTIONS.—The request for reinstatement shall be effective only if the request is made after the date of reinstatement of the professional liability insurance coverage for persons similarly covered by such insurance during the period of the suspension.

(6) SUSPENSION OF COVERAGE OF UNAFFILATED PERSONS.—This section does not—

(i) require a suspension of professional liability insurance protection for any person who is not a person referred to in subsection (a)(2) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

(ii) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

SEC. 705. ANTICIPATORY RELIEF

(1) AUTOMATIC EXTENSION.—A power of attorney of a servicemember that occurs during the servicemember’s military service or any part of such period shall be automatically extended for the period the servicemember is in a missing status (as defined in section 5312 of title 37, United States Code) if the power of attorney—

(a) was duly executed by the servicemember; and

(b) before entry into military service but after the servicemember—

(i) was received a call or order to report for military service; or

(ii) was notified by an official of the Department of Defense that the person could receive a call or order to report for military service;

(c) designates the servicemember’s spouse, parent, or other named relative as the attorney-in-fact for a period equal to the remaining life of the person, determined by the Secretary of Defense to be professional services; and

(d) expires by its terms after the servicemember enters a missing status.

(2) LIMITATION ON POWER OF ATTORNEY EXTENSION.—A power of attorney executed by a servicemember may not be extended under subsection (1) if the terms clearly indicate that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.

SEC. 706. INTERLOCUTORY ORDERS

(1) AUTOMATIC EXTENSION.—A power of attorney of a servicemember that occurs during the servicemember’s military service or any part of such period shall be automatically extended for the period the servicemember is in a missing status (as defined in section 5312 of title 37, United States Code) if the power of attorney—

(a) was duly executed by the servicemember; and

(b) before entry into military service but after the servicemember—

(i) was received a call or order to report for military service; or

(ii) was notified by an official of the Department of Defense that the person could receive a call or order to report for military service;

(c) designates the servicemember’s spouse, parent, or other named relative as the attorney-in-fact for a period equal to the remaining life of the person, determined by the Secretary of Defense to be professional services; and

(d) expires by its terms after the servicemember enters a missing status.

(2) LIMITATION ON POWER OF ATTORNEY EXTENSION.—A power of attorney executed by a servicemember may not be extended under subsection (1) if the terms clearly indicate that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.

SEC. 707. COMBINED PERIOD

(1) AUTOMATIC EXTENSION.—A power of attorney of a servicemember that occurs during the servicemember’s military service or any part of such period shall be automatically extended for the period the servicemember is in a missing status (as defined in section 5312 of title 37, United States Code) if the power of attorney—

(a) was duly executed by the servicemember; and

(b) before entry into military service but after the servicemember—

(i) was received a call or order to report for military service; or

(ii) was notified by an official of the Department of Defense that the person could receive a call or order to report for military service;

(c) designates the servicemember’s spouse, parent, or other named relative as the attorney-in-fact for a period equal to the remaining life of the person, determined by the Secretary of Defense to be professional services; and

(d) expires by its terms after the servicemember enters a missing status.

(2) LIMITATION ON POWER OF ATTORNEY EXTENSION.—A power of attorney executed by a servicemember may not be extended under subsection (1) if the terms clearly indicate that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.
(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

(C) the suspended professional liability insurance so suspended shall be liable for any death of such servicemember; and

EFFECT OF SUSPENSION UPON LIMITATION PERIOD.—In the case of a civil or administrative action for which a stay could have been granted under subsection (j) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

(h) DEATH DURING PERIOD OF SUSPENSION.—If a servicemember whose professional liability insurance so suspended under subsection (b) dies during the period of the suspension—

(1) the requirement for the grant or continuance of a stay in any civil or administrative action against such servicemember under subsection (e) shall terminate on the date of death of such servicemember; and

(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or

SEC. 504. CONFORMING AMENDMENTS.

SEC. 705. GUARANTEE OF RESIDENCY FOR MILITARY PERSONNEL.

(a) RESTATEMENT OF HEALTH INSURANCE.—A servicemember who, by reason of military service, is excluded from the protections of sections 701(a)(1) through 701(a)(3) of title 10, United States Code, as provided in subsection (a) of section 5020a(k)(2)(A) of title 5, United States Code, is entitled to the rights and protections of this Act as if such person had been a member of the Armed Forces of the United States.

(b) EFFECT ON LIMITATION PERIOD.—The reinstatement of health insurance coverage for the health or physical condition of a servicemember, under subsection (a), or any other person who is entitled to the rights and protections of this Act as if such person had been a member of the Armed Forces of the United States, shall not be subject to an exclusion of a waiting period, if—

(1) the condition arose before or during the period of such service;

(2) an exclusion or a waiting period would not have been imposed on the condition during the period of service; and

(3) if the condition relates to the servicemember, the condition has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

(2) EFFECT OF AMENDMENT.—Subsection (a) does not apply to a servicemember entitled to participate in employer-offered insurance benefits pursuant to the provisions of chapter 43 of title 38, United States Code.

(3) TIME FOR APPLYING FOR REINSTATEMENT.—An application under this section must be filed not later than 180 days after the date of the termination of or release from military service.

SEC. 705. GUARANTEE OF RESIDENCY FOR MILITARY PERSONNEL.

(a) AVAILABLE OF NON-BUSINESS ASSETS TO SATISFY OBLIGATIONS.—If the trade or business may not be available for the purpose of satisfying an obligation of a servicemember not held in connection with the trade or business may not be available for satisfaction of the obligation or liability during the servicemember’s military service.

(b) REMEDIES.—Any application to a court by the holder of an obligation or liability covered by this section, granted by this section to a servicemember may be modified as justice and equity require.

SEC. 2. CONFORMING AMENDMENTS.

SEC. 706. BUSINESS OR TRADE OBLIGATIONS.

(a) MILITARY SELECTIVE SERVICE ACT.—Section 38, United States Code.

(b) TITLE 5, UNITED STATES CODE.—(1) Section 528(a)(2)(A) of title 5, United States Code, is amended by striking “Servicemembers Civil Relief Act” and inserting “Servicemembers Civil Relief Act”;

(2) Section 508(e) of title 5, United States Code, is amended—

(A) in paragraph (1), by striking “provided by the Soldiers’ and Sailors’ Civil Relief Act of 1940” and inserting “Servicemembers Civil Relief Act”;

(3) Section 301 of title 5, United States Code, is amended—

(A) in paragraph (1), by striking “provided by the Servicemembers Civil Relief Act of 1940” and inserting “Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104, 105, and 106, or 105(c), 105(e), 105(f) thereof, sections 501 and 510 of such Act”;

(B) in paragraph (2)(A), by striking “person in the military service” and inserting “servicemember”;

(c) TITLE 10, UNITED STATES CODE.—(1) Section 1408 (b)(1)(D) of title 10, United States Code, is amended by striking “Servicemembers Civil Relief Act of 1940” and inserting “Servicemembers Civil Relief Act”;

(d) INTERNAL REVENUE CODE.—Section 7654(d)(1) of the Internal Revenue Code of 1986 is amended by striking “Servicemembers Civil Relief Act” and inserting “Servicemembers Civil Relief Act”;

(e) PUBLIC HEALTH SERVICE ACT.—Section 212(a) of the Public Health Service Act (42 U.S.C. 212(a)) is amended by striking “Servicemembers Civil Relief Act” and inserting “Servicemembers Civil Relief Act”;

(f) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 8001 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7901) is amended by striking “Section 511 of the Servicemembers Civil Relief Act of 1940 (50 U.S.C. App. 574)” in the matter preceding paragraph (1) and inserting “section 511 of the Servicemembers Civil Relief Act”;

(g) NOAA COMMISSIONED OFFICER CORPS ACT OF 2002.—Section 262(a)(2) of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (32 U.S.C. 2072(a)(2)) is amended to read as follows—

(2) The Servicemembers Civil Relief Act.”.

Mr. GRAHAM of Florida. Mr. President, as ranking member of the Committee on Veterans’ Affairs, I ask my colleagues to join me today in passing S. 1136, the Servicemembers’ Civil Relief Act. This important bill would restate and update the Soldiers’ and Sailors’ Civil Relief Act of 1940, a law that protects servicemembers from worrying about civil lawsuits and pre-existing debts while they are in uniform defending the United States. The bill reasserts our commitment to protect and care for those servicemen and women who often make tremendous sacrifices to serve our nation.

Civil protections have been afforded to servicemembers in the United States since the War of 1812. The first modern version of the SSCRA was enacted after the U.S. entered World War I. In 1920, Congress reenacted many of the WWI provisions, but added the protection on rent evictions by $30 to reflect the rise in the cost of living. Congress continued to update and supplement provisions over the years to adapt the protections to the changing needs and circumstances of servicemembers. In 2002, responding to the lengthy mobilization of National Guard members to safeguard the nation’s airports after the attacks of September 11, Congress extended SSCRA protections to Guard members called up by the President to respond to national emergencies who remain under the authority of the State Governors.

This legislation would restate, clarify, and revise the Soldiers’ and Sailors’ Civil Relief Act, or SSCRA, and its subsequent amendments. The SSCRA’s main purpose has been to suspend some of the legal obligations incurred by military personnel prior to entry into the service or mobilization for active service in the Reserves or the National Guard. The core protections provided by the SSCRA are: stays of civil legal proceedings during a person’s period of military service; an interest rate cap of 6 percent on debts incurred before active duty; protection from eviction and repossession of pre-service residential leases; and legal residency protection. Also, servicemembers are able to terminate a lease on a home if given orders to move. Because of this, the SSCRA, servicemembers have not had to worry about being sued or being evicted from their homes while deployed. Instead, the legislation has allowed them to properly keep their focus on military duties.

The legislation before us, S. 1136, would update the SSCRA to better address the obligations servicemembers incur today. For example, due to the escalating costs of rental housing over
the past few decades, this act will provide greater protection for servicemembers and their families from being evicted during times of military service. Currently, servicemembers are protected from eviction if they have a monthly rent of $1200 or less. The legislation will raise the bar to $2400, to be adjusted annually based on the annual increase in the Consumer Price Index, thus avoiding the future need for frequent amendments to the law.

Continuing the effort to make the SSCRA applicable to today’s servicemembers’ lifestyles, this legislation would allow servicemembers to be released from a lease for an automobile if they are deployed for an extended period of time or moved overseas. It was necessary to add this protection because auto leasing has become such a popular alternative to purchasing in recent times, yet many leases prohibit the removal of cars from the United States.

This bill would also look after the needs of small business owners who serve, particularly those in the Reserves and National Guard. If passed, the bill would preserve the assets of small business owners during military service if the servicemember is personally liable for trade or business debts.

I thank the leadership of my colleagues who serve on the House Committee on Veterans’ Affairs, the Chairman of the Senate Committee on Veterans’ Affairs, Senator SPECTER, and Senators BEN NELSON and ZELL MILLER, who have all worked together to provide a comprehensive and necessary set of benefits which will relieve many of the personal burdens some of our servicemembers face when they are called into duty. The benefits will allow those in uniform to continue focusing their efforts on their heroic duties for our Nation.

I urge my colleagues to support this critical measure and restore the fundamental justice due our veterans.

Mr. FRIST. I ask unanimous consent the committee substitute amendment be agreed to; the bill, as amended, be read a third time, and the Veterans’ Affairs Committee then be discharged from further consideration of H.R. 100, and the Senate proceed to its consideration of the bill. The committee will strike the text of S. 1136, as amended, be inserted in lieu thereof, the bill as amended be read a third time and passed, the motions to reconsider be laid on the table en bloc. S. 1136 then be returned to the calendar, and any statements relating to the bill be printed in the Record.

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

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

The bill was ordered to be engrossed for a third reading and was read the third time.

The bill (H.R. 100), as amended, was read the third time and passed.

DEPARTMENT OF HOMELAND SECURITY FINANCIAL ACCOUNTABILITY ACT

Mr. FRIST. I ask unanimous consent the Senate now proceed to consideration of Calendar No. 405, S. 1567.

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

The legislative clerk read as follows:

A bill (S. 1567) to amend title 31, United States Code, to improve financial accountability requirements applicable to the Department of Homeland Security and for other purposes.

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

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

S. 1567

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 Homeland Security Financial Accountability Act”.

[SEC. 2. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.]

(a) In general.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

“(G) The Department of Homeland Security.”.

(b) Appointment or designation of CFO.—The President shall appoint or designate a Chief Financial Officer of the Department of Homeland Security under the amendment made by subsection (a) by not later than 180 days after the date of the enactment of this Act.

(c) Continued service of current official.—The individual serving as Chief Financial Officer of the Department of Homeland Security immediately before the enactment ofthis Act may continue to serve in that position until the date of the confirmation or designation, as applicable (under section 109(a)(1)(B) of title 31, United States Code), of a successor under the amendment made by subsection (a).

(d) Conforming amendments.—


(A) in section 103 (6 U.S.C. 113)—

(i) in subsection (d) by striking paragraph (4), and redesignating paragraph (5) as paragraph (4);

(ii) by redesigning subsection (e) as subsection (f); and

(iii) by inserting after subsection (d) the following:

“(e) Chief Financial Officer.—There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31, United States Code.”;

and

(B) in section 702 (6 U.S.C. 342) by striking “shall report” and all that follows through the period and inserting “shall perform functions as specified in chapter 9 of title 31, United States Code.”.

(2) FEMA.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (B) and by redesigning subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

[SEC. 3. FUNCTIONS OF CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.]

(a) Performance and accountability reports.—Section 3516 of title 31, United States Code, is amended by adding at the end the following:

“(f) The Secretary of Homeland Security—

(1) shall submit for fiscal year 2004, and for each subsequent fiscal year, a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security; and

(2) shall include in each performance and accountability report an audit opinion of the Department’s internal controls over its financial reporting.”]
“(1) shall for each fiscal year submit a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security; and
“(2) shall include in each performance and accountability report an audit opinion of the Department’s internal controls over its financial reports.”

(b) IMPLEMENTATION OF AUDIT OPINION REQUIREMENT.—The Secretary of Homeland Security shall include audit opinions in performance and accountability reports under section 336(f) of title 31, United States Code, as amended by subsection (a), only for fiscal years after fiscal year 2004.

(c) ASSERTION OF INTERNAL CONTROLS.—The Secretary of Homeland Security shall include in the performance and accountability report for fiscal year 2004 submitted by the Secretary under section 336(f) of title 31, United States Code, an assertion of the internal controls that apply to financial reporting by the Department of Homeland Security.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out this Act.

Mr. FRIST. I ask unanimous consent that the committee substitute be agreed to, the bill be read a second time, and the motion to reconsider be laid upon the table. I further ask that after the vote on passage, S. 1248 be returned to the calendar.

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

Mr. FRIST. The committee amendment in the nature of a substitute was agreed to.

Mr. FRIST. I ask unanimous consent that the committee substitute be agreed to, the bill be read a third time and passed.

CHIEF JUSTICE JOHN MARSHALL COMMEMORATIVE COIN ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 1531 and that the Senate proceed to its immediate consideration.

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

Mr. FRIST. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1531) to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall. There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, I rise today in strong support of S. 1531, the Chief Justice John Marshall Commemorative Coin Act. I am the sponsor of this significant legislation and I believe its passage is indeed a tribute to the most important Chief Justice to serve on the Supreme Court of the United States since our nation’s founding.

John Marshall served as the fourth Chief Justice of the Supreme Court for over 34 years. He is the longest serving Chief Justice in our nation’s history. Throughout his years on the Supreme Court, he authored over 500 opinions, many of which significantly impacted the operations and interpretations of the Constitution. He was a distinguished leader who made a lasting impression on the Supreme Court.

For example, probably Marshall’s most famous opinion, Marbury v. Madison, instilled in the Supreme Court the authority to review the constitutionality of congressional acts and instituted the doctrine of judicial review. Without judicial review, the Supreme Court and the lower courts of our great nation would not have the ability to uphold and sustain the Constitution and stop any unauthorized intrusion into the sacred freedoms that great document protects.

The Marshall Court decided numerous landmark and historically significant cases that have forever fashioned the judicial landscape and history—including McCullough v. Virginia, Cohens v. Virginia, Stuart v. Laird, Dartmouth College v. Woodward, and Gibbons v. Ogden, just to name a few. These cases are still cited today by our Federal courts and State courts to interpret the Constitution. It is important to recognize that establishing significant legal doctrines and relevant constitutional interpretations.

Furthermore, I put a provision in this bill to ensure that there is no net
cost to the Federal Government in minting this coin. This provision is important, especially in a time when many are concerned about controlling deficit spending and making sure Congress does not unduly burden the American people with unnecessary debt.

Never in the history of this country has a coin been minted focusing on the history of the Supreme Court or on its profound influence on our constitutional form of government. Unless citizens have some form of legal training or a scholarly interest, the Supreme Court and our Federal courts are usually the least understood of the three branches of the government. Yet what it does has an impact, both direct and indirect, on the rights of every citizen.

The Chief Justice John Marshall Commemorative Coin Act has the support of every sitting Justice on the Supreme Court of the United States. It is likewise supported by the Citizens Commemorative Coin Advisory Committee and the former Solicitors General across party lines.

I encourage my colleagues to support this bill today. As the Senate President pro tempore, I am confident this bill will benefit the entire country and as it will help preserve and protect the history of the Supreme Court of the United States.

Mr. LEAHY. Mr. President, I am pleased that the Senate has passed the John Marshall Commemorative Coin Act, S. 1531. As an original cosponsor of the John Marshall Commemorative Coin Act, I have strongly worked with Senator HATCH to do all that we possibly can to speedily pass it into law.

This bill authorizes the Treasury Department to mint and issue coins in honor of Chief Justice John Marshall in the year 2005. Funds raised by sale of the coin will support the Supreme Court Historical Society. Sales of the coin also cover all of the costs of minting and issuing these coins, so that the American taxpayer is not bearing any cost whatsoever of this commemoration.

That sales of a coin that bears the likeness of Chief Justice Marshall will be used to support the Supreme Court Historical Society is fitting. The society is a nonprofit organization whose purpose is to preserve and disseminate the history of the Supreme Court of the United States. Founded by Chief Justice Warren Burger, the society’s mission is to provide information and historical research on our Nation’s highest court. The society accomplishes this mission by conducting programs, publishing books, supporting historical research and collecting antiques and artifacts related to the Court’s history. John Marshall is known as “the great Chief Justice” of the Supreme Court.

In our successful efforts to garner support for the bill, we gained over 75 cosponsors in the U.S. Senate. Given the noble cause, it was not a hard sell. Yet, the sheer numbers of bipartisan supporters are a fitting tribute to the Great Chief Justice John Marshall. We are happy to assist a worthwhile organization like the Supreme Court Historical Society.

I thank all the Senators who supported this bill—too numerous to name—especially for having supported the Supreme Court Historical Society for its dedication to this important cause.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill 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 bill (S. 1531) was read the third time and passed, as follows: Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that:

SECTION 1. SHORT TITLE. This Act may be cited as the “Chief Justice John Marshall Commemorative Coin Act”.

SEC. 2. FINDINGS. Congress finds that—

(1) John Marshall served as the Chief Justice of the Supreme Court of the United States from 1801 to 1835, the longest tenure of any Chief Justice in the Nation’s history;

(2) Under Marshall’s leadership, the Supreme Court developed the fundamental principles of constitutional interpretation, including judicial review, and affirmed national supremacy, both of which served to secure the newly founded United States against dissolution; and

(3) John Marshall’s service to the nascent United States, not only as Chief Justice, but also as a soldier in the Revolutionary War, as a member of the Virginia Congress and the United States Congress, and as Secretary of State, makes him one of the most important figures in the history of our Nation.

SEC. 3. COIN SPECIFICATIONS.

(a) DESIGN OF COINS.—The design of the coins minted under this Act shall be emblematic of Chief Justice John Marshall and his contributions to the United States.

(b) ISSUANCE OF COINS.—On each coin minted under this Act, there shall be—

(A) a design of the value of the coin; and

(B) an inscription of the year “2005”;

and (C) inscriptions of the words “Liberty”, “In God We Trust”, “United States of America”, and “E Pluribus Unum”.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Commission of Fine Arts, the Chief Justice John Marshall Historical Society; and

(2) reviewed by the Citizens Coinage Advisory Committee.

SEC. 4. ISSUE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only one facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins under this Act beginning on January 1, 2005.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after December 31, 2005.

SEC. 5. ISSUE OF COINS.

(a) SALE PRICE.—The coins minted under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins; and

(2) the surcharge provided in section 7 with respect to such coins; and

(3) the cost of designing and issuing the coins, including labor, use of machinery, overhead expenses, marketing, and shipping.

(b) BULK SALES.—The Secretary shall make bulk sales of the coins minted under this Act at a reasonable discount.

(c) PREPAID ORDERS.—(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to pre-paid orders under paragraph (1) shall be at a reasonable discount.

SEC. 6. SALE OF COINS.

(a) SALE.—All sales of coins minted under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Supreme Court Historical Society for the purposes of—

(1) historical research about the Supreme Court and the Constitution of the United States and related topics;

(2) supporting fellowship programs, internships, and docents at the Supreme Court; and

(3) collecting and preserving antiques, artifacts, and other historical items related to the Supreme Court and the Constitution of the United States and related topics.

(c) AUDITS.—The Supreme Court Historical Society shall be subject to the audit requirements of section 5134(f) of title 31, United States Code, with regard to the amounts received by the Society under subsection (b).

SEC. 7. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 3(a) shall result in no net cost to the Federal Government.

(b) PAYMENT FOR THE COINS.—The Secretary may not sell a coin referred to in section 3(a) unless the Secretary has—

(1) full payment for the coin; and

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) assurance of full payment satisfactory to the Secretary from a depositories institution, the deposits of which are insured
AWARDING A CONGRESSIONAL GOLD MEDAL TO DR. DOROTHY HEIGHT

Mr. FRIST. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 1821, and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1821) to award a Congressional Gold Medal to Dr. Dorothy Height in recognition of her many contributions to the Nation.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the bill 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 bill (H.R. 1821) was read the third time and passed.

ENVIRONMENTAL POLICY AND CONFLICT RESOLUTION ADVANCEMENT ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 421, which is at the desk.

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

The legislative clerk read as follows:

A bill (H.R. 421) to reauthorize the United States Institute for Environmental Conflict Resolution, and for other purposes.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the bill 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 bill (H.R. 421) was read the third time and passed.

SOUTHERN UTE AND COLORADO INTERGOVERNMENTAL AGREEMENT IMPLEMENTATION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 401, S. 551.

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

The legislative clerk read as follows:

A bill (S. 551) 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.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with an amendment.

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

S. 551

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 “Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress, after review and in recognition of the purposes and uniqueness of the Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado, finds that—

(1) the Intergovernmental Agreement is consistent with the special legal relationship between Federal Government and the Tribe;

(2) the establishment of a Southern Ute Indian Tribe/State of Colorado Environmental Commission, or the National Credit Union Administration Board.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the bill 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 bill (H.R. 421) was read the third time and passed.

SEC. 5. CIVIL ENFORCEMENT.

(a) IN GENERAL.—If any person fails to comply with a final civil order of the Tribe or the Commission made in accordance with a program under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other air quality program established under the Intergovernmental Agreement, the Tribe or the Commission, as appropriate, may bring a civil action for declaratory or injunctive relief, or for other orders in aid of enforcement, in the United States Court District Court for the District of Colorado.

(b) EFFECT ON RIGHTS OR AUTHORITY.—Nothing in this Act alters, amends, or modifies any right or authority of any person (as defined in section 302(e) of the Clean Air Act (42 U.S.C. 7603)) to bring a civil action under section 304 of the Clean Air Act (42 U.S.C. 7603).

SEC. 6. JUDICIAL REVIEW.

Any decision by the Commission that would be subject to appellate review if it were made by the Administrator—

(1) shall be subject to appellate review by the United States Court of Appeals for the Tenth Circuit; and

(2) may be reviewed by the Court of Appeals applying the same standard that would be applicable to a decision of the Administrator.

SEC. 7. DISCLAIMER.

Nothing in this Act—

(a) modifies any provision of the Clean Air Act (42 U.S.C. 7401 et seq.);

(b) Public Law 98-290 (25 U.S.C. 668 note); or

(c) any lawful administrative rule promulgated in accordance with those statutes; or

(2) affects or influences in any manner any past or prospective judicial interpretation or application of those statutes by the United States, the Tribe, the State, or any Federal, tribal, or state court.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill, as amended, be read a third time and passed, 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 committee amendment was agreed to.

The bill (S. 551), as amended, was read the third time and passed, as follows:

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 “Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress, after review and in recognition of the purposes and uniqueness of the Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado, finds that—
(1) the Intergovernmental Agreement is consistent with the special legal relationship between Federal Government and the Tribe; and
(2) air quality programs developed in accordance with the Intergovernmental Agreement and submitted by the Tribe for approval by the Administrator may be implemented in a manner that is consistent with the Clean Air Act (42 U.S.C. 7401 et seq.) and other air quality programs developed in accordance with the Intergovernmental Agreement that provide—
(1) the regulation of air quality within the exterior boundaries of the Reservation; and
(2) the establishment of a Southern Ute Indian Tribe/State of Colorado Environmental Commission.

SEC. 3. DEFINITIONS.
In this Act:
(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.
(2) COMMISION.—The term "Commission" means the Southern Ute Indian Tribe/State of Colorado Environmental Commission established by the State and the Tribe in accordance with the Intergovernmental Agreement.
(3) INTERGOVERNMENTAL AGREEMENT.—The term "Intergovernmental Agreement" means the agreement entered into by the Tribe and the State of Colorado on December 13, 1999.
(4) RESERVATION.—The term "Reservation" means the Southern Ute Indian Reservation.
(5) STATE.—The term "State" means the State of Colorado.
(6) TRIBE.—The term "Tribe" means the Southern Ute Indian Tribe.

SEC. 4. TRIBAL AUTHORITY.
(a) AIR PROGRAM APPLICATIONS.—
(1) IN GENERAL.—The Administrator is authorized to treat the Tribe as a State for the purpose of any air program applications submitted to the Administrator by the Tribe under section 301(d) of the Clean Air Act (42 U.S.C. 7601(d)) to carry out an appropriate administrative action to withdraw treatment of the Tribe as a State for the purpose described in subsection (a)(1).
(b) APPLICABILITY.—If the Administrator approves an air program application of the Tribe, the approved program shall be applicable to the Tribe within the exterior boundaries of the Reservation.
(c) TERMINATION.—If the Tribe or the State terminates the Intergovernmental Agreement, the Tribe shall promptly take appropriate administrative action to withdraw treatment of the Tribe as a State for the purpose described in subsection (a)(1).

SEC. 5. CIVIL ENFORCEMENT
(a) IN GENERAL.—If any person fails to comply with a final civil order of the Tribe or the Commission made in accordance with the Clean Air Act (42 U.S.C. 7401 et seq.) or any other air quality program established under the Intergovernmental Agreement, the Tribe or the Commission, as appropriate, may bring a civil action for declaratory or injunctive relief, or for other orders in aid of enforcement, in the United States District Court for the District of Colorado.
(b) NO EFFECT ON RIGHTS OR AUTHORITY.—Nothing in this Act alters, amends, or modifies any right or authority of any person (as defined in section 302(e) of the Clean Air Act (42 U.S.C. 7602(e))) to bring a civil action under section 304 of the Clean Air Act (42 U.S.C. 7603).

SEC. 6. JUDICIAL REVIEW
Any issue pertaining to the Commission that would be subject to appellate review if it were made by the Administrator—

SEC. 7. DISCLAIMER.
Nothing in this Act—
(1) modifies or provides for—
(A) the Clean Air Act (42 U.S.C. 7401 et seq.);
(B) Public Law 96–230 (25 U.S.C. 668 note); or
(C) any lawful administrative rule promulgated in accordance with those statutes or rules;
(2) affects or influences in any manner any past or prospective interpretation or application of those statutes by the United States, the Tribe, the State, or any Federal, tribal, or State court.

DISASTER AREA HEALTH AND ENVIRONMENTAL MONITORING ACT OF 2003
Mr. FRIST. I ask unanimous consent to strike all after the enacting clause and insert the part shown in black brackets and insert the part shown in italic brackets and insert the part shown in brackets and insert the part shown in brackets and insert the part shown in brackets and insert the part shown in brackets.

S. 1279
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 "Disaster Area Health and Environmental Monitoring Act of 2003".

SECTION 2. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is amended by inserting after section 408 (42 U.S.C. 5174) the following:

SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

(a) DEFINITIONS.—In this section:

(i) INDIVIDUAL.—The term 'individual' includes—

(A) a worker or volunteer who responds to a disaster, including—

(i) a police officer; and

(ii) any other relief or rescue worker or volunteer that the President determines to be appropriate;

(B) a worker who responds to a disaster by assisting in the cleanup or restoration of the critical infrastructure in and around a disaster area;

(C) a person whose place of residence is in a disaster area;

(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area; and

(E) any other person that the President determines to be appropriate.

(ii) PROGRAM.—The term 'program' means a program described in subsection (b) that is carried out for a disaster area.

(iii) SUBSTANCE OF CONCERN.—The term 'substance of concern' means any chemical or physical agent that may have acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster.

(b) PROGRAM.
(1) IN GENERAL.—If the President determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area under this Act, the President may carry out a program for the protection, assessment, monitoring, and study of the health and safety of individuals to ensure that—

(A) the individuals are adequately informed about and protected against potential health impacts of the substance of concern and potential mental health impacts in a timely manner;

(B) the individuals are monitored and studied over time, including through baseline and follow-up clinical health examinations, for—

(i) any short- and long-term health impacts of any substance of concern; and

(ii) any mental health impacts;

(C) the individuals receive health care referrals as needed and appropriate; and

(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

(2) ACTIVITIES.—A program under paragraph (1) may include the following activities as the President determines to be practicable, a program under paragraph (1) shall be established, and activities under the program shall be commenced (including baseline health examinations), in a timely manner that will ensure the highest level of public health protection and effective monitoring:

(A) collecting and analyzing environmental exposure data;

(B) developing and disseminating information and educational materials;

(C) performing baseline and follow-up clinical health and mental health examinations and taking biological samples;

(D) establishing and maintaining an exposure registry;

(E) studying the long-term human health impacts of any exposures through epidemiological and other studies; and

(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

(c) TIMELINESS.—To the extent practicable, a program under paragraph (1) shall be established, and activities under the program shall be commenced (including baseline health examinations), in a timely manner that will ensure the highest level of public health protection and effective monitoring.
SEC. 3. BLUE RIBBON PANEL ON DISASTER AREA HEALTH PROTECTION AND MONITORING.

(a) Establishment.—Not later than 60 days after the date of enactment of this section, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall jointly establish a Blue Ribbon Panel on Disaster Area Health Protection and Monitoring (referred to in this section as the “Panel”).

(b) Membership.—

(1) In general.—The Panel shall be composed of—

(A) 15 voting members, to be appointed by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency in accordance with paragraph (2); and

(B) other officers or employees of the Department of Health and Human Services, the Department of Homeland Security, the Environmental Protection Agency, and other Federal agencies, as appropriate, to be appointed by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency or their designees.

(2) Background and expertise.—The voting members of the Panel shall be individuals who—

(A) are not officers or employees of the Federal Government; and

(B) have expertise in—

(i) environmental health, safety, and medicine;

(ii) occupational health, safety, and medicine;

(iii) clinical medicine, including pediatrics;

(iv) toxicology;

(v) epidemiology;

(vi) mental health;

(vii) medical monitoring and surveillance;

(viii) environmental monitoring and surveillance; and

(ix) environmental and industrial hygiene.

(3) Members.—

(A) In general.—The Panel shall be comprised of 15 voting members, to be appointed by the President, including—

(i) Federal, State, and local government agencies;

(ii) labor organizations;

(iii) local residents, businesses, and schools (including parents and teachers);

(iv) other organizations and persons; and

(v) committees.

(B) Committees.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee, as appropriate, including representatives of—

(i) Federal, State, and local government agencies;

(ii) labor organizations;

(iii) local residents, businesses, and schools (including parents and teachers);

(iv) other organizations and persons; and

(v) committees.

(c) Reports.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress a report on programs and studies carried out under the program.

SEC. 4. INFORMATION FROM FEDERAL AGENCIES.

(a) In General.—The Panel may secure directly from any Federal department or agency such information as the Panel considers necessary to carry out this section.

(b) Furnishing of Information.—On request of the Panel, the head of the department or agency shall furnish the information to the Panel.

(c) Postal Services.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Personnel.—

(1) Travel expenses.—The members of the Panel shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(2) Voluntary and uncompensated services.—The Panel shall not receive compensation for the performance of services for the Panel, but shall be allowed travel expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(e) Staff, Information, and Other Assistance.—The Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall provide to the Panel such staff, information, and other assistance as may be necessary to carry out the duties of the Panel.

(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(g) Termination of Authority.—This section shall expire upon the termination of the Panel.

(h) Definitions.—In this section—

(1) individual.—The term ‘individual’ includes—

(A) a worker or volunteer who responds to a disaster, including—

(i) a police officer;

(ii) a firefighter;

(iii) an emergency medical technician;

(iv) any participating member of an urban search and rescue team; and

(v) any other relief or rescue worker or volunteer that the President determines to be appropriate.

(B) a worker who responds to a disaster by providing in the cleanup or restoration of critical infrastructure in and around a disaster area.

(C) a person whose place of residence is in a disaster area.

(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area; and

(E) a volunteer that the President determines to be appropriate.
“(E) any other person that the President determines to be appropriate.

(2) PROGRAM.—The term ‘program’ means a program described in subsection (b) that is carried out in a disaster area.

(3) SUBSTANCE OF CONCERN.—The term ‘substance of concern’ means a chemical or other substance associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President.

(4) ACTIVITIES.—A program under paragraph (1) may include—

(A) collecting and analyzing environmental exposure data;

(B) developing and disseminating information and educational materials;

(C) performing baseline and followup clinical health and mental health examinations and taking clinical and biological samples;

(D) establishing and maintaining an exposure registry;

(E) studying the short- and long-term human health impacts of any substance of concern and potential mental health impacts in a timely manner;

(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

(3) TIMING.—To the maximum extent practicable, activities under any program established under paragraph (2) (including baseline health examinations) shall be commenced in a timely manner that will ensure the highest level of public health protection and effective monitoring.

(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

(A) IN GENERAL.—Participation in any registry or study that is part of a program under paragraph (1) shall be voluntary.

(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

(5) COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—The President may carry out a program under paragraph (1) through a cooperative agreement with a medical institution or a consortium of medical institutions.

(B) SUBMISSION.—To the maximum extent practicable, the President shall select to carry out a program under paragraph (1) a medical institution or a consortium of medical institutions that—

(i) is located near—

(1) the disaster area with respect to which the program is carried out; and

(2) any other area in which there reside groups of individuals that worked or volunteered during the disaster;

(ii) has appropriate experience in the areas of environmental or occupational health, toxicology, and safety, including experience in—

(1) safety of any clinical protocols and conducting clinical health examinations, including mental health assessments;

(ii) conducting long-term health monitoring and epidemiological studies;

(III) conducting long-term health studies; and

(IV) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

(6) INVOLVEMENT.—

(A) IN GENERAL.—In establishing and maintaining a program under paragraph (1), the President shall involve interested and affected parties, as appropriate, including representatives of—

(i) Federal, State, and local government agencies;

(ii) groups of individuals that worked or volunteered in response to the disaster in the disaster area;

(iii) local residents, businesses, and schools (including students and teachers);

(iv) health care providers; and

(v) other organizations and persons.

(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

(7) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(2), shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress a report on programs and studies carried out under the program.

SEC. 3. NATIONAL ACADEMY OF SCIENCES REPORT ON DISASTER AREA HEALTH AND ENVIRONMENTAL PROTECTION AND MONITORING.

(A) IN GENERAL.—The Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, by agreement of appropriate committees of Congress, shall carry out a study to determine policies and practices to mitigate and measure the health impacts of any substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, including a terrorist attack; and

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Mr. FRIST. I ask unanimous consent that the Inhofe amendment at the desk be agreed to; the committee substitute amendment, as amended, be agreed to; the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD. Without objection, it is so ordered.

The amendment (No. 2210) was agreed to, as follows:

(Purpose: To require that health and safety programs be carried out in accordance with certain privacy regulations)

On page 19, line 16, insert “, including a local health department,” after “institution.”

On page 21, between lines 18 and 19, insert the following:

“(7) PRIVACY.—The President shall carry out each program under paragraph (1) in accordance with regulations relating to privacy promulgated under section 201(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note; Public Law 104-191).

At the end, add the following:

SEC. 4. PREDISASTER HAZARD MITIGATION.

Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5153(m)) is amended by striking “December 31, 2003” and inserting “September 30, 2006.”

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

The bill (S. 1279), as amended, was read the third time and passed, as follows:

S. 1279

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

TITLE 1. SHORT TITLE. This Act may be cited as the “Disaster Area Health and Environmental Monitoring Act of 2003.”

SEC. 2. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA. Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is
amended by inserting after section 408 (42 U.S.C. 5174) the following:

SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

"(a) Definitions.—In this section:

"(1) INDIVIDUAL.—The term 'individual' includes—

"(A) a worker or volunteer who responds to a disaster, including—

"(i) a police officer;

"(ii) a firefighter;

"(iii) an emergency medical technician;

"(iv) any participating member of an urban search and rescue team; and

"(v) any other worker or volunteer that the President determines to be appropriate;

"(B) a worker who responds to a disaster by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

"(C) a person whose place of residence is in a disaster area;

"(D) a person who is employed in or attends a school, child care, or adult day care in a building located in a disaster area; and

"(E) any other person that the President determines to be appropriate.

"(2) PROGRAM.—The term 'program' means a program described in subsection (b) that is carried out for a disaster area.

"(3) SUBSTANCE OF CONCERN.—The term 'substance of concern' means a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President.

"(4) SPECIFIC ACTIVITIES.—The term 'specific activities' means the activities described in subparagraph (B) that is carried out for a disaster area.

SEC. 409A. PROGRAMS TO PROTECT THE PUBLIC FROM DISASTER-RELATED EXPOSURES AND TO ASSESS AND MITIGATE DISASTER-RELATED HEALTH EFFECTS.

"(a) In general.—The Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall jointly enter into a contract with the National Academy of Sciences to conduct a study and prepare a report on disaster area health and environmental protection and monitoring.

"(b) EXPERTISE.—The report under subsection (a) shall be prepared with the participation of individuals who have expertise in—

"(1) environmental health, safety, and medicine;

"(2) occupational health, safety, and medicine;

"(3) clinical medicine, including pediatrics;

"(4) toxicology;

"(5) epidemiology;

"(6) mental health;

"(7) medical monitoring and surveillance;

"(8) environmental monitoring and surveillance;

"(9) environmental and industrial hygiene;

"(10) emergency planning and preparedness;

"(11) public outreach and education;

"(12) State and local health departments;

"(13) State and local environmental protection agencies;

"(14) functions of workers that respond to disasters, including first responders; and

"(15) public health and family services.

"(c) C ONTENTS.—The report under subsection (a) shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or other substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

"(1) the establishment of protocols for the monitoring of and response to chemical or substance releases in a disaster area for the purpose of protecting public health and safety, including—

"(A) chemicals or other substances for which samples should be collected in the event of a disaster, including a terrorist attack;

"(B) chemicals or substance-specific methods of sample collection, including sampling methodologies and locations;

"(C) chemical- or substance-specific methods of sample analysis;

"(D) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or other substances;

"(E) procedures for providing monitoring results to—

"(i) appropriate Federal, State, and local government agencies;

"(ii) appropriate emergency response personnel; and

"(iii) the public;

"(F) responsibilities of Federal, State and local agencies for—

"(i) collecting and analyzing samples;

"(ii) reporting results; and

"(iii) taking appropriate response actions; and

"(G) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

"(2) other issues as specified by the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Administrator of the Environmental Protection Agency.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.
SEC. 4. PREDISASTER HAZARD MITIGATION.

Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking "December 31, 2003" and inserting "September 30, 2006".

NATIONAL TRANSPORTATION SAFETY BOARD REAUTHORIZATION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 112, S. 579.

The PRESIDING OFFICER. The clerk is directed to print S. 579.

The legislative clerk read as follows:

A bill (S. 579) to reauthorize the National Transportation Safety Board, and for other purposes.

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

Mr. MCCAIN. Mr. President, I am pleased that the Senate is now considering S. 579, the National Transportation Safety Board Reauthorization Act of 2003. This bill was introduced by Senators HOLLINGS, LOTT, HUTCHISON, ROCKEFELLER and myself, and it was unanimously adopted by the Senate Committee on Commerce, Science, and Transportation on March 22, 2003.

Each year, the National Transportation Safety Board, NTSB, investigates more than 2,000 transportation accidents and events, including all fatal aviation accidents, and hundreds of railroad, highway, maritime, and pipeline transportation accidents. The NTSB also conducts safety studies, and evaluates the effectiveness of other government agencies' programs for preventing transportation accidents. Most importantly, the NTSB makes safety recommendations, based on its investigations, to federal, state and local government agencies and to the transportation industry regarding actions that should be taken to prevent accidents.

This legislation would authorize appropriations for the NTSB for fiscal years 2003 through 2006. It also would allow the NTSB to relinquish responsibility for providing assistance to families of victims of accidents to the FBI if it takes over the investigation, and give the NTSB expedited procurement procedures to aid in accident investigations.

The bill is being proposed along with an amendment that incorporates provisions from the House-passed version of its NTSB reauthorization bill, H.R. 1527. The amendment was developed in cooperation with the House Transportation and Infrastructure Committee. Among other things, it includes a provision that would require the Secretary of Transportation to submit annual status reports on the Department's progress in meeting the safety recommendations stemming from the NTSB's accident list.

The NTSB's safety investigations and the resulting recommendations play a vital role in ensuring the safe and efficient operation of our nation's transportation system. It is my understanding that the NTSB supports this legislation.

I urge the Senate to pass this important legislation so the House of Representatives will consider it before they adjourn for the year.

Mr. FRIST. I ask unanimous consent that the McCain-Hollings amendment at the desk be agreed to; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table on bloc, and any statements be printed in the RECORD.

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

The amendment (No. 2211) was agreed to, as follows:

(Purpose: To add provisions relating to accident and safety data classification and publication from H.R. 1527, as passed by the House of Representatives, and for other purposes)

On page 2, line 15, strike "$3,000,000." and insert "$4,000,000.".

On page 3, line 6, strike "paragraph" and insert "subsection".

On page 3, line 16, strike the closing quotation marks and the second period.

On page 3, line 17, strike "(c)" and insert "(d)".

On page 3, line 21, insert closing quotation marks and a period after the period.

SEC. 4. RELIEF FROM CONTRACTING REQUIREMENTS FOR INVESTIGATIONS SERVICES.

(a) In General.—From the date of enactment of this Act through September 30, 2006, the National Transportation Safety Board may enter into agreements or contracts under the authority of section 1131(b)(1)(B) of title 49, United States Code for investigations conducted under section 1131 of that title without regard to any other provision of law requiring competition if necessary to expedite the investigation.

(b) Report on Usage.—On February 1, 2006, the National Transportation Safety Board shall transmit a report to the House of Representatives, and the Senate Committee on Commerce, Science, and Transportation, and the Senate Committee on Governmental Affairs that—

(1) describes each contract for $25,000 or more executed by the Board to which the authority provided by subsection (a) was applied; and

(2) sets forth the rationale for dispensing with competition requirements with respect to such contract.

On page 5, strike lines 7 through 21, and insert the following:

SEC. 5. ACCIDENT AND SAFETY DATA CLASSIFICATION AND PUBLICATION.

Section 1131 of title 49, United States Code, is amended by adding at the end the following:

"(c) APPEALS.—

(1) NOTIFICATION OF RIGHTS.—In any case in which an employee of the Board determines that an occurrence associated with the operation of an aircraft constitutes an accident, the employees shall notify the owner or operator of that aircraft of the right to appeal that determination to the Board.

(2) PROCEDURE.—The Board shall establish and publish the procedures for appeals under this subsection.

(d) LIMITATION ON APPLICABILITY.—This subsection shall not apply in the case of an accident that results in a loss of life.".
days after the date on which that report is required to be submitted, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

The bill (S. 579), as amended, was read the third time and passed, as follows:

S. 579

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 “National Transportation Safety Board Reauthorization Act of 2003”.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEARS 2003-2006.—Section 1118(a) of title 49, United States Code, is amended—

(1) by striking “such sums to” and inserting the following: “$73,325,000 for fiscal year 2003, $78,757,000 for fiscal year 2004, $85,011,000 for fiscal year 2005, and $87,539,000 for fiscal year 2006. Such sums shall—”;

(b) EMERGENCY FUND.—Section 1118(b) of such title is amended by striking the second sentence and inserting the following: “In addition, there are authorized to be appropriated such sums as may be necessary to increase the fund to, and maintain the fund at, a level not to exceed $4,000,000.”;

(c) NTSB ACADEMY.—Section 1118 of such title is amended by adding at the end the following:

“(c) Academy.—”;

“(1) Authorize.—There are authorized to be appropriated to the Board for necessary expenses of the National Transportation Safety Board Academy, not otherwise provided for, $3,347,000 for fiscal year 2003, $4,896,000 for fiscal year 2004, $4,965,000 for fiscal year 2005, and $5,200,000 for fiscal year 2006. Such sums shall remain available until expended.”;

(2) Fees.—The Board may impose and collect such fees as it determines to be appropriate for services provided by or through the Academy.

(3) Receipts credited as offsetting collection.—Notwithstanding section 3302 of title 31, any fee collected under this subsection—

(A) shall be credited as offsetting collection; and

(B) may be utilized to pay the costs of activities and services for which the fee is imposed;

(3) Medical certifications for a commercial applicant—Each medical certification for a commercial applicant (as defined in subsection (a) of title 49, United States Code, is amended to read as follows:

“(A) medical certifications for an individual applicant—

“(1) to such contract.

(2) sets forth the rationale for dispensing with competition requirements with respect to such contract.

SEC. 5. ACCIDENT AND SAFETY DATA CLASSIFICATION AND PUBLICATION.

(a) Initial report.—Within 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the activities and operations of the National Transportation Safety Board Academy.

SEC. 3. ASSISTANCE TO FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) Relinquishment of Investigative Priority.—Notwithstanding section 3312 of title 49, United States Code, is amended by adding at the end the following:

“(j) Relinquishment of Investigative Priority.—

“(1) General rule.—This section (other than subsection (g)) shall not apply to an aircraft accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

“(2) Board assistance.—If this section does not apply because the Board has relinquished investigatory priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigatory priority in assisting families with respect to the accident.

(a) Revision of MOU.—Not later than 1 year after the date of enactment of this Act, the National Transportation Safety Board and the Federal Bureau of Investigation shall negotiate and enter into an agreement on the investigation of accidents to take into account the amendments made by this section and shall submit a copy of the revised agreement to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 4. RELIEF FROM CONTRACTING REQUIREMENTS FOR INVESTIGATIONS SERVICES.

(a) In general.—From the date of enactment of this Act through September 30, 2006, the National Transportation Safety Board may enter into agreements or contracts to the extent that section 1118(c)(2) of title 49, United States Code for investigations conducted under section 1131 of that title without regard to any other provision of law requiring competition if necessary to expedite the investigation.

(b) Report on Usage.—On February 1, 2006, the National Transportation Safety Board shall transmit a report to the Committee on Representatives of the House of Representatives concerning—

“(1) describes each contract for $25,000 or more executed by the Board to which the authority provided by subsection (a) was applied; and

(2) sets forth the rationale for dispensing with competition requirements with respect to such contract.

SEC. 6. SECRETARY OF TRANSPORTATION'S REQUIREMENT TO SUBMIT REPORTS TO CONGRESS ON CERTAIN OPEN SAFETY RECOMMENDATIONS.

(a) Initial report.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Congress on the National Transportation Safety Board containing the regulatory status of each open safety recommendation made by the Board to the Secretary concerning—

(1) 15-passenger van safety;

(2) railroad grade crossing safety; and

(3) medical certifications for a commercial driver's license.

(b) Biennial updates.—The Secretary shall continue to report on the regulatory status of each such recommendation (and any subsequent recommendation made by the Board to the Secretary concerning a matter described in paragraph (1), (2), or (3) of subsection (a)) at 5-year intervals until—

(1) final regulatory action has been taken on the recommendation;

(2) the Secretary determines, and states in the report, that no action should be taken on that recommendation; or

(3) the report, if any, required to be submitted in 2008 is submitted.

Failure To Submit.—If the Board has not received a report required to be submitted under subsection (a) or (b) within 30 days after the date on which the report is required to be submitted, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

AMERICAN JEWISH HISTORY MONTH

Mr. FRIST. I ask unanimous consent that the Judiciary Committee be discharged and the Senate proceed to the
immediate consideration of H. Con. Res. 106, American Jewish History Month.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 106) recognizing and honoring America’s Jewish community on the occasion of its 350th anniversary, supporting the designation of an “American Jewish History Month,” and for other purposes.

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

Mr. FRIST. 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 be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 106) was agreed to.

The preamble was agreed to.

DESIGNATING AMERICAN EDUCATION WEEK

Mr. FRIST. I ask unanimous consent that the Senate now proceed to consideration of S. Res. 272, submitted by Senator SNOWE earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 272) designating the week beginning November 16, 2003, as American Education Week.

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

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 272) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 272

Whereas schools are the backbone of democracy in the United States, providing young people with the tools necessary to maintain the precious values of freedom, civility, and equality;

Whereas, by equipping students with both practical skills and broader intellectual abilities, schools give young people in the United States hope for, and access to, a bright and productive future;

Whereas education employees, whether they provide educational, administrative, technical, or custodial services, work tirelessly to serve the children and communities of the United States with care and professionalism;

Whereas schools are the keystones of communities in the United States, bringing together adults and children, educators and volunteers, business leaders, and elected officials to form a common enterprise; and

Whereas public school educators first observed American Education Week in 1921 and are now celebrating the 82nd annual observance of American Education Week; Now, therefore, be it

Resolved, That the Senate-

(1) designates the week beginning November 16, 2003, as American Education Week; and

(2) recognizes the importance of public education and the contribution to our economy of the many education professionals who contribute to the achievement of students across the United States.

AUTHORIZING SALARY ADJUSTMENTS FOR JUSTICES AND JUDGES OF THE UNITED STATES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 371, H.R. 3349.

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

The legislative clerk read as follows:

A bill (H.R. 3349) to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004.

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

Mr. LEAHY. Mr. President, I am pleased that the Senate is taking up and passing legislation to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004.

As a member of both the Senate Judiciary Committee and the Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, I have worked hard to help preserve a fair and independent judiciary. I have repeatedly introduced and cosponsored legislation to give our Federal judges meaningful and significant pay raises. I have been disappointed that the Continuing Resolutions approved by Congress fail to give the Federal judiciary even a cost-of-living adjustment, COLA.

In 1975, Congress enacted the Executive Salary Cost-of-Living Adjustment Act, intended to give judges, Members of Congress, and other high ranking executive branch officials automatic COLAs as accorded other Federal employees unless rejected by Congress. In 1981, Congress enacted section 140 of Public Law 97-92, mandating specific congressional action to give COLAs to judges. During the 21 years of section 140’s existence, Congress has always acceded to the Federal judiciary coequal pursuit by suspending section 140 whenever Congress has granted to itself and other Federal employees a COLA. With the end of the last Congress, however, the continuing resolutions providing funding failed to suspend section 140, thus ensuring that no COLA would be provided for Federal judges during the current fiscal year, unless other action is taken.

In April of this year, I introduced legislation to respond to the shortfall in real judicial compensation, to repeal the link of judicial pay to congressional pay, to improve survivorship benefits, and to instill greater public confidence in our courts. This legisla-
CONGRESSIONAL RECORD — SENATE
November 21, 2003

NOMINATIONS
Executive nominations received by the Senate November 21, 2003:

DEPARTMENT OF DEFENSE


LEWIS A. POLEY, OF NEW YORK, TO BE FIRST VICE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2006. (REAPPOINTMENT.)

DEPARTMENT OF STATE

ANN M. COOKERLY, OF VIRGINIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES TO THE FIFTY-EIGHTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

BENJAMIN A. GILMAN, OF NEW YORK, TO BE A REPRESENTATIVE OF THE UNITED STATES TO THE FIFTY-EIGHTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

FRED E. MORTON, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A Term EXPIRING DECEMBER 17, 2005. (REAPPOINTMENT.)

LOCAL MATTERS

ADJOURNMENT UNTIL 10 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 10:28 p.m., adjourned until Saturday, November 22, 2003, at 10 a.m.

CATEGORIES OF BUSINESS

INVESTMENT CORPORATION FOR A Term EXPIRING DECEMBER 17, 2005. (REAPPOINTMENT.)

JAMES M. STROCK, OF CALIFORNIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

THE JUDICIARY

FRANKLIN S. VAN ANDERSEN, OF PENNSYLVANIA, TO BE A UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT. (REAPPOINTMENT.)

JAMES M. FOSTER, OF KENTUCKY, TO BE A UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT. (REAPPOINTMENT.)

THE CABINET

S. WILLIAM SCHLESINGER, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET. (REAPPOINTMENT.)

IN THE ARMED FORCES

DREW MCGIVERN, OF VIRGINIA, TO BE A DEPUTY CHIEF OF STAFF FOR THE COMMANDER-IN-CHIEF, PACIFIC. (REAPPOINTMENT.)

FREE TRADE AGREEMENTS

JOHN P. ROBERTSON, OF ILLINOIS, TO BE AN AMBASSADOR OF THE UNITED STATES ADVISORY COMMISSION ON THE NORTH AMERICAN FREE TRADE AGREEMENT. (REAPPOINTMENT.)

ORDERS FOR SATURDAY

NOVEMBER 22, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, adjourn until 10 a.m. Saturday, November 22. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved, and the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of the conference report to accompany H.R. 1, the Medicare Prescription Drug Modernization Act, as provided under the previous order.

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 9:39 p.m., recessed subject to the call of the Chair and reassembled at 10:26 p.m. when called to order by the Presiding Officer (Mr. ENSIGN).

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

The joint resolution (H.J. Res. 79) will be in order.

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

ADJOURNMENT UNTIL 10 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 10:28 p.m., adjourned until Saturday, November 22, 2003, at 10 a.m.

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

Mr. FRIST. Mr. President, I suggest unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. The clerk will 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.

PROGRAM

Mr. FRIST. Mr. President, tomorrow morning, the Senate will begin debate on the Medicare conference report. Senators who wish to make statements on this historic bill are encouraged to come to the floor during tomorrow’s session. In addition, I inform my colleagues that there will be no rollcall votes during tomorrow’s session. It is my hope that we will be able to schedule a vote on the conference report for Monday. I will continue to work with the Democratic leadership to reach an agreement for a final vote.

In addition, we will in all likelihood be in session on Sunday as well to continue the debate on Medicare. I will tomorrow make further announcements about Sunday.

Mr. FRIST. Mr. President, the Senate, I ask unanimous consent that the two leaders be in session on Sunday as well to continue the debate on Medicare. I will tomorrow make further announcements about Sunday.

ORDERS FOR SATURDAY

NOVEMBER 22, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, adjourn until 10 a.m. Saturday, November 22. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved, and the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of the conference report to accompany H.R. 1, the Medicare Prescription Drug Modernization Act, as provided under the previous order.

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

Mr. FRIST. Mr. President, I suggest unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—H. R. 1

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 79, that the resolution be read three times and passed; and that the motion to reconsider be laid upon the table.

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

CATEGORIES OF BUSINESS

INVESTMENT CORPORATION FOR A Term EXPiring DECEMBER 17, 2005. (REAPPOINTMENT.)

JAMES M. FOSTER, OF KENTUCKY, TO BE A UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT. (REAPPOINTMENT.)
WITHDRAWALS

Executive message transmitted by the President to the Senate on November 21, 2003, withdrawing from further Senate consideration the following nominations:

EXTENSIONS OF REMARKS

SENATOR ROBERT C. BYRD'S 86TH BIRTHDAY

HON. NICK J. RAHALL, II
OF WEST VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. RAHALL. Mr. Speaker, recently U.S. Senator Robert C. Byrd, D–W.Va., received the prestigious "Freedom from Fear" Medal from the Franklin and Eleanor Roosevelt Institute in Hyde Park, N.Y.

Shakespeare warned us, "men close their doors against a setting sun." But, in the extraordinary moments of human endeavor, when light of liberty dares to fade, often only a single soul stands to embrace its care—a soul who has stood vigil through the night armed with reason, buoyed by history and strengthened by vision. This award and Senator Byrd’s honor reflect his place in human history.

Today marks the 86th Birthday of West Virginia’s finest, Senator Robert C. Byrd. His personal life and his public service have consistently embraced the same principles: diligent work, constant improvement, unwavering commitment, unswerving honesty, and an overarching sense of history.

In his 86 years Senator Byrd has been a legislative craftsman, parliamentarian extraordinaire, skillful architect, master builder, visionary, dreamer, and doer. From teacher, scholar, mentor, leader, author, historian, and diplomat, Senator Byrd has borne many mantles throughout the years. But the one of which he is most proud, and perhaps cherishes the most, is that of being a West Virginian.

He has been a mentor to me, a pillar of strength for West Virginia, and a voice of reason for the Nation. After 86 years and five decades of service in Congress, his work is not yet done. The West Virginian of the Past Century is quickly forging a sterling legacy in the new one. And, as before, he is leading the way.

HONOR TO BOB BOWERS

HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I take this opportunity to pay tribute to the life of Bob Bowers who passed away recently at the age of 74. Bob was a pillar of the Alamosa, Colorado community, and as his family mourns their loss, I think it is appropriate that we remember his life and celebrate his contributions to our nation today.

Bob was born in Springfield, Massachusetts in 1929. As a young man, Bob answered our nation’s call to duty and joined the United States Air Force, where he served honorably before moving to Colorado. Bob served the state of Colorado for 25 years as a Health Inspector for the Colorado Department of Health. He married his wife Jo in 1948; they were married for 55 years.

Bob was very active in the Alamosa community. He was a volunteer for 4-H, the Boys and Girls Club, Share Colorado, the American Legion and the Alamosa Senior Citizens Center. Bob also served as a Boy Scout leader, where he passed along his outdoors skills, knowledge and morals to young people. Each year, Bob spent his winter holidays volunteering for charitable organizations throughout the San Luis Valley. Bob was truly dedicated to bettering the lives of the citizens of Alamosa and many people there are better off as the result of his contributions.

Mr. Speaker, the dedication and selflessness that Bob Bowers has shown is certainly worthy of recognition before this body of Congress. It is my privilege to pay tribute to him for his contributions to the State of Colorado and our nation. I would like to extend my thoughts and deepest sympathies to Bob’s family and friends during this difficult time.

TRIBUTE TO IRV KUPCINET— KNOWN TO MANY AS MR. CHICAGO

HON. DANNY K. DAVIS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. DAVIS of Illinois. Mr. Speaker, it was virtually impossible to live in Chicago and not be affected by Irv Kupcinet or Kup as he was fondly called. Kup knew everybody who had any public presence in Chicago and of course, knew powerful people and celebrities from around the world.

Kup was best known as a columnist for the Chicago Sun Times but was much more than a columnist, he was a communicator and used many mediums for that purpose. He had a television show, was a great emcee, was actively involved in civic, community, charitable and philanthropic activity. He was a fundraiser, a promoter, an icon in the business.

Kup had the ability to make use of not only himself; but he was also able to rely upon others in very serious and strategic ways as he did with his assistant for 34 years, Ms. Stella Foster.

Kup was a creative genius who could take a mere occurrence and turn it into a great and glorious event. He was very open, comfortable and at ease with practically any and everybody. Kup grew up on the westside of Chicago, which is the heart of my Congressional district. He learned to walk with kings and queens; but never lost the common touch, yes, all men and women did matter with him but none too much. Over the years, Kup’s column was distributed to more than 100 newspapers around the world. In 1982, he appeared in two movies and had a syndicated television program “The Tonight Show,” which ran from 1959 to 1986 and at one point was on 70 stations.

Kup never forgot the community of his birth, north Lawndale in Chicago which had some transitions and fell upon hard times. Kup was a star athlete, played football on a team with former president Gerald Ford and was drafted by the Philadelphia Eagles. Kup was many things to many people, but most of all he was husband and companion to his beloved wife Diane, father to his children, grandpa to his parents, brother to his siblings and friend to many.

TRIBUTE TO MRS. HELEN EVERS

HON. TAMMY BALDWIN
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Ms. BALDWIN. Mr. Speaker, I rise today to extend my congratulations to Mrs. Helen Eversen, who has been selected as Edgerton Rotary’s Honored Citizen of the Year. Helen and her husband, Harland Eversen, purchased the Edgerton Reporter, in 1951 and made the risky yet insightful decision to change from hot type to offset printing, the first paper in Wisconsin to do so. I rise today to pay tribute to a constituent whose life-long commitment to serving her community as an entrepreneur, philanthropist, and mother serves as a shining example to us all.

Helen was raised on a 5,000-acre sheep ranch in northwestern South Dakota and attended a two-room country school until her graduation. Helen’s professional experience began at Keating Buick where she quickly gained greater responsibility and expertise and eventually became the Secretary-Treasurer of the car dealership.

Helen’s life would change dramatically after she met and married Harland. The couple tackled the challenges of operating a growing and award-winning newspaper, in addition to raising a family. Harland and Helen’s daughters, Carol and Diane, are both accomplished women in their own right. Carol is an associate professor at the Medical College of Wisconsin and Diane is the publisher of the Edgerton Reporter and past president of the National Newspaper Association.

Diane describes her mother as a “heat seeking missile with boundless energy.” She is still a tireless advocate for civic development and the Edgerton community. Under her leadership of Edgerton’s annual Tobacco Heritage Days, the celebration grew in popularity and became profitable for the first time. For an
impressive 52 years, the Everson family has been the steward of one of the state’s only independent newspapers.

Mr. Speaker, I join the Edgerton Rotary and the Edgerton community in recognizing Helen Everson’s achievements and congratulate her as she accepts the Honored Citizen of the Year award.

IN RECOGNITION OF LEROY CARLSON

HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor LeRoy Carlson for his three decades of exemplary work with the United States Fish and Wildlife Service. LeRoy Carlson is one of Colorado’s outstanding field biologists, preserving and protecting the Rocky Mountain region’s wildlife.

Lee received his bachelor's degree from Colorado State University in Wildlife Biology and his master's degree in 1974 with an emphasis on the wildlife impacts from oil shale development. He began his career in Galveston, Texas as a field staff biologist for the U.S. Fish and Wildlife Service where he did permitting work for the Army Corps of Engineers on housing developments, leveys and wetlands.

After 2 years in Texas, Lee moved to the Lakewood, Colorado offices of the U.S. Fish and Wildlife Service where he worked for the next 27 years until his retirement in 2003. His innovative approaches to a wide range of issues enabled him to provide oversight and protection to the region’s threatened and endangered species and to guide many of the region’s largest projects to successful completion.

Lee’s ability to coordinate the protection of wildlife was most evident on large Federal projects, such as the Animas-LaPlata water project in Southwest Colorado. He earned the respect of all involved during his 3-year oversight of negotiations between the Bureau of Reclamation, the regional Native American tribes, local water users and regional environmental groups. From these contentious discussions, the San Juan Recovery Program was created, which provided significant mitigation for fish and wildlife resources and included an additional 7 years of research on listed fish.

His experience and problem solving attitude in managing complex water projects led to the success of the agency water permits on projects throughout the Roosevelt and Arapahoe National Forests. Lee also provided skilled leadership on the Platte River Program for endangered species conservation, involving multiple States and Federal agencies. The Platte River Program included a unique approach to conserving listed wildlife species through the conversion of water use to financial contributions paid by project developers.

When the Colorado Department of Transportation (CDOT) needed a new way to address U.S. Fish and Wildlife Service endangered species concerns, Lee developed an innovative solution that included staffing within CDOT to help that agency evaluate the impacts on wildlife so that the needs of CDOT could be met in a timely manner. His plan became a model for future projects and allowed CDOT to determine project impacts for the next 20 years and develop mitigation plans. The Short Grass Prairie Project received two national awards for the creative approaches Lee used with State and Federal agencies. This became the Colorado model for the Preibles Project in the East Plum Creek area, protecting the Preibles Meadow Jumping Mouse, a rare species that was placed on the Endangered Species list in 1998.

Lee’s service and achievements show how a skilled public servant can make important contributions to the quality of our natural environment, as well as wildlife. I ask my colleagues to join me in thanking LeRoy Carlson for his far-reaching accomplishments and his commitment to the protection of our wildlife resources. I wish him good health and happiness in the future.

TRIBUTE TO TOMMY THOMPSON

HON. SCOTT MCINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a man who has done a great deal for the betterment of the State of Colorado. Tommy Thompson is a Sergeant At Arms in the Colorado State Legislature. At the age of 80, Tommy is the oldest person working in Colorado’s State Capitol. However, he is also one of the most energetic and one of the most beloved. I am proud to call Tommy’s contributions to the attention of my colleagues and our nation here today.

Tommy was serving as Vice-Chairman of the Arapahoe County Republican party when he was appointed as Sergeant At Arms in the Colorado State Legislature. At the age of 80, Tommy is the oldest person working in Colorado’s State Capitol. However, he is also one of the most energetic and one of the most beloved. I am proud to call Tommy’s contributions to the attention of my colleagues and our nation here today.

Tommy was serving as Vice-Chairman of the Arapahoe County Republican party when he was appointed as Sergeant At Arms in 1997. Tommy loves his job and comes to work each day with a smile. That smile, and Tommy’s friendly demeanor, remain with him throughout the day. Tommy has many friends throughout the Capitol and he gets along fantastically with members from both sides of the aisle. Nearly everyone who has worked in the Capitol has fond memories of times spent with Tommy.

Tommy’s contributions to our nation reach far beyond the steps of Colorado’s state Capitol. In World War II, Tommy answered our country’s call to duty and served honorably aboard the USS Mount Vernon for over three years. Following the war, Tommy went to work for Ford Motor Company, and then opened a bicycle repair shop. He is still active in the Republican Forum, in addition to his work at the state Capitol. At the age of 80, Tommy Thompson has never slowed his pace, and he has no plans to do so now.

Mr. Speaker, it is my honor to rise and pay tribute to Tommy Thompson before this body of Congress and our nation. Tommy has dedicated many years to assuring that Colorado’s government runs efficiently. Tommy has touched the lives of many Coloradans, and it is my honor to pay tribute to his contributions here today. Thanks for your service, Tommy.

TRIBUTE TO MR. JOHN DONOVAN, EXECUTIVE DIRECTOR CHICAGO COALITION FOR THE HOMELESS

HON. DANNY K. DAVIS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. DAVIS of Illinois. Mr. Speaker, the poet Robert Frost is quoted as writing, “Some people see things that are and ask why, I dream of things that have never been and ask why.” Such was the life philosophy and such was the work of John Donovan, known to his friends as Juancho.

John was a former Catholic priest who found his niche in organizing, working with and working for people in our world known as being poor. He worked in Panama, in the Rogers Park and Uptown communities of Chicago before becoming executive director of the coalition to end homelessness. He also worked as a priest, administrator and teacher at Chicago’s Visitation High School. He was educated with a bachelor and masters degrees from Saint Mary of the Lake University in Mundelein.

John was the recipient of many awards and honors and was featured in Studs “Terkel’s Hope Dies Last.” In an interview with Studs, John said: “Some people who are better off have the luxury of losing hope. But poor people never lose hope. They can’t afford to. That’s the only thing they can hold on to, and that’s where hope springs eternal.” Some people say, “How can you continue to work with the homeless and the poor?” That’s where I get my energy because they never lose hope.” “I’m not practicing as a priest, but my ministry, remember is organizing. My job is organizing hope. There are people in the community who still have hope. That’s the last thing they lose. I’m organizing hope for change.”

John Donovan, a man of hope, a force for change. May he rest in peace. I extend condolences to John’s wife, their children, and other members of John’s family.

CHAPTER 12 BANKRUPTCY EXTENSION BILL

HON. TAMMY BALDWIN
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Ms. BALDWIN. Mr. Speaker, today I am once again introducing legislation to extend authorization of Chapter 12 bankruptcy code. This legislation should not be necessary, but a permanent Chapter 12 authorization remains a hostage to more comprehensive bankruptcy law changes.

Chapter 12 provides an important backstop for our Nation’s struggling family farmers by allowing them to reorganize their debts and keep their farms. It provides an important bankruptcy option to farm families to keep their livelihood and maintain their way of life.

This bill provides a textbook example that what we do here in Washington directly affects the lives of real people facing real financial challenges.

In Wisconsin recently, a Columbus farmer filed for Chapter 12 bankruptcy. He works
night and day to make his farm a success. Unfortunately, like many farmers, the weather and the market conspired to disrupt his cash flow. Filing Chapter 12 gave his family time to negotiate with his creditors, while he switched production from corn and soybeans to vegetable production and local market sales. He sells his produce at farmers markets in Madison and Princeton. And he is paying his debts. Under Chapter 12, it was not only the Columbus farmer that benefited. His creditors are receiving their money, the people in my district can purchase his bounty, and he can continue to support his farm.

Chapter 12 does not just provide a direct benefit to those using its protections. Many farmers who face possible bankruptcy never get to a court filing. The very existence of the option of a Chapter 12 filing promotes negotiations between farmers and creditors.

Chapter 12 bankruptcy protection expires at the end of 2003. Before we leave town for the year, Congress should renew this bankruptcy law. That is why I am introducing this bipartisan bill. That is why I am introducing this bipartisan bill today. I am pleased to be joined by my colleagues Nick Smith of Michigan and Tim Holden of Pennsylvania.

Once again, we are forced to approve a temporary extension of this vital protection. Since I was first elected to Congress 5 years ago, we have passed 8 temporary extensions. Making it necessary to revisit the permanent legislation is beyond overdue. In both this Congress and last Congress, I introduced legislation to modify Chapter 12 to include more family farmers and make it a permanent part of our bankruptcy law.

There is a broad consensus that Chapter 12 bankruptcy protection works well. It is for that reason that we have included a permanent authorization in the comprehensive bankruptcy reform bill for the past three Congresses. In fact, it is considered so popular that it has been held hostage to the bigger bill. Every time we come to the floor to extend Chapter 12, we are told that a permanent extension cannot be passed separately from the big bill because taking out popular items will slow the bill’s momentum. We were told we had to strip the permanent extension from last year’s farm bill because it would slow down the bankruptcy bill. We were told in June when we extended Chapter 12 again that we had to wait. Our farmers have been waiting for more than 5 years. It is time to just get this done. Let’s end the uncertainty these extensions cause by passing a permanent authorization.

In reluctant acknowledgment that passage of the permanent Chapter 12 legislation is unlikely this year, I am introducing this 6-month extension. In the absence of a permanent authorization, I would prefer even longer 6 months. This legislation is a realistic time period that can ensure passage in the few days we have left in this session.

Since the current authorization will expire at the end of the year, farmers will need the relief provided by this extension. As our family farmers begin to decide whether they can afford to plant next year, we need to make sure they have the ability to stay in farming by using Chapter 12 to reorganize their debts. This bill will provide the security family farmers need to make that difficult decision.

Mr. Speaker, I hope that you and the chairman of the Judiciary Committee move this bill before we adjourn for the year. Chapter 12 has expired before, leaving many farmers in great uncertainty. Let’s not let that happen again.

Mr. UDALL of Colorado. Mr. Speaker, I rise today in support of S. 1685, the Basic Pilot Extension Act of 2003.

The Basic Pilot Verification program was created in 1997 to assist employers in verifying the eligibility of prospective employees to work in the United States. Currently the program is available to employers in six states. Recently I voted against a bill to expand and extend the program, H.R. 2359. Because I thought an expansion of this program deserved more debate and an extension of the 2003 deadline would have allowed amendments to fix some of the most problematic parts of the bill.

The Senate-passed measure that we are considering today, S. 1685, is an improvement on the House bill. Unlike the House bill, this bill does not open up access to the databases of the Homeland Security Department and the Social Security Administration to other Federal agencies or to State and local government agencies. I had grave concerns about the infringement on civil liberties in the House bill, which would have permitted widespread sharing of employee information. I am also pleased that concerns already identified by the Department of Homeland Security about the Basic Pilot program are being addressed. I still have apprehensions that the data used in this program is not always up-to-date or accurate, specifically in regard to the visa status of employees. However, I am hopeful that the Homeland Security Department report required under this legislation will address these concerns so that they can be resolved before the time the program is expanded to all fifty states.

The Basic Pilot Verifications program provides an efficient and effective method for ensuring that employers are hiring eligible employees. I hope that through the extension and expansion provided for in this bill, this program will provide accurate information about prospective employees and continue to address the needs of American employers.

Mr. DAVIS of Illinois. Mr. Speaker, I rise to pay tribute to one of the most remarkable and most successful men that this country has produced, Mr. Silas Purnell, who is credited with assisting more than 50,000 students to gain acceptance to colleges and universities. Mr. Purnell was born on March 10, 1923, graduated from Wendell Phillips High School, received a degree from the Sheil Institute, attended Roosevelt and Northwestern Universities, Silas went to World War II, was a member of the famed Tuskegee Airmen, got married to his wife Marilyn in 1946, and they had five children, Rosalind, Silas, Rosalinda, Ronald, and Donna.

Mr. Purnell took a job and worked 13 years for the Coca Cola Bottling Company. It was during this period that he began helping students get into college. He went to the Ada S. McKinley Community Services Agency and established their education division. As director of this program Mr. Purnell hit stride and became one of the most knowledgeable persons in the country relative to the availability of grants, scholarships, special programs and opportunities for individuals who wanted to attend college.

Silas Purnell developed such a reputation that people from all over the country would consult with him about getting into school. By the time Mr. Purnell became ill and retired in the year 2000, it was partially documented and estimated on good authority that Silas Purnell had helped more than 50,000 individuals gain acceptance and receive some form of financial aid for college.

Mr. Speaker, there has never to my knowledge been a person to do more single-handedly to get individuals help with their educational pursuits. If I can help somebody as I pass along, if I can cheer somebody with a word or song, if I can steer somebody right who may be traveling wrong, then my living will not have been in vain.

I commend Mr. Silas Purnell for his passionate and effective work, extend condolences to his family, and urge passage of this resolution.

Mr. UDALL of Colorado. Mr. Speaker, I rise today in support of S. 1685, the Basic Pilot Extension Act of 2003.
children in the images were real-time victims of abuse. The Guardian has established that the demand for child porn through the use of file-sharing technology—normally associated with swapping music and movies—has grown so rapidly that law enforcement agencies are now employed in a global race to track down the children who are being abused. Some of the children, police believe, are being abused on a daily basis. To provide a constant supply of new computerised material.

Senior officers have revealed that the scale of peer-to-peer traffic in illegal images of children has soared almost to other paedophile network they have encountered. The images are generally more extreme and at least 20% of the users are in the police class category One, meaning that the suspect is of significant risk to children.

But resources available to police to tackle peer-to-peer child porn are limited and though they are catching some offenders, it may take months or even years to track down the location of some victims. In such cases, officers monitoring the images can only watch as the children grow older and continue to be abused.

Many of those addicted to child porn have flocked to peer-to-peer file sharing software such as Kazaa, Morpheus and Grokker because they are free so, crucially, users do not have to leave any credit card details, leading them to believe that they cannot be traced.

The explosion in file sharing, driven by the demand for music files, has also made the technology readily accessible, quick and easy by.

It has the attraction of not requiring the users to be part of a traditional organised paedophile ring using password-protected networks to distribute images; rather peer-to-peer technology allows them direct access into the hard drives of other paedophiles' computers with no third party or identity monitoring content as is the case with chat rooms and news groups.

Scotland Yard officers have told the Guardian that they stumbled across this phenomenon by accident during another inquiry and say they have been stunned by its exponential growth. They believe the phenomenon is more alarming than previous international inquiries, such as the high-profile Operation Ore.

The Met's child protection hi-tech crime unit has already built a list of 800 suspects involved in exchanging illegal images in the UK alone. While most are involved only in sharing or downloading the images, a significant proportion are active abusers producing the images themselves, often using their own children, their neighbour's children or—in rarer cases—by luring strangers. At least 30 peer-to-peer cases in the UK so far involve sexual abuse in real-time. As children in the images were real-time victims.

Police found one man who had wired webcams into his daughter's bedroom so that he could share video images of his abuse with other peer-to-peer file sharers.

Detective Superintendent Peter Spindler, who heads Scotland Yard's paedophile unit, said: "We are finding real-time live abusers. These people are sharing new images straight up on the net." His officers have found that when new images appear, the children involved are often related to or live nearby the person distributing the material.

But the sheer volume of new material, combined with the fact that it could have been produced anywhere in the world, has meant that police have often been unable to pinpoint the child's location.

Detectives are using two methods of tracing location: electronic footprints left by the user while online and forensic analysis of the images to find clues pointing to the country of origin, such as telephone books in the background or the style of furnishings. In some cases, often where the child is being held prisoner and abused in a completely different environment, there are not enough leads for police to chase.

One case being investigated involves a prepubescent girl who is being held prisoner in a room resembling a blank room, there are not enough leads for police to chase.

The decentralised nature of the internet and peer-to-peer specifically make it difficult to define numbers of images in circulation or children involved but experts say it is growing daily. Washington's national centre for missing and exploited children, which acts as a clearing house for child porn tip-offs, says that reports of such images in shared files have grown by 100% this year.

David Wilson, professor of criminality at the University of Central England in Birmingham, said that pedophiles who exchange the most extreme, aggressive and reprehensible types of behaviour that the internet will allow.

The Guardian understands that the National Crime Squad is considering coordinating all of this work, rather than leaving it to small groups working within the country's various forces.

Peer-to-peer has become more attractive for paedophiles in the wake of Operation Ore, the high-profile British police operation which was launched after US authorities informed the UK police that people suspected of subscribing to websites offering paedophilic images. While Ore has sparked headlines, many senior officers and child abuse experts believe that targeting people at the lower end of the paedophile spectrum has been a distraction in terms of child protection.

Pro-Wilson believes Ore showed how the criminal justice system concentrated on the wrong type of offender, the people who downloaded the material rather than prosecution after peer-to-peer file sharing and the producers of child pornography.

He said: 'Police operations have not been getting to the type of paedophile that we need to get to. It's in their interests to keep the debate moving towards the kind of people they should be spending time and resources on."

"The Achilles heel of peer-to-peer is that it makes something that is secret and furtive into something that is public and that is what the police need to get to."

In a room on the fifth floor at Scotland Yard, officers in the hi-tech crime unit are trying to do exactly that, sitting at computers, monitoring activity on the peer-to-peer boards. They are a part of a team working on an operation as a small trial in March 2001 by the Met's clubs and vice unit and burgeoned with the number of people posting images via file sharing. The detectives working here are now inundated.

They explain that they can use technology to detect the location of those who download the images and sometimes that of the abusers. If there is a child immediately in danger, officers will conduct a raid as soon as they have a location.

Paedophiles believe it is harder for them to be detected through peer-to-peer software but investigators are able to access their shared folders and images and often contain illegal images of child abuse. They are then able to establish the location of the owner of the shared folder.

VETERANS' DAY SPEECH BY MG ROBERT SHIRKEY

IN THE HOUSE OF REPRESENTATIVES

Mr. SKELTON. Mr. Speaker, Major General Robert Shirkey, USA, Ret., delivered the following address at a Veterans' Day Memorial Service at the Liberty Memorial in Kansas City, MO. This is an excellent address by a highly decorated veteran of World War II and the Korean War. His speech is set forth as follows:

MAJOR GENERAL SHIRKEY, USA, RET. — VETERANS' DAY MEMORIAL SERVICE AT LIBERTY MEMORIAL KANSAS CITY, MO.—NOVEMBER 11, 1953

I am an American—Let me tell you why:
Years ago persons from Ireland, Norway, Poland, Germany, and other locations, hugging their families for the last time and left their ancestral homes. These people boarded old, crowded ships to sail to America, leaving behind everything and everyone they knew in search of one thing: Freedom.

These people crossed the ocean with the determination to start a new home and fight for the freedom which had been denied them for centuries. America was born from a union of courage and passion for freedom. This is my heritage.

My ancestors, under a new flag, represented a country that came to be known as the United States of America.

One Irishman, O'Sharey, went through the Revolutionary War. As indentured servants from Norway, my grandmother's family worked out the $6.00 passage to become Americans. A Polish girl in Poznan, saved the life of a Prussian soldier being chased by Germans by hiding him in a haystack during the Prussian Revolution of 1848.

He married her and together with his parents migrated to the United States. He also then
served with the 27th Wisconsin Cavalry during the Civil War. Another part of my heritage who served with the South during that long war was General Wade Hampton. These men were Colonels, Captains, Majors, Colonels and Generals. When the Revolutionary and Civil Wars were over, they were once again free.

They paid the price with their lives, bloodshed, hardship and poverty. One of my ancestors, a second cousin, still lies in France, having paid the supreme sacrifice on September 26, 1915. Yet I am an American—and let me tell you why:

My patriotism can neither be contained nor displayed within the span of four (4) designated days every year. When I look at my country’s flag, I see not only the Revolutionary War and Civil War, but ancestors who fought against injustice. I also see my ancestors who were on opposite sides of the Battle of the Wilderness, Chickamauga, and others. They smelled the gunpowder and heard the roar of musketry. Some of these men would never see another beautiful sunset, yet in each of their eyes were these same dreams of freedom and independence and a willingness to fight to the death for what they believed in.

Let us forget: For those who have fought for it, freedom has a taste the protected will never know. Colonel Pershing said at this Memorial dedication: “...there are many forces trying to destroy this freedom, so band together and dedicate yourselves to protecting that freedom so you have so valiantly won on the battle field.”

Never forget that the Ancient Romans fought for freedom and liberty and, as a consequence, lost all freedom.

My flag has flown over ancestors and fellow soldiers in distant parts of the world who were killed fighting for their tomorrows for our today’s. My flag flew over my best friend’s hastily dug grave at Legaspi, Luzon, following his untimely death April 15, 1945. He gave his life to save five wounded comrades by crawling up under machine gun fire. An attempt to save a sixth man was rewarded by a hasty grave at Legaspi, Luzon, following his untimely death April 15, 1945. He gave his life to save five wounded comrades by crawling up under machine gun fire. An attempt to save a sixth man was rewarded by his burial. It is the flag we carry on.

I am an American—I have told you why.

In closing, I quote the Unknown Confederate Soldier’s words: “I asked God for strength that I might achieve; I was made weak that I might humble to obey.”

I asked for health that I might do great things; I was given infirmity that I might do better things.

I asked for riches that I might be happy; I was given poverty that I might be wise.

I asked for power that I might have the praise of men; I was given weakness that I might feel the power of God.

I asked for all things that I might enjoy life; I was given life that I might enjoy all things.

I got nothing I asked for, but everything that I had hoped for, almost despite myself.

My unsung prayers were answered. I am, among all men, richly blessed.

I am indeed an American.

PAYING TRIBUTE TO SOUTHEAST MENTAL HEALTH SERVICES

HON. SCOTT McINNIS
OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable non-profit organization located in my district. Southeast Mental Health Services was recently awarded the Silver Achievement Award from the American Psychiatric Association for being among the top mental health programs in the nation. I am proud to call the attention of my colleagues and this nation to all that Southeast Mental Health Services has done for those suffering from mental illness.

Southeast Mental Health Services has developed a revolutionary approach to treating the mentally ill. Their program focuses on helping each individual patient to live the happiest and most fulfilling life possible. Southeast Mental Health Services has found great success with this program. The dedication and selflessness of the programs administrators and staff set a fine example to all mental health care professionals.

Mr. Speaker, it is my honor to call the attention of this body of Congress and our nation to the many contributions of Southeast Mental Health Services. The organization’s programs have made a significant contribution to the quality of life of numerous Coloradans suffering from mental illness. It is with a great pride that I rise before you to recognize Southeast Mental Health Services and the notable contributions they have made to the community.
YEVTUSHENKO

HON. GINNY BROWN-WAITE
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, “A poet in Russia is more than a poet.” Yevgeny Yevtushenko was speaking of poetry’s unique role in Russia, but the words apply equally to Yevtushenko himself—the world’s most famous living poet, and also prose writer, photographer, filmmaker, congressman, professor, world traveler. In the civic tradition of Russian poetry, the poet is the voice of the people, the embodiment, the champion of truth and justice, and the catalyst for social change. Because poets express the strivings and needs of the people, they are revered in Russia as nowhere else. In the Soviet Union, the message had to be elliptic, and poetry was read closely, between the lines.

Yevgeny Yevtushenko, born in Zima Junction, Siberia in 1933, burst onto the scene when very young, his first poems published in 1949, when he was just sixteen. He and his peers, Akhmadulina, Voznesensky, Rozdletsevsky, and numerous others, pulled crowds to their readings, and their popularity could be compared only to that of rock stars.

His famous poem “Babi Yar,” against anti-Semitism, was written in 1961 and set to music by Shostakovich. In 1952, Yevtushenko wrote “The Heirs of Stalin,” with a call to throw off the oppressive shadow of the tyrant. He began his nonpoetic political protest activity with a telegram to Brezhnev condemning the Soviet invasion of Czechoslovakia in August 1968. Thirty years later, his political activity was channeled into a formal democratic role—he was elected a congressman with an overwhelming 74.9 percent of the vote (in a field of nine candidates). He is, of course, a poet, but his writing of a call to public action is an expression of his political awareness, a call to end the Soviet Union.

From Yevgeny’s book, “The Night Train,” he and his wife, Masha, went from speaking across the country, reaching out to his readers. His life is heartening proof that one can go on growing, and then continue the extravaganza across the country, reaching out to his readers.

Welcome all over the world, Yevgeny Yevtushenko and his wife, Masha, have chosen to divide their time between Russia and the United States, where they are bringing up their family. As a Distinguished Visiting Professor at the University of Texas, Oklahoma, and tenured at Queens College, in New York City, he has received numerous international prizes for his literature and the arts. In addition to receiving four honorary degrees, he was elected an honorary member of the American Academy of Arts and Letters, and a member of the European Academy of Arts and Sciences, and was awarded the American Liberties Medal and the Nobel Peace Prize. He was appointed Poet-in-Residence of the Walt Whitman House Museum in Long Island, New York. Naturally, he is writing poetry and a new novel and is in the finishing stages of a major anthology of Russian poetry. We are fortunate to have Yevgeny and Masha Yevtushenko in our country and even more fortunate to have them here at the Russian Fireworks gala.

Mr. SOUDER. Mr. Speaker, today I rise to introduce into the RECORD two more memorandums—written by Democratic congressional staff—that illustrate the extent to which liberal special interest groups are controlling the judicial nomination process. These groups have been allowed a virtual veto power over any nominee they dislike. For example, groups like the so-called People for the American Way have apparently been able to delay or block the approval of judges who do not share their antilaw enforcement views, while groups like the National Abortion Rights Action League (NARAL) have been given a similar veto power over anyone who doesn’t agree that parents shouldn’t even be notified that their child is considering an abortion. One nominee, according to the memes, had to be cleared with “the gay rights groups” before he would even be considered. These memes show just how biased, and then continued the trend and are a wake-up call to anyone who wants to see fairness and objectivity restored to our Federal judiciary.

THE IMPACT OF LEFT-WING SPECIAL INTEREST GROUPS ON THE JUDICIAL NOMINATION PROCESS

HON. MARK E. SOUDER
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. SOUDER. Mr. Speaker, today I rise to introduce into the RECORD two more memorandums—written by Democratic congressional staff—that illustrate the extent to which liberal special interest groups are controlling the judicial nomination process. These groups have been allowed a virtual veto power over any nominee they dislike. For example, groups like the so-called People for the American Way have apparently been able to delay or block the approval of judges who do not share their antilaw enforcement views, while groups like the National Abortion Rights Action League (NARAL) have been given a similar veto power over anyone who doesn’t agree that parents shouldn’t even be notified that their child is considering an abortion. One nominee, according to the memes, had to be cleared with “the gay rights groups” before he would even be considered. These memes show just how biased, and then continued the trend and are a wake-up call to anyone who wants to see fairness and objectivity restored to our Federal judiciary.
Given this information, do you want to talk to Schumer—and Durbin—about having this conversation with Leahy and then speak with Leahy? We strongly recommend that you have these conversations, and we believe Leahy must be approached quickly.

Decision:
Yes, I will talk to Schumer and Durbin; the three of us will go to Leahy.

No, I will not speak with Schumer and Durbin or Leahy.

II. CHAIRING A HEARING

As you know, Senator Leahy asked that you chair the last nominations hearing, but given his health and the field you could not. His staff is now asking us to choose the hearing you would like to chair (see the schedule above).

I propose that you chair the hearing on July 18th. As you know, Owen will probably be our next big fight. The grassroots organizations are organized in Texas, and the national groups are prepared, as well. In addition, Judiciary Democrats expect to fight her, hearing attendance should be good, and the issues are clear—Enron/pro-business and choice.

You should know, the Leahy staff (and the Schumer staff) propose that you chair the Estrada hearing and I disagree. Although other staff see Estrada as a civil rights problem because he has no record, there isn't civil rights ammunitions. We don’t believe Estrada is “your kind of fight.” We think Durbin or Schumer might be better for the Estrada hearing (and, at least on the staff level, there’s interest from the Schumer office).

Decision: I will chair a hearing on:

Shedd (6/27) – Owen (7/13) – Cook (9/1) (we want this to go away) – Raggi (9/5) – Estrada (9/13) – McConnell (10/3)

MEMORANDUM

To: Senator Durbin.
Date: October 15, 2001.
Re: Meeting with Civil Rights Leaders, Thursday, October 18, 2001 at 5:30 p.m.

You are scheduled to meet with leaders of several civil rights organizations to discuss their serious concerns with the judicial nomination process. The leaders will include: Ralph L. Johnson (the American Way), Kate Michelman (NARAL), Nan Aron (Alliance for Justice), Wade Henderson (Leadership Conference on Civil Rights), Leslie Proll (NAACP Legal Defense & Education Fund), Nancy Zirkin (American Association of University Women), Marcia Greenberger (National Women's Law Center), Judy Lichtman (National Partnership), and a representative from the AFL-CIO. The meeting will take place in 317 Russell, with Senators Kennedy and (possibly) Schumer also present.

The immediate catalyst for Tuesday’s meeting was the announcement last Thursday that the Judiciary Committee would hold a hearing in one week on district court judge Charles W. Pickering, Sr., a highly controversial nominee for the Fifth Circuit.

The interest groups have two objections: (1) in light of the terrorist attacks, it was their understanding that no controversial, judicial nominees would be moved this fall; and (2) they were given assurances that they would receive plenty of notice to prepare for any controversial nominations.

Judge Pickering, you will recall, has a checkered past: he wrote a law review student note recommending that the Mississippi legislation against miscegenation as a state legislator, he opposed the Equal Rights Amendment and voted to seal the records of the infamous sovereignty commission; and as a Republican activist; he promoted an anti-abortion plank to the national party platform. He has written some controversial opinions while serving on the district court, criticizing prisoner access to the courts and the “one person-one vote” principle. The interest groups believe that a high percentage of Pickering’s opinions are unpublished, one reason why they object to the lack of time to prepare for his hearing.

Recognizing that Thursday’s hearing is likely to go forward, the groups are asking that the Committee hold a second hearing on Pickering in a few weeks, when they will have had adequate time to research him fully. The decision to schedule Pickering’s hearing was made by Senator Leahy himself, not his staff, so the groups are likely to ask you to intercede personally. They will also seek assurances that they will receive adequate warning of future controversial nominees.

TRIBUTE TO GRAHAM NIELSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable man from my district. Recently, Graham Nelson was awarded the “McGuffey Award” by the Colorado Association of School Boards for his twelve years of dedicated service on the Dolores School Board.

Graham moved to Dolores while he was in grade school. After high school, Graham married Dianne Carver. Later, Graham and Dianne moved to Santa Fe, where Graham became an EMT and Fireman. In 1985, Graham and his family returned to Dolores, where he eventually took his current position as a commissioned officer for the Nielson & Skanea, Inc. Until recently, Graham also served the community as a member of the Dolores Fire Department, and still holds a position on the board of the Colorado Firefighter’s Academy.

Graham and Dianne have had five wonderful children. When the children entered the Dolores school system, Graham decided to run for a position on the School Board. He has served as the director of the RE-4 School Board for 12 years. Graham has dedicated a great deal to assuring that the children of Dolores have a positive educational experience. The children of Dolores have certainly benefited as the result of Graham’s tireless dedication to their interests.

Mr. Speaker, I am proud to call the contributions of Graham Nielson to the attention of this body of Congress and our nation. Graham has dedicated his life to the betterment of others and I am proud to pay tribute to him here today. Thank you Graham, and congratulations on a well-deserved award.

IN MEMORY OF LANCE CPL. DAVID OWENS, JR., USMC

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. WOLF. Mr. Speaker, I was honored recently to be asked to participate in a memorial service for my constituent, Lance Cpl. David Owens, Jr., USMC, who was killed in action in Baghdad on April 12 of this year. The presen-
Mr. Speaker, throughout the 1990’s, many legal immigrants and illegal aliens moved to Nebraska seeking jobs in the meatpacking industry. Subsequently, this Member began to receive contacts from businesses in his district concerned about their capacity to comply with the IRCA. Therefore, on November 30, 1999, this Member joined the House and Senate colleagues in the Nebraska Congressional Delegation in a letter to then-INS Commissioner Doris Meissner requesting the extension of the Basic Pilot Program to Nebraska. This Member continues to firmly believe that providing Nebraska businesses with the tools to hire a legal workforce is an important component in maintaining a stable economy in the state and in meeting needs to effectively enforce immigration laws in this country’s interior. On March 19, 1999, the U.S. Department of Justice granted Nebraska businesses access to the Basic Pilot Program. Currently, about eight Nebraska businesses actively utilize the program.

Mr. Speaker, for Congress to allow the Basic Pilot Program to lapse following the horrific and unspeakable terrorist attacks of September 11, 2001, would demonstrate true negligence. More than ever, the U.S. must fully enforce its immigration laws to protect its citizens from future attacks. In its capacity to identify document fraud and illegal aliens, the Basic Pilot Program can indeed play a role in the fight against terrorism.

In conclusion, this Member encourages his colleagues to vote for S. 1685.

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Mr. Speaker, throughout the 1990’s, many legal immigrants and illegal aliens moved to Nebraska seeking jobs in the meatpacking industry. Subsequently, this Member began to receive contacts from businesses in his district concerned about their capacity to comply with the IRCA. Therefore, on November 30, 1999, this Member joined the House and Senate colleagues in the Nebraska Congressional Delegation in a letter to then-INS Commissioner Doris Meissner requesting the extension of the Basic Pilot Program to Nebraska. This Member continues to firmly believe that providing Nebraska businesses with the tools to hire a legal workforce is an important component in maintaining a stable economy in the state and in meeting needs to effectively enforce immigration laws in this country’s interior. On March 19, 1999, the U.S. Department of Justice granted Nebraska businesses access to the Basic Pilot Program. Currently, about eight Nebraska businesses actively utilize the program.

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In conclusion, this Member encourages his colleagues to vote for S. 1685.
of our American servicemen and women through her compassionate speeches and leadership. Pat’s enthusiasm and selfless service to those in the Denver community, and this nation, certainly deserve the recognition of this body of Congress.

**INTRODUCTION OF H.R. 3550 “THE TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS”**

**HON. DON YOUNG**
**OF ALASKA**
**IN THE HOUSE OF REPRESENTATIVES**
**Thursday, November 20, 2003**

Mr. YOUNG of Alaska. Mr. Speaker, today, along with nearly every member of the Committee on Transportation and Infrastructure, I and Congressman OBESTAR are introducing a truly historic highway and transit funding bill that will benefit every State in the Nation. The introduction of this bipartisan legislation would not have been possible without the support and cooperation of Congressman OBESTAR. In addition, the Chairman PETRI of the Subcommittee on Highways, Transit and Pipelines, along with the subcommittee ranking Democrat, Congressman LIPINSKI were instrumental in getting this legislation written for introduction.

The legislation provides $375 billion over the next six years. This proposed level of funding is based upon the needs of our country as outlined in the U.S. Department of Transportation Condition and Performance report. With this bill, we will have the resources to maintain our existing transportation infrastructure and begin to improve it as well. We can address our national congestion crisis and safety problems. Our transportation infrastructure is old and getting worse. Thirty two percent of our major roads are in poor or mediocre condition and 28% of our bridges are structurally deficient or functionally obsolete.

Congestion is affecting our quality of life and costing our nation $67 billion a year—more than $1,100 for the average commuter each year. Commuters are sitting longer and longer in traffic jams and billions of gallons of fuel is wasted each year due to congestion.

Most importantly, this country is facing a transportation safety crisis. More than 42,000 people die each year on our roads and highways. Nearly one-third of all these fatal crashes are caused by substandard road conditions and roadside hazards. This is totally unacceptable for the most advanced nation in the world.

Over the next six years, we provide $298 billion for highway, road and bridge improvements . . . and $69 billion for transit programs. This legislation proposes to increase the minimum guaranteed percentage for every State from 90.5 percent to 95 percent by 2009. We understand that more equity is needed for all 50 States.

The bill significantly increases funding for highway safety programs. In addition, the bill authorizes $17.6 billion for “Projects of National and Regional Significance”—a major boost for these important projects.

It also authorizes $7.5 billion to address the problem of railroad-highway crossings and the elimination of road hazards. Our legislation will also have another positive benefit by giving a major boost to our nation’s economy. Nationally, this proposal creates more than 1.3 million new highway jobs over the next six years.

It is time to face the facts—our highways, bridges and transit systems are aging and not up to the standards which our citizens expect. We need to stimulate the economy and this important legislation will do just that. America’s congestion and safety problems will not go away—it must be addressed immediately.

Enactment of this landmark legislation is a legacy for all users of our transportation infrastructure, both today and for future generations and moves our aging transportation system into the 21st century.

**IN SUPPORT OF THE LIFESPAN RESPITE CARE ACT OF 2003**

**HON. EDWARD J. MARKEY**
**OF MASSACHUSETTS**
**IN THE HOUSE OF REPRESENTATIVES**
**Thursday, November 20, 2003**

Mr. MARKEY. Mr. Speaker, I rise in support of the Lifespan Respite Care Act of 2003 and in celebration of the Nation’s family caregivers during National Family Caregiver Month and Alzheimer’s Awareness month. This week before Thanksgiving, as we anticipate gathering with our families from far and near, I am privileged to recognize and honor the millions of family caregivers who care for family members with disabling or chronic conditions such as those afflicted by Alzheimer’s disease. There is no doubt in my mind that caregivers—those who devote themselves selflessly to caring for loved ones with disease such as Alzheimer’s—are the true heroes. I know because my dear mother was a victim of Alzheimer’s and my father was a hero caring for her to the day she died.

Today over 4.5 million Americans suffer from Alzheimer’s disease. Almost half of all Americans over age 85 suffer from this devastating delirium. With the graying of the baby boomer population a sharp increase in Alzheimer’s disease is expected. Over 70 percent of people afflicted with Alzheimer’s disease live at home, with 75 percent of home-bound care provided by family and friends. There are over 25 million family caregivers in America and by 2020, the number of adults requiring assistance with daily living will increase to almost 40 million, placing a tremendous burden on the family caregivers. We cannot afford to lose any family caregivers to stress or illness. We as a nation can afford it because family caregivers provide $250 billion per year in unpaid care. Yet, the lack of support is taking its toll on caregivers. While a large proportion of caregivers report serious physical or mental health problems, including headaches, stomach disorders, back pain, sleepless nights and depression. Mortality risks for caregivers are 63 percent higher than for the general population.

In celebration of the family caregivers—those who don’t ask for anything in return, I introduce this legislation, the Family caregiver of the lifetime. The legislation provides $375 billion over the next six years. This proposed level of funding is based upon the needs of our country as outlined in the U.S. Department of Transportation Condition and Performance report. With this bill, we will have the resources to maintain our existing transportation infrastructure and begin to improve it as well. We can address our national congestion crisis and safety problems. Our transportation infrastructure is old and getting worse. Thirty two percent of our major roads are in poor or mediocre condition and 28% of our bridges are structurally deficient or functionally obsolete.

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Enactment of this landmark legislation is a legacy for all users of our transportation infrastructure, both today and for future generations and moves our aging transportation system into the 21st century.

**PAYING TRIBUTE TO MATT McCHESNEY**

**HON. SCOTT MCINNIS**
**OF COLORADO**
**IN THE HOUSE OF REPRESENTATIVES**
**Thursday, November 20, 2003**

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a dedicated law enforcement officer from my district. Deputy Matt McChesney is a caring and capable law enforcement professional who is committed to improving the lives of families impacted by domestic violence. I am proud to join my colleagues here today in recognizing Matt’s tremendous service to the Colorado community before this body of Congress and our nation.

Matt often sacrifices sleep, and the few days he has off, to come into the District Attorney’s office the morning after a domestic abuse arrest. There, he works tirelessly to ensure that each victim is treated with dignity and respect. In addition, Matt works with the Victim’s Assistance Program and the Operations Division to educate law enforcement volunteers on how to assist victims. For Matt’s dedication and commitment to others, he was recently named Law Enforcement Officer of the Year. The people in Matt’s district are safer as the result of his service and protection.

Mr. Speaker, Matt McChesney is a dedicated individual who sacrifices his time to helping those who are victim to the terrors of domestic violence. His compassion and selfless service to our state definitely deserve the recognition of this body of Congress and this nation. Thanks for your service, Matt, and congratulations on a well-deserved award.

**PERSONAL EXPLANATION**

**HON. JOSEPH M. HOEFFEL**
**OF PENNSYLVANIA**
**IN THE HOUSE OF REPRESENTATIVES**
**Thursday, November 20, 2003**

Mr. HOEFFEL. Mr. Speaker, I was absent for four votes on Wednesday, November 19, 2003. Had I been present, I would have cast my votes as follows:
Tribute to Vacaville’s Crime Prevention Efforts

HON. GEORGE MILLER
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. GEORGE MILLER of California. Mr. Speaker, I would like to take this opportunity to call my colleagues’ attention to a real success story in the City of Vacaville, California. As this article printed in the Fairfield Daily Republic explains, the Police Department in Vacaville is receiving a good deal of well-deserved recognition for the programs and services it provides. The Vacaville P.D.’s comprehensive and preventative approach to crime is a welcome one, and it is having an amazing effect. Despite statewide increases in crime this past year, major crime in Vacaville is significantly down. In a sense, by investing time and effort in the community, they are stopping crime even before it happens. This should be a lesson to all of us. I urge my colleagues to read the attached article, and I commend the City of Vacaville and its Police Department for all their hard work.

[From Fairfield Daily Republic, Nov. 27, 2003]

Combatting crime “holistically”—Vacaville Police use new approaches to make community safer

(By Nada Behziz)

Vacaville. For decades, American doctors have prescribed pills for pain—white ones, blue ones, big ones, new ones. And for centuries, practitioners of traditional Chinese medicine have eased aches, strains and spasms through herbal remedies. But now, those two philosophies are merging in Vacaville in a slightly different venue: public safety.

The Vacaville Police Department’s transition from the “war on crime” model to more of a preventive slant is what police officials attribute to the city’s decrease in crime.

“We work with our community,” said Vacaville police Chief Bob Harrison. “We’re looking at crime more holistically. We want to provide comprehensive care to really get at the problem.”

Vacaville is one of the only cities in California that not only provides preventive programs within elementary and grade schools but has a department within the police department that provides comprehensive, preventive resources to the community.

Sarah Harrison between loving her husband and saving her children. It wasn’t until a rainy evening when her husband threw her and her two sons out of the house with bruises that she packed her bags and left.

“We had no where to go, but I knew we had to leave,” J. Jacob said. “I heard from friends that the police department could help, so that was the first place I went.”

J. Jacob found a warm place to sleep, an arrest warrant for her husband who left bruises all over her body and parenting resources to help her children recover, all in the same place.

“The police department was able to take care of them,” J. Jacob said. “Now it’s time to take care of myself emotionally.”

Vacaville’s Family Investigative Response and Services Team office based within the police department staffs investigators, counselors and volunteers that provide resources for at-risk families.

Officials say their FIRST program helps stop crime before it happens by nourishing families and showing them non-violent ways of solving disagreements.

Many Vacaville residents in need of services, including parenting classes and access to computers, don’t know where to find them. The center provides a “one-stop-shopping place” for people to get the help they need.

Through FIRST, 28-year-old Jacob was placed in transitional housing, a furnished home of her own where the agency could counsel and mentor her.

And she was introduced to a new family.

“Anything I could possibly say I need, they’re on top of it. I’ve never had to call my California, this year alone, part one crimes.

And they are not the only ones.

Many Vacaville residents in need of services, including parenting classes and access to computers, don’t know where to find them. The center provides a “one-stop-shopping place” for people to get the help they need.

The department first focused on domestic violence issues six years ago, but it wasn’t long before police officers noticed that residents attending those need police services as much as they were human services.

The program expanded to incorporate elder abuse, sexual assault and child abuse situations more than four years ago when FIRST opened its doors.

“People ask us often if we believe this is our job or a police department,” said Lt. Scott Paulin, who runs the FIRST division of Vacaville Police. “We have to look beyond putting handcuffs on people and fill the gaps to prevent the crime in the first place.”

The gap between criminal activity and the department’s clearance rate is slowly closing. While crime increases at a steady rate in California, this year alone, part one crimes.

With one of the lowest percentages of overall crime in California, Vacaville was chosen this year by the California attorney general as one of two state police agencies for its “Best Practice Program,” which will be featured on the attorney general’s Web site as examples of excellence for other cities.

The decline in crime, Harrison says, is in part due to the officers visibility in the area and their personal investment since the vast majority live in the city.

“If it’s in your back yard, you care if it’s cleaned,” Harrison said. “Many of our officers live in town and it’s a place they use on a daily basis and want to take good care of.”

But Officer Erwin Ramirez says the commute from the city to the rural areas is worth not worrying about a parolee coming after his wife and three children.

“When you have three kids and a wife, you want to keep them away from danger,” said Ramirez, who says he makes at least five arrests each month. “It’s a great city but I don’t want to risk my family’s danger by living here.”

Ramirez came to Vacaville three years ago after beginning his career as a patrol officer with the Swiss Police Department and says the stark difference between the community’s reaction to police officers is what makes Vacaville special.

Driving around in his patrol car, Ramirez is approached by children on their scooters smiling and waving as he drives by.

“The department has done a great job at dispelling the stereotype that comes with the police,” Ramirez said. “We go around the neighborhoods and talk with the people and hand out stickers to the kids. Hopefully they will remember that the next time we come by.”

Tribute to Dennis Devor

HON. SCOTT McNINNIS
OF COLORADO

IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a dedicated volunteer from Montrose, Colorado. Dennis Devor is a humble and caring individual who commits his free time to the betterment of his community. His enthusiasm for serving others resonates throughout Colorado.

I would like to join my colleagues here today in recognizing Dennis, and his tremendous service to the Montrose community before this body of Congress.

Dennis was recently awarded the prestigious “Who Care” Award given out by a Denver television station for helping children and adults in need.

Mr. Speaker, Dennis Devor is a hard-working individual who has enriched the lives of many members of the Montrose community.

He demonstrates a passion for public service that sets a fine example for all Americans. Dennis serves with enthusiasm and commitment, and he certainly deserves the recognition of this body of Congress and this nation.

Thanks for your hard work, Dennis, and congratulations on a well-deserved award.

Condemning the Terror Attacks in Turkey

HON. NITA M. LOWEY
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mrs. LOWEY. Mr. Speaker, I rise to condemn the horrendous and cowardly attacks carried out in Istanbul, Turkey, on November 15, 2003. Twenty-five people were killed and over 300 were injured, as suicide bombers in trucks attacked two synagogues crowded with families heading back from a religious holiday.

We must all mourn the unspeakable nature of this tragedy, and we must take decisive action against those responsible.

We are witnessing the resurgence of a pervasive and violent anti-Semitism, last seen on a widespread scale in the 1930s and 1940s in Europe. Some claim that this resurgence can be tied to the continued violence and political conflict between Israel and the Palestinian Authority, but I fear it goes beyond that.
The November 15 attacks struck at Turkey’s heart—deliberately—because since the 15th century, it has been a place of peaceful coexistence between Jews and Muslims. By targeting Jews there, the radical Islamic fundamentalists want to send a message: forget history and forget tradition. If you are Jewish, we will target you in any place at any time. Ironically, and tragically, most of those who lost their lives in this attack were Muslim.

This is hatred, plain and simple. It is anti-Semitic and inhuman. As it destabilizes the Middle East, Asia, and Europe, it threatens our own national security and the security of our closest allies. I know that this Congress and the entire country have the resolve to combat these destructive forces wherever they might reside. I ask my colleagues to join me in mourning with the families of those killed in Istanbul and to stand firm with me as our long and difficult struggle against terrorism continues.

TRIBUTE TO ILLINOIS STATE SENATOR STAN WEAVER

HON. TIMOTHY V. JOHNSON OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. JOHNSON of Illinois. I rise today to pay tribute to my friend and mentor, the late Illinois State Senator Stan Weaver. When Senator Weaver passed away last week, aspiring public servants lost a role model. Few people in public life received the respect that he had among his colleagues, friends and constituents. His successful service to the people of east central Illinois began in 1956 when, at the urging of many citizens of Urbana, Illinois, he ran for mayor. He went on to serve one term as a State Representative then 10 terms as a State Senator. Best known for his exemplary service to his constituents and his ceaseless promotion of the University of Illinois, it is estimated that Stan Weaver alone guided over one billion dollars in construction projects to the University over 30 years.

Consistently prevailing in his campaigns for office, he never spent exorbitant amounts of money and rarely gave grand speeches but, instead, with quiet authority and an intimate personal style into an incredible ability to relate with people and get things done.

I am very honored to have had such a close personal relationship with Senator Weaver and I am deeply saddened by the loss of my friend whom I knew and admired for, literally, my entire life.

TRIBUTE TO MARY JEAN STONER

HON. SCOTT McINNIS OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a very special woman from my district. Mary Jean Stoner from Grand Junction, Colorado is known to many as the Grand Valley’s favorite candy lady. Mary is retiring this year after 20 years in business and it is my honor to call her contributions to the attention of this body of Congress and our nation here today.

Mary grew up in Sutherland, Iowa and it was there that she began educating herself in the art of candy making. After graduating from Iowa State University, Mary was able to apply a number of her Home Economics and Art classes to become an expert candy maker. Over time, she became a true master of her trade.

Mary and her candy have been bringing smiles to the faces of Grand Valley residents for many years. Mary has always made high quality, handmade chocolates. She is truly amazing. The people of the Grand Valley will be sad to see Mary go. However, they will be glad that she now has more time to visit and catch up with her friends and neighbors.

Mr. Speaker, it is my honor to rise and pay tribute to Mary Jean Stoner. Mary dedicated her professional career to making people happy and it is my honor to call her contributions to the attention of this body of Congress and our nation. Thank you Mary.

HONORING EXERCISE TIGER FOUNDATION

HON. KENNY C. HULSHOF OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. HULSHOF. Mr. Speaker, I rise today to honor a distinguished group of Americans. On November 14, 2003 the Exercise Tiger Foundation held its National Adopt a Serviceman Program in Jefferson City. It is essential that we take a moment to remember not only the sacrifice of veterans of Exercise Tiger, but also those men and women currently serving our Nation in the military. Allow me, Mr. Speaker, to take a moment to remind all of us of the story of Exercise Tiger during the Second World War.

Unfortunately, for many people, the words “Exercise Tiger” hold no special significance. Few know of the sacrifice made by so many in late August of 1944. At its outset, Exercise Tiger was one of several training exercises conducted to prepare American and British troops for the upcoming invasion of Normandy. Concentrated on a beach near Dover, England, these operations were meant to prepare the raw recruits for combat, not provide them their first taste of war.

In the calm, early morning hours of April 28, 1944, tragedy struck. As eight Navy landing ships, or LST’s, and their lone escort approached their landing area, nine German U-Boats patrolling the English Channel attacked. LST-507 was the first ship to be torpedoes; it quickly caught fire and survivors abandoned ship. Moments later, LST-531 was hit and sank within 6 minutes. The American ships quickly regrouped and returned to shore with LST-289 suffering significant casualties.

In a moment, the green American recruits became battle-tested veterans. Out of 4,000 man force, nearly one-quarter were either missing or dead. While the heroism of the American troops under heavy enemy fire deserves high praise, the men who participated in Exercise Tiger had a job to do—practice landing operations resumed the very next day, April 29, 1944.

In most cases, the casualty information and details surrounding the mission would have been made public within days or even hours of the attack. With Exercise Tiger, however, this information was not released until after the D-Day invasion. This was necessary to keep the German military from learning about the impending invasion of Europe.

As the world now knows, the allied invasion of Europe on D-Day was a success. Unfortunately, those who helped make D-Day possible have not been properly recognized for their sacrifice. This too, must change. We must take it upon ourselves to ensure that the virtues those who served in Exercise Tiger—courage, humility and steadfast devotion to completing the task at hand—remembered and documented for future generations.

As such, it is only appropriate that the Exercise Tiger Foundation has nominated eight members from various branches of the active and reserve forces as part of the National Adopt a Serviceman Program. This year’s honorees are Staff Sergeant Patrick Reed, 1107th AVCAD, Missouri Army Reserve National Guard; Command Sergeant Major L. Murphy, 139th Security Forces Squadron, U.S. Air National Guard, Master Sergeant Robert A. Jackson, 442nd Fighter Wing, U.S. Air Force Reserve, Staff Sergeant Billy Jack Roberts, 509th Bomb Wing, U.S. Air Force, Petty Officer 2nd Class Yancy Woodard, Staff Sergeant Matthew Beadle, U.S. Marine Corps, Sergeant Dennis Payne, 110th Engineers, Missouri Army Reserve National Guard, and Boatswain’s Mate 2nd Class Kristian Svosa, U.S. Coast Guard. Without a doubt, their exemplary service to our Nation honors the example of those who came before Europe.

These individuals certainly deserve our recognition and support as they continue to defend our freedom both here and abroad. We stand united behind them, and united behind the freedom our Nation guarantees. May God continue to bless this Nation as well as all of those men and women who have served in uniform.

THE INTRODUCTION OF THE SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT ACT OF 2003

HON. VERNON J. EHlers OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. EHlers. Mr. Speaker, today I rise to introduce an important piece of legislation, “The Surface Transportation Research and Development Act of 2003.” Our Nation’s transportation system faces tremendous challenges. We have more drivers who are driving more miles leading to severe congestion, particularly in many urban areas. An aging infrastructure must take a structure of putting a system to ensure our local transportation budgets, which are tied up in maintaining our existing system, with little, if any, money left for improving the system and planning for the future. And an aging population and changing development patterns that demand an innovative response to ensure the transportation system meets future needs. The public demands safer, less congested roads, and more transportation choices. Considering that we won’t have the ability to simply build
more roads to address these challenges, especially in urban areas, we must look at new ways to improve the overall system, to make it safer and more efficient, and to ensure that the system meets future needs.

Fundamental improvements to the entire transportation system depend on high quality surface transportation research. Research provides the proper tools and information needed to drive solutions. The last time Congress fully examined our Nation’s transportation policy was through the debate and passage of the Transportation Equity Act for the 21st Century (TEA-21). While Congress increased funding for overall transportation programs by upwards of 40 percent, funding for transportation research remained relatively flat. I think that lack of investment in research has hurt our ability to meet new challenges. However, simply providing more money for research will not solve our problems. Increased funding must be accompanied by some reforms of the existing research programs.

As Chairman of the House Science Subcommittee on Environment, Technology and Standards, which shares jurisdiction over surface transportation research with the Transportation and Infrastructure Committee, I held a hearing earlier this year to hear from experts on the state of the Federal Government’s current surface transportation research program. In addition, we heard from a wide array of interests on how to improve and reform the research program, and the levels at which research should be funded. Based on this input, I am proud to introduce the Surface Transportation Research and Development Act of 2003.

This legislation has three overarching goals: to increase stakeholder input to ensure that the needs of the public are met; to provide the proper tools and information needed to drive solutions; and to ensure that research is well planned, peer-reviewed, properly funded, and evaluated and will go a long way to help solve the many challenges facing our Nation’s transportation system.

I look forward to working with my colleagues on the Science and Transportation and Infrastructure Committees, the U.S. Department of Transportation, State transportation departments, and other interested stakeholders as this legislation and the overall reauthorization of TEA-21 progress.

I want to thank my colleagues, Scarlet McInnis and Robin Garvin, from my district. Robin Garvin has dedicated her life in service of the children of the Roaring Fork Valley. It is my honor to pay tribute to her contributions here today.

Robin recently announced her retirement from the Roaring Fork School District’s RE-1 Board of Education. Robin was an outstanding member of the Board for eight years and spent the last half of her tenure serving as the Board’s President.

Robin approached her position with the best interests of children in mind. Her term was defined by a tireless commitment to providing the students of the Roaring Fork Valley with the best possible education. The Roaring Fork Valley is undoubtedly a better place as the result of Robin’s service.

Mr. Speaker, I am honored to bring Robin Garvin’s contributions to the attention of this body of Congress and our nation. Robin has managed to devote herself to bettering the Roaring Fork Valley’s system of education while happily acting as a devoted mother, wife, and friend. I am proud to join the citizens of the Roaring Fork Valley in thanking Robin for her service.

Thank you to Scarlet McInnis.

Mr. FARR. Mr. Speaker, I rise today to commend Donna Teresa, a compassionate and devoted member of the children’s literacy community. In recognition of her activism, Ms. Teresa has been selected by Reading is Fundamental Volunteer of the Year. For over six years, Ms. Teresa has worked tirelessly to develop and improve literacy programs at Henry F. Kammann School. In this effort, she has truly embodied the spirit of volunteerism and empathy that is attributed to the distinguished few who receive this award.

In honor of Donna Teresa, the 2003 Anne Richardson Reading is Fundamental Volunteer of the Year.

Mr. Speaker, I want to thank Scarlet for her years of service, hard work and personal sacrifices.

Mr. FARR. Mr. Speaker, I rise today to commemorate Donna Teresa, a compassionate and devoted member of the children’s literacy community. In recognition of her activism, Ms. Teresa has been selected by Reading is Fundamental, as the Western representative for the 2003 Anne Richardson Reading is Fundamental Volunteer of the Year.

In her position as the school librarian, Ms. Teresa has restored the wonder and excitement that reading can provide to our Nation’s
children. She understands the value of literacy and has implemented many new programs to encourage reading, including a summer program that gives each a child a free book. Ms. Teresa has expressed her concern that for many of her students, books are scarce at home and the break from school puts many students behind their peers. This type of understanding and consideration of a student’s living situation has allowed Ms. Teresa to reach out to each child and cater to their interests and needs. She also manages a student book club with more than 60 students and personally acquaints herself with each new text before giving it to a child to ensure that it is appropriate for their reading level and interests. Ms. Teresa derives her inspiration from the hope that her push towards literacy will encourage students to continue their education and make better choices down the line. Her efforts have also been recognized in Monterrey County, where she was recently awarded the “2003 Monterey County Lighthouse for Literacy.”

Mr. Speaker, on behalf of the United States Congress, I would like to honor the accomplishments of Donna Teresa and express sincere gratitude for her commitment to our community’s children. I wish Ms. Teresa much success in her endeavors and I am confident that the efforts of those who strive to improve literacy will be valued for many generations to come.

NO ATTAINMENT—NO TRADE BILL

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. MORAN of Virginia. Mr. Speaker, today I am introducing the “No Attainment—No Trade bill.”

This legislation amends the Clean Air Act to prohibit power plants and other major point sources of nitrogen oxide (NOx) pollution that are in an ozone nonattainment area from participating in EPA’s emission trading program. In 1990 Congress passed amendments to the Clean Air Act to deal with the issue of acid rain deposition.

Harmful acid rain was destroying our building, personal property and turning freshwater lakes into dead zones.

The new law established an innovative emission trading program to reduce the precursors of acid rain, harmful nitrogen oxides and sulphur dioxide emitted by coal-burning power plants and major industrial boilers.

Since its establishment, the trading program has worked extremely well, better than even proponents of the 1990 amendment to the Clean Air Act ever expected.

While nitrogen and sulphur dioxide have been reduced, and replaced by millions of tons, an unanticipated new wrinkle has emerged as states and localities work to reduce urban smog and bring ozone non-attainment areas into compliance with other requirements in the Clean Air Act.

States and localities are bumping into the emission trading program for nitrogen oxides.

Not only are nitrogen oxides the precursors of acid rain, they also mix with hydrocarbons and form ground-level ozone.

Giving power plants in an ozone non-attainment area the authority to buy a credit from elsewhere and avoid nitrogen oxide reductions may help EPA meet its national acid rain reduction goals, but it can frustrate State and local efforts to lower ozone and urban smog. I speak from experience.

Just across the Potomac River in Alexandria we have one power plant, operated by Mirant that continues to violate its permit.

In fact, this past summer during the ozone season it violated its clean air emission limits by more than 1,000 tons of nitrogen oxide, double the tonnage allowed under its permit.

It my understanding that Mirant is trying to get off the hook by purchasing credits of emission reductions from sources elsewhere, outside this region, to meet its emission reduction goal.

“No so,” says the Commonwealth of Virginia.

The State’s position, however, may be on less than firm legal ground.

I hope the Commonwealth holds its ground and stands strong, and I have encouraged them to do so.

The legislation I am introducing gives them the clear legal authority they need and discourages power plants from challenging State ozone implementation plans in court.

I also hope this legislation will give other States the legal authority they need to block power plants in a non-attainment area from engaging in NOX emission trading and avoiding their responsibility to reduce ozone and urban smog.

It is my understanding that Mirant, the same company operating the plant in Alexandria, has violated its NOx permits at its three coal-fired plants in Maryland.

During this summer’s ozone season, Chalk Point, Morgantown and Dickerson power plants collectively exceeded their summer NOx permits by more than 3,500 tons.

Unlike Virginia, State officials in Maryland appear inclined to let them buy credits through the emission trading program.

That’s an additional 4,600 tons of nitrogen oxide that entered our air this past summer beyond what Virginia and Maryland agreed Mirant should emit.

It makes no sense, to force this region, or the jurisdictions of any ozone nonattainment area, to ratchet down nitrogen oxides from other sources, beyond what may be necessary, simply because a few large sources are able to buy their way out of compliance. It isn’t fair, and it is not in anyone’s best interest to do so.

My legislation puts an end to it.

It deserves consideration.

ESTABLISHING NATIONAL AVIATION HERITAGE AREA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 18, 2003

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today in support of H.R. 280 the National Aviation Heritage Area Act which includes in Title VI the Upper Housatonic Valley National Heritage Area Act. The Upper Housatonic Valley, encompassing 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut, is a singular geographical and cultural region that has made significant national contributions through its literacy, artistic, musical, and architectural achievements, its iron, paper, and electrical equipment industries and its scenic beautification and environmental conservation efforts.

The Upper Housatonic Valley National Heritage Area would extend from Lanesboro, Massachusetts 60 miles north to Kent, Connecticut. This region of New England is home to many of the Nation’s first industrial iron sites. The iron production at these sites was used to make weapons for the Revolutionary War. Furthermore, the area includes homes of historical significance belonging to Edith Wharton and author Herman Melville as well as the Monument Mountain Reservation, where Melville and Nathaniel Hawthorne picnicked. The area also has great outdoor recreational resources and is the base for much of Connecticut’s agri-tourism business.

From the 1730s to the 1920s, it was home to many of the Nation’s earliest iron industries. The first blast furnace was built in 1762 by Ethan Allen and supplemented iron for the cannon that helped General George Washington’s army to win the American Revolutionary War. While most of the furnaces, mine sites and charcoal pits have been lost to development and time, the few that remain are in need of refurbishment. The Beckley Furnace in Canaan, Connecticut was designated an official project by the Millennium Committee to Save America’s Treasures.

The Valley’s history as a cultural retreat from the Boston and New York areas provides both past and current riches for the country. Since the 1930s visitors from all over have come to hear the music at Tanglewood, Music Mountain and Norfolk, see the paintings at the Norman Rockwell Museum, watch serious theater at Stockbridge and musical treats at Sharon. Today’s local authors draw on a long tradition going back to the 19th century, when Herman Melville, Nathaniel Hawthorne and Edith Wharton lived and wrote here.

The Upper Housatonic Valley, with its proximity to large cities, occupies a special niche in our national culture.

The Housatonic Valley is also rich with environmental and recreational treasures. The Housatonic River, just below Falls Village, Connecticut, is one of the prized fly-fishing centers in the Northeast and is enjoyed by fishermen from not only Connecticut and Massachusetts but the entire eastern seaboard. Olympic rowers have trained in this river as children have learned to swim, boat and fish and value its ecosystem.

Through this broad, flexible and locally led initiative, the states of Connecticut and Massachusetts will be able to make real progress in protecting the river and its heritage. Rather than depending on the Federal bureaucracy, States will be able to facilitate locally led, and truly voluntary programs that will help protect the river for future generations. This legislation by designating all areas has broad bipartisan support. I would like to thank the Resources Committee for bringing this legislation forward and I encourage my colleagues to support this legislation.
Mr. BOYD. Mr. Speaker, I was unavoidably detained and unable to cast my vote on rollcall votes 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633. In addition, I would have voted “aye” on rollcall votes 620, 621, 622, 623, 624, 625, 626, 627, 631, 632, 633. Had I been present I would have voted “aye” on rollcall votes 620, 621, 622, 623, 624, 625, 626, 627, 631, 632, 633. In addition, I would have voted “nay” on rollcall votes 628, 629, and 630.

IN HONOR OF STIRLING D. SCRUGGS, DIRECTOR, INFORMATION, EXECUTIVE BOARD AND RESOURCE MOBILIZATION DIVISION—UNITED NATIONS POPULATION FUND

HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mrs. MALONEY. Mr. Speaker, at the end of this year, Stirling Scruggs will be retiring after 22 dedicated years with the United Nations Population Fund (UNFPA). Stirling is a living example of the ideals behind the creation of UNFPA and the United Nations itself. A former high school football star in Tennessee, Stirling had many opportunities open to him in life. But his overriding ambition was one that so many of us shared in our youth: to make a difference in the world. Stirling has remained true to his youthful ideals and has made a difference, a substantial difference measured in millions of women and babies that survived because of his dedication and efforts; measured in the essential bonds between mothers and their children who survived to know each other and in the love of husbands and fathers who, rather than seeing their wives and children die in childbirth, have had long and full lives with their loved ones.

In speaking with his colleagues, there are three words that are always repeated when they describe Stirling Scruggs—Passion, Integrity and Kindness.

Passion: Stirling Scruggs has worked in some of the poorest places in the world. He has seen first hand the hardships and struggles that hundreds of millions—in fact, billions of people—bear every hour, every day, every week throughout the year. Stirling Scruggs brings to his work a passion that bespeaks his own commitment and his own commitment to the cause of basic health, women and voluntary family planning around the world.

Integrity: Stirling combines his passion with unshakable integrity. He is unwavering in his commitment to basic health and rights for all the world’s people. He has stood up for these ideals in some of the most difficult circumstances, including in China, where he worked tirelessly—as UNFPA does—to convince the Chinese about the greater wisdom of a voluntary, rights-based approach to family planning. Stirling Scruggs is a monument to personal integrity and professional dedication.

Kindness: Finally, and perhaps most importantly, Stirling brings to his work a core kindness—not only in his outlook to the dispositioned in our world, but in his dealings with all people. Stirling always has a kind word and a warm smile for those he works with, on behalf of and for. He is a tender man, who has a compassionate outlook toward those less fortunate and a compassionate manner with everyone he relates to.

There are few better, kinder men than Stirling Scruggs. He has represented the United States so well in the United Nations system. All Americans can be proud of the service he has rendered and we all wish him well as he continues his efforts to make the world—and each of us—a little better.

TRIBUTE TO WESLEY HEDSTROM

HON. JAMES L. OBERSTAR
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. OBERSTAR. Mr. Speaker, I rise today to pay tribute to former Cook County Commissioner Wesley Hedstrom, who passed away on November 7, 2003.

Wes Hedstrom was born in 1924 in Grand Marais, Minnesota, the youngest of thirteen children. After graduating from Grand Marais High School in 1942, Wes joined the U.S. Army and served during World War II. Returning to Minnesota, Wes, along with five of his brothers, took over operation of their father’s business, Hedstrom Lumber, and he was company president from 1986 to 2000. In 1984, Wes was elected to the Cook County Board of Commissioners, on which he served for the next 16 years.

Except for the few years he was in the Army, Wes lived his entire life in Grand Marais, a small fishing town along Minnesota’s north shore. Many people say that Wes was largely responsible for the enormous growth of his family’s lumber business, turning it into one of the region’s largest and most successful companies. For Wes, however, it was more than a business; it was a way of life. He had extensive knowledge of lumber and the woodland, lessons that he learned from Wes about forestry, forest management and sustainable yield forstry than from any other source.

Wes understood the need for balance between the lumber industry and protections for the environment. He applied that fair-minded attitude to all the projects he worked on in the community, both as a County Commissioner and as a civic volunteer. From the renovation of a local hospital, to the creation of a new airport, to the advocacy for education funding, Wes worked to nurture people, find a consensus, and do whatever was in the public’s best interest. That was his signature and his trade mark.

Some called him an activist. Others said he was a pioneer. All who crossed his path considered him a friend. I knew Wes since he worked on my first Congressional campaign in 1974, and over the years, I marveled at his friendliness, magnanimity and selflessness. To me, Wes was a teacher, counselor and partner in ventures for the Northland, and he was a good friend to me. He was one of those rare people who truly made a difference in his community. I know my colleagues join me in honoring Wes Hedstrom for his many years of dedicated service to his town, his State and his country.

COMMENDING DENTON HOUSING AUTHORITY

HON. MICHAEL C. BURGESS
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. BURGESS. Mr. Speaker I rise today to recognize the Denton Housing Authority to commend them for receiving three National Association of Housing and Redevelopment Officials (NAHRO) Merit Awards in Tampa, Florida this year.

The Denton Housing Authority has been active in the North Texas community for years, working hard to provide quality public and affordable housing. This year at the 2003 NAHRO awards ceremony, the Denton Housing Authority was recognized for their achievements in Program Innovation for Resident and Client Services. NAHRO President Kurt Creager said, “These agencies are accomplishing remarkable levels of service for their communities and their residents. They are setting programs and establishing standards that can be duplicated by other housing authorities around the country.”

The Denton Housing Authority was recognized for three of their programs. The ARTS program brings together the DHA, University of North Texas, Center for Public Service, and Greater Denton Arts Council to provide an arts program and promote social skills for disadvantaged youth in low-income neighborhoods. The New Direction of Community Oriented Policy Services (COPS) program partners with the Denton Police Department to encourage community outreach services to create and sustain safer neighborhoods. Also, the Phoenix After-School Program teams with the University of North Texas and DHA to encourage social and academic success for socially challenged youth 4–11 years old living in the Phoenix Development. These are the kind of great programs that will create a better society in the future by giving our youth a strong foundation and forming a safer environment for our neighborhoods.

Once again, I would like to express my sincere congratulations to the Denton Housing Authority for their innovation and hard work in providing community outreach services to the City of Denton and surrounding communities.

TRIBUTE TO DAVID A. WIRSing

HON. DONALD A. MANZULLO
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. MANZULLO. Mr. Speaker, I rise today in tribute to my colleague and friend in Illinois, David A. Wirsing, State Representative from the 70th district. Dave went home to be with the Lord suddenly on November 16, 2003. He leaves a loving wife of over 40 years, Nancy, four grown children—Mark, Steven, Angela and Susan—and 11 grandchildren.

Dave WirSing was a friend in the truest sense of the word. He was a man of deep faith who a loving and faithful husband to Nancy and a wonderful father to his four children. He spent the majority of his life in agriculture as a former pork producer and grain
farmer. He and Nancy had the same phone number their entire lives, and their address always ended with “Sycamore, Illinois.” Then, in 1992, he decided to enter public service and run for State Representative of the 70th district.

Mr. Speaker, I want to pay tribute to Dave today not only for his selfless public service to the people of Illinois, but to Dave as a friend. Before Dave ever ran for public office, he was simply a husband, father and grandfather. He raised his children with a sense of humor, a stern moral standard and abiding faith in God and taught them leadership skills and simple common sense. Mostly, he raised his children and provided his wife, Nancy, with love. Few knew at this point how much he would impact the lives of so many people or that so many would seek his counsel. His children never dreamed that the man they simply called “Dad” would become the man many would call “great.”

Dave Wirsing was a friend to many. His small and large acts of kindness are unfathomable to some. However, to Dave, it was just the way he was meant to live his life. He was a humble man, never quite understanding why people outside of his family would honor him for achievements that to him were just what he was supposed to do. He was a man who dedicated his life—indeed, his heart and soul, to serving others. He learned independence, responsibility, the value of faith, kindness, compassion and love through his wisdom, his gentle and jovial encouragement, his love and respect for each person as an individual, and his high regard for bettering oneself.

Mr. Speaker, Dave Wirsing’s accomplishments were many, but most importantly, not a day went by that he did not share himself with someone. Solutions and advice came to him from people of all walks of life. Dave lived his philosophy. He was not out to make a name for himself, he just wanted to make things right in his part of the world. If he did not have the skill necessary to help someone, he sought it out. He lived by the philosophy that if you always tell the truth, you won’t have to remember what you said. Dave Wirsing did not live his life to achieve great moments, but instead had a lifelong commitment to a set of values and ideals. As I reflect today on the whole of his life, that is his greatest accomplishment. He leaves behind a legacy of faith, kindness, compassion and love for his family, friends and constituents. He will be deeply missed.

HONORING THE 30TH ANNIVERSARY GALA OF THE KOREAN AMERICAN MEDICAL ASSOCIATION, INCORPORATED OF DISTRICT OF COLUMBIA, MARYLAND AND VIRGINIA

HON. TOM DAVIS OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor the 30th anniversary of The Korean American Medical Association of District of Columbia, Maryland and Virginia, Incorporated. The Korean American Medical Association of District of Columbia, Maryland and Virginia, Incorporated (KMA) is one of the most respected Korean-American nonprofit organizations in America. The association was founded in 1974 by a small group of respected Korean physicians. The KMA was the first Korean Medical Association in the United States. Its hard work and dedication saw the association grow from a handful of members to a membership of about 400 physicians from the District of Columbia, Maryland and Virginia. Since its inception, the association’s involvement in the Great Washington, D.C. Metropolitan community has been commendable. The KMA provides health care services, seminars and educational opportunities to the community. The dedication that the members of the KMA have to its community is exceptional.

The KMA provides a forum for its members to exchange ideas and continue education to help their members continue to provide excellent service to the community. The care and services these physicians provide to their neighbors and friends is a testament of their hard work. The KMA certainly has distinguished itself as an outstanding group.

Mr. Speaker, in closing, with all the contributions to the community made by The Korean American Medical Association of District of Columbia, Maryland and Virginia, Incorporated, we have a great reason to celebrate today. I want to commend the association 30 years of excellence and extend my warmest wishes for the years to come. I call upon my colleagues to join me in applauding the KMA on its 30th anniversary.

IN HONOR OF LOULA LOI-ALAFOYIANNIS

HON. CAROLYN B. MALONEY OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to Loula Loi-Alafoyianis, the Executive Global President and C.E.O. of the Euro-American Women’s Council (EAWC). Loula has spent her professional life facilitating the needs of Greek and American entrepreneurial communities and advancing the cause of women’s rights in the areas of business and education. Loula has demonstrated that intelligence, integrity, energy, clear objectives and the love of a task well executed create credibility. Her love for Greece and her desire to promote greater understanding between Greece and America has made her a strong advocate and a wonderful ally.

Loula, like so many talented women of her generation, has had several careers. For two decades, Loula served as an elementary school teacher, helping to ensure that young people have a strong educational foundation. Her work with young people inspired her to create a Youth Leadership Award given annually by EAWC.

She then turned to the challenges offered by business, public relations and re-plan-ning. Loula’s entrepreneurial skills are widely recognized and, as a result, she has served as a delegate to White House Conferences on small businesses since 1990, and has advised numerous public officials and government leaders. Loula has also sponsored numerous White House luncheons for prominent and influential business women from across the United States and Greece.

In 1991, she founded and organized the “Best Buddies Foundation” in Greece, along with Anthony Kennedy Shriver, who serves as its Global President and C.E.O. As the Founder and the executive Global President of Euro-American Women’s Council, Loula has established a spirit of cooperation among business women globally. The women of EAWC bridge nations and cultures, set trends, exercise influence, innovate positive change and make a difference around the world. Since 2001, Loula has been the Coalition Partner for Europe of the Women Impacting Public Policy (WIPP) organization. She is currently a board member to the Human Rights Advisory Council of New York.

Loula has received a number of prestigious awards for her outstanding contributions, including the Crown Award, which recognizes her as one of the most creative minds of the top leading entrepreneurial women of the world. She has also earned the distinguished award of “Honorary Citizen of Baku” as a result of her pioneering efforts to improve entrepreneurial training in the former Soviet Union.

Mr. Speaker, I am pleased to bring to the attention of my colleagues the outstanding woman, Loula Loli-Alafoyianis. Her unwaivering dedication to improving relations between the Greek and American entrepreneurial communities and promoting opportunities for women is truly worthy of our recognition.

A TRIBUTE TO REVEREND DR. JOHN L. GILES

HON. EDOLPHUS TOWNS OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of the Reverend Dr. John L. Giles in recognition of his pastoral anniversary.

While Reverend Giles was born in the tiny town of Sanger, TX, located 38 miles southwest of Fort Worth, he considers himself a native of San Francisco. It was during high school that he joined St. Kevin’s Catholic Church and learned the Catholic discipline. He was also a member of Bethel A.M.E. Church. Upon graduating from Balboa High School, he had saved enough money to attend college and support himself. Through scholarships, he learned independence, responsibility, the importance of healthy living, and helping others and his family.
Drafted in the Vietnam War, he spent 18 months in Friedberg, Germany where he earned the rank of sergeant in 15 months and he attended both Catholic and Protestant churches. He read the bible more and more and his favorite scriptures are Psalm 23, 27, and 121. In May 1951, Pastor Giles earned his doctorate in Pastoral Ministry at the United Theological Seminary in Dayton, OH.

Upon returning to San Francisco, he joined the Solid Rock M.B. Church and was baptized. In August 1970, he was accepted at the American Baptist Seminary of the West in Berkeley, CA. He also attended Morehouse College, majoring in Religion and served briefly at Ebenezer Baptist Church in Atlanta as a youth minister under the late Dr. Martin Luther King, Sr. Additionally, he has served at First Baptist in LaGrange; First African Baptist, Bainbridge and the Beulah in Quitman. He served as Chaplain at the VA Medical Center in Bay Pines, FL and as pastor of New Hope M.B. Church until 1994. Presently, he is the Pastor of True Faith Inspirational Baptist Church in Tampa, FL.

He is married to JoVanore Sims Giles, who serves as chairperson of the Department of Ministry and participates in the choir and other activities. They have two daughters, JoVanore Giles-Galbreath and Jenee Codallo-Nelson, and one son, Johnathan who is attending college and participates in the choir and other activities. They have two daughters, JoVanore Giles-Galbreath and Jenee Codallo-Nelson, and one son, Johnathan who is attending college and participates in the choir and other activities. They have two daughters, JoVanore Giles-Galbreath and Jenee Codallo-Nelson, and one son, Johnathan who is attending college and participates in the choir and other activities. They have two daughters, JoVanore Giles-Galbreath and Jenee Codallo-Nelson, and one son, Johnathan who is attending college and participates in the choir and other activities. They have two daughters, JoVanore Giles-Galbreath and Jenee Codallo-Nelson, and one son, Johnathan who is attending college and participates in the choir and other activities.

But despite winning elections in five different decades, serving his state and country in many different capacities, and being a leading educator, Senator Simon's character, integrity and intelligence are what have made him the most enduringly popular political figure in our state. The advice and support of Senator Simon remains cherished by those of us who have attempted to advance his ideals.

Mr. Speaker, I thank you for the opportunity to congratulate a true hero of mine and the entire State of Illinois. Senator Paul Simon, on the occasion of his 75th birthday.

PERSONAL EXPLANATION

HON. ROBERT E. ANDREWS
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. ANDREWS. Mr. Speaker, on Wednesday, November 19, I did not vote on the following measures, because of family commitments, and would like to include in the RECORD how I would have voted, had I been present:

On H.R. 1006, I would have voted "yea"; on H. Con. Res. 320, I would have voted "yea"; on H.R. 2351, I would have voted "yea"; on rollcall No. 637, to instruct conferences on H.R. 1, I would have voted "yea"; on H.R. 2420 I would have voted "yea"; on H. Res. 427, I would have voted "yea"; on H. Con. Res. 83, I would have voted "yea"; on H. Con. Res. 258, I would have voted "yea"; on H. Res. 393, I would have voted "yea"; on H. Res. 423, I would have voted "yea"; and on H.R. 3140, I would have voted "yea."

A TRIBUTE TO MRS. EVERLEE SMAW MILLS

HON. FRANK W. BALLENC, JR.
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. BALLENC. Mr. Speaker, I rise to honor Mrs. Everlee Smaw Mills, one of my most senior constituents on the occasion of her 90th birthday. Mrs. Mills has lived through and experienced every notable event in our nation’s history that has punctuated the 20th Century. At the tender age of 16, instead of engaging in some of the lighthearted, fun activities enjoyed by youth today, Mrs. Mills was experiencing an America devastated by the stock market crash of 1929 and the onslaught of the Great Depression. At a time when she should have been enjoying life and planning for what little prosperity a segregated nation could offer an under-education Black woman, Mrs. Mills as a youth was facing bread lines and food rations.

Mr. Speaker, Mrs. Mills is a remarkable woman, not just because of her long tenure but also because of her resolve to do well in all circumstances. For instance, she lived through the death of both parents at an early age, World War I, death of her spouse, World War II, the Korean War, Vietnam War, Gulf War, death of three of her children, and has seen our troops sent to Iraq to battle terrorists.

Mr. Speaker, Mrs. Mills gave birth to 11 children and fed and nurtured many others, including grandchildren and neighborhood youth who wandered home with her children. It is my understanding, Mr. Speaker, that she never turned anyone away who needed a helping hand. Mr. Speaker, this remarkable lady, worked in a domestic capacity until she retired at age 75, and over the years with her husband, (decedent) William Mills never once accepted welfare. As a widow, since the late 1940s, Mrs. Mills taught and stressed the importance of self-sufficiency to her children. They were taught to “pay their own way” in society.

To Mrs. Mills’s credit, Mr. Speaker, her children have grown under the shade of her guidance to enter a cadre of notable professions. For instance, her children are employed in the following capacities: US Air Force serviceman, an engineer who has been assigned to work on NASA projects, a representative with the Wall Street Currency Exchange Department, the first Black elected to the Board of Commissioners in Beaufort County, an accomplished welder for the most prestigious truck body builders in the country, Hackney & Sons, and one daughter and son who have become ministers.

Mr. Speaker, Mrs. Mills is a lifelong member of Beebe Memorial CME Church of Washington and was named the Woman of the Year in the 1980s and Woman of Distinction in 2001. She is revered in her church for the solid advice that she imparts to the youth and her peers, and has become a well-respected pioneer in building church programs.

Mr. Speaker, Mrs. Mills is a true marvel. She still lives independently and enjoys “Soap Operas”; She reads the Bible religiously. Her family history is traced in Beaufort County as far back as slavery. Her love for the area runs deeper than we understand. It pleases Mrs. Mills greatly to be simply a loving mother, devoted church member and lifelong resident of Beaufort County, North Carolina. Mr. Speaker, my Colleagues to join me in paying tribute to Mrs. Everlee Smaw Mills, an exemplary citizen.

HONORING BERT S. TURNER
OF LOUISIANA
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. VITTER. Mr. Speaker, I rise today to honor Bert S. Turner, a distinguished alumnus of Louisiana State University. He has been selected by the LSU Alumni Association Hall of
Recognizing the Work of Mr. Philip Workman, Executive Director of the Ohio Psychiatric Association

Hon. Ted Strickland

In the House of Representatives

Thursday, November 20, 2003

Mr. STRICKLAND. Mr. Speaker, I stand today on the floor of the United States House of Representatives to recognize Mr. Philip Workman’s contributions to the field of mental health treatment.

For nearly twenty years, Phil Workman has served as the Executive Director of the Ohio Psychiatric Association (OPA), the OPA Education and Research Foundation, and the Ohio Psychiatrists’ Political Action Committee. In these positions, he has made an outstanding contribution to advancing education and treatment and reducing stigma and discrimination of mental illness.

Under Mr. Workman’s watch, the membership of OPA has doubled to over 1,000 members; this growth in membership is due, in part, to his ability and willingness to reach out to residents and psychiatrists who are just beginning their careers in order to develop young leadership in the organization.

Mr. Workman has been a leader in Ohio and across the country in the fight for mental health parity. He has worked in concert with other Ohio groups to establish the 1984 Fair Benefits Coalition. The Fair Benefits Coalition led directly to the creation of the Coalition for Healthy Communities, a coalition of over 25 professional agencies and consumer organizations devoted to providing quality mental health and substance abuse services in Ohio. And, he worked in the American Psychiatric Association to establish several groups and task forces that have been critical to the vitality of the national organization.

Appropriately, Mr. Workman’s outstanding leadership, commitment, and dedication was honored in 2002, when he was named a “Mental Health Champion” by the National Alliance of the Mentally Ill of Ohio. Phil Workman’s long service to the Ohio Psychiatric Association and his strong advocacy for those who suffer from mental illness has inspired and served as a model to his many friends and professional associates. It has been said that “some people strengthen society just by being the kind of people they are.” Mr. Speaker, Philip Workman is such a person.

James R. Browning United States Courthouse

Hon. Nancy Pelosi

In the House of Representatives

Thursday, November 20, 2003

Ms. PELOSI. Mr. Speaker, I am pleased to announce that today I am introducing legislation to designate the United States Courthouse located at 95 Seventh Street in San Francisco, California, as the James R. Browning United States Courthouse.” to honor Judge Browning for his lifetime of outstanding public service.

James R. Browning was born in Great Falls, Montana, and received his law degree from the University of Montana. Prior to his appointment to the bench, he served in the Pacific Theater during World War II, worked in the Antitrust Division of the U.S. Department of Justice, practiced in a law firm, and served as Clerk of the U.S. Supreme Court.

In 1961, President John F. Kennedy appointed James Browning to the United States Court of Appeals for the Ninth Circuit. He dedicated the rest of his career to the Ninth Circuit, becoming the longest serving judge in the history of the circuit. Judge Browning became very active in the Judicial Conference of the United States, serving on a number of committees that worked to strengthen the federal judiciary.

Upon becoming Chief Judge of the Ninth Circuit in 1976, Judge Browning focused on improving the function of the circuit, which was struggling with a large backlog of cases and delays in appeal decisions. Due to his efforts and innovative practices, additional judges were added to the court of appeals, the time required to decide appeals was cut in half, and the backlog was eliminated. He also improved communication among the justices, emphasizing the importance of good collegial rapport. His innovations were studied and adopted by other circuit courts, and he has received several prestigious awards in recognition of his achievements.

Judge Browning’s contributions to national jurisprudence are also outstanding. During his forty-two years on the Ninth Circuit, Judge Browning has participated in almost 1000 published appellate decisions and authored many other unsigned per curiam opinions. In a 2001 tribute, a colleague described him as “the consummate appellate judge . . . he treats each case that comes before him with careful attention and produces succinct, clearly reasoned opinions.” Colleagues have also lauded him for his seminal contributions to national antidiscrimination and his attentiveness to ensuring that citizens have access to the justice system.

Judge Browning stepped down as Chief Judge in 1988 but did not retire, remaining an active circuit judge and a member of myriad committees and judicial groups. He took senior status in September 2000. His activities have been significantly curtailed due to declining health.

It is my hope that we can enact this bill in the 108th Congress, so that Judge Browning can witness this much-deserved tribute to his lifetime of public service.

Judge Browning’s achievements would be fittingly acknowledged by naming the historic federal building at Seventh and Mission streets in his honor. As one of his supporters said, “A great and sturdy courthouse needs the name of a great and sturdy judge.” I invite my colleagues to cosponsor the “James R. Browning United States Courthouse” bill.

South Maui Coastal Preservation Act of 2003

Hon. Ed Case

In the House of Representatives

Thursday, November 20, 2003

Mr. CASE. Mr. Speaker, I rise today to introduce a bill directing the Secretary of the Interior to undertake a study to determine the suitability and feasibility of designating and acquiring lands along the southern coast of the island of Maui as a National Seashore, National Recreation Area, National Monument, National Preserve, or other unit of the National Park Service.

The study area covered by the proposed South Maui Coastal Preservation Act of 2003 includes lands such as the “Ahini-Kinau Natural Area Reserve to Kanaloa Point, a distance of approximately six miles. The area is rich in archaeological, cultural, historical, and natural resources. Important sites in the proposed park area contain remnants of dwellings, heiau (places of worship), fishing shrines, platforms, enclosures, shelters, walls, graves, and canoe hales (houses) that date back as early as 1100 A.D. This portion of the southern coast is also the home of unique native plants and animals, some of which are endangered.

The County of Maui passed Resolution 00–136 on October 6, 2000, expressing its support for having this area designated as a National Park. The Hawaii State House and Senate also passed bills in support of having the area managed by the National Park Service. Both these resolutions were in support of my predecessor, Congresswoman Patsy T. Mink’s bill, H.R. 591, introduced in the 107th Congress, to study the feasibility of designating the more limited area from Keone‘ōi‘o to Kinau Point as a National Park.

An initial reconnaissance survey by the NPS indicated that the resources deserved protection but stated that the more limited area was not appropriate for a National Park because...
most of the land was owned by the state. However, I believe the expressions of support for NPS control of the area by the County and State offer a firm basis for moving forward. Therefore, I have included a provision in my bill to ensure that the proposed study includes a 637. Had I been present, on rollcall votes Nos. 634 and 637. Had I been present, on rollcall vote No. 634, I would have voted “yes”; on rollcall vote No. 635, I would have voted “yes”; on rollcall vote No. 636, I would have voted “yes”; and on rollcall vote No. 637, I would have voted “Yes.”

RECOGNIZING GENE ARGO OF HAYS, PRESIDENT OF MIDWEST ENERGY

HON. JERRY MORAN
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. MORAN of Kansas. Mr. Speaker, I rise today in recognition of a Kansan, Mr. Gene Argo, for his commitment to excellence and his devotion to service. This year, Mr. Argo will retire as president of Midwest Energy, based in my hometown of Hays, Kansas.

A true man of the west, Gene Argo drew many of his life lessons from his youth in Texas, including a profound love of nature and a respect for his fellow man. An avid bareback rider, Gene has learned that, through hardship and in the face of failure, you must always get back on your horse.

For the past decade, Mr. Argo has tirelessly devoted himself to the Midwest Energy Corporation. As president and general manager, he has guided the success of the company since 1992. Through his efforts, Midwest Energy has grown to serve 40 counties in western Kansas. As president, Gene Argo is respected by his employees not only because of his work ethic, but because he respects his employees in turn.

Mr. Argo’s passion for progress has also made a profound difference in his community. In Hays, Gene Argo served on various civic and industry organizations, including the board of directors of the Hays Medical Center and the Hays Medical Center Foundation. The community of Hays has also benefited under Mr. Argo’s leadership as chairman of the Ellis County Economic Development Coalition and the Ellis County United Way. The growth of Ellis County is a testament to his vision and direction.

Gene Argo has also invested a great deal in the future of the State of Kansas. He supports Kansas youth as a member of the Kansas 4-H Foundation and serves on the board of the Kansas Wildscape Foundation. An ardent hunter and sportsman, Gene is dedicated to preserving Kansas’ natural beauty. As a small token of Kansas’ appreciation, Mr. Argo was selected as the Leadership Kansas Alumnus of the Year in 2002.

In light of his many efforts and achievements, his family comes first. Gene and his wife Linda raised three children and are proud grandparents of three grandchildren.

Respected for his motivation and leadership, his employees wear his starched shirts and smiles upon his retirement. I join his friends and family in extending to him my best wishes in all of his future endeavors.

TRIBUTE TO MATTIE MARIE FRANKLIN MARSHALL

HON. EDDIE BERNICE JOHNSON
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I pay tribute today to one of Texas’ truly outstanding citizens, Mattie Marie Franklin Marshall. As we recognize her 70 years of service to our State’s education and her multitude of contributions to our community, I would like to take a moment to reflect on the remarkable achievements of this great woman.

Mattie Marie Franklin Marshall has devoted her entire life to the great State of Texas. Her life has been spent serving her fellow man—teaching, counseling, leading, advising, guiding, and nurturing. She was born in Washington, Texas. Her father passed away when she was only two, but her mother watched her work her way upward despite many difficult obstacles.

Mattie continued the legacy of her sisters Ellie O. Laster, Anna M. Taylor, and Susie L. Jingles by becoming an educator. She began her adult life by working hard and knew success meant accepting life’s challenges. She remained an educator for 35 years until she retired from the school system in 1977.

Following her retirement, Mattie broadened her public service from the school system to the greater community.

She was actively involved in the Girl Scouts of America, Young Women’s Christian Association, the Friendly Neighborhood Club, Philodendron Garden Club, the Chanelle Club, and a Life Member of the Erma D. Leroy Club.

One of the highlights of her life was the organization of Fifth Ward Baptist Church. She was a founding member of the committee that organized the church and served as its first recording secretary. She has served her church with dedication for the last 59 years. In honor of her tireless efforts on behalf of the Fifth Ward Baptist Church, its library was renamed the Mattie M.F. Marshall Library in June 2003. Just as significant as all of Mattie’s achievements is the spirit of community service she represents. Her willingness to help individual community members of our society as a whole is what makes her especially deserving of our recognition and praise.

The spirit of service she actively portrays is something we see far too little of in this society. And we all would do well to follow the shining example that Mattie Marshall has given us.

I know that Mattie will continue to play an important role in our community for years to come, and that America will continue to benefit from her dedication and service.

Mr. Speaker, I urge you and my colleagues in the U.S. House of Representatives to join me in saluting Mattie M.F. Marshall and in applauding this remarkable citizen for all she has done, and for all she has meant to those of us whose lives she has touched.

AMERICAN DIABETES MONTH

HON. JOE BACA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 2003

Mr. BACA. Mr. Speaker, I rise in support of American Diabetes Month.

In order to combat this deadly disease, we must focus on prevention, education and diet. Diabetes is the fifth-deadliest disease in the nation.

In California, there are about 2 million people with this disease. In my home county of San Bernardino over 100,000 have been diagnosed.

While this disease affects people of all walks-of-life, Hispanics are particularly vulnerable. Hispanics are almost two times as likely to develop Diabetes as non-Hispanic Whites. Twenty-four percent of Mexican-Americans in the United States currently have diabetes. Almost two million Hispanics struggle with the disease.

I don’t have diabetes but my parents, my brother and my brother-in-law did. My father died of diabetes along with my brother. They didn’t take care of it. We had a large family and could not afford health care.

Growing up, we ate what we could afford and too much of our diet contained foods like tortillas and frijoles that cause health problems and can eventually lead to diabetes. There was no health education or awareness. They didn’t know how to take care of their diabetes. When they were diagnosed with diabetes they ignored it and it cost them their lives.

Fortunately, this disease can often be prevented.

We must educate our children and communities about the dangers of this disease. That is why American Diabetes Month is so important. We need to teach children prevention. The lifestyles they adopt today will carry over into their adult years. We are placing children at risk when we allow them to come home day after day, play videogames, sit in front of the TV and snack on soda and chips. Children eat what their parents eat and can afford. Eating a diet of high sugary foods—like tortillas, rice, and chips—at every meal is teaching our children unhealthy habits.
To help educate our children and our communities I participated in an educational video with Edward James Olmos and Liz Torres. This video, which comes in English and Spanish, helps educate Hispanics and all Americans about the disease. Additionally, with the help of Congressmen Putnam and Cardoza, we recently introduced legislation that would allow schools across the country to serve fresh fruits and vegetables in school lunch programs. This will help children afford to eat healthy and stay healthy.

I have been active in leading the charge to restore food stamp benefits to hard working immigrants, so that their children may have access to the healthier foods that help prevent diabetes.

But it is not enough to just educate people. We also must make sure that preventative screening and medical services are affordable and available to all Americans.

One of the biggest problems in early prevention is financial. People do not have the resources to seek medical help so the problems escalate. The cost of diabetes per person per year is approximately $13,243. If they have additional problems, like dialysis, syringes, medications, or other items, the cost goes up an additional $8,500. Now the cost is over $22,000.

The healthcare costs of a person with diabetes are about 2 1⁄2 times higher than the average person's healthcare costs. How can an uninsured person in this country afford $22,000 when some don't even make that much in a year?

To help those that can't afford to take care of their diabetes, I have co-sponsored the Diabetes Prevention, Access and Care Act and the Access to Diabetes Screening Services Act. These bills will increase access to diabetes screening, treatment and prevention in minority communities and all communities that are affected by Diabetes.

In the spirit of American Diabetes Month, we must not only look to legislation to help those that suffer from diabetes but we must educate our communities. We must take a personal interest. We must become involved on a personal level.

American Diabetes Month is a great opportunity to educate all Americans on how to help prevent diabetes.

CONFERECE REPORT ON H.R. 6, ENERGY POLICY ACT OF 2003

SPEECH OF
HON. JERRY F. COSTELLO
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 18, 2003

Mr. COSTELLO. Mr. Speaker, I rise today in support of H.R. 6, the Energy Policy Act of 2003 Conference Report. Completion of this energy bill is yet another step forward in our struggle for energy security and independence. A reliable and affordable energy supply is crucial to America's economic vitality, security, and quality of life.

While this final conference report is not perfect, we continue to make progress towards promoting energy conservation and efficiency; increasing the use of all domestic energy resources, including coal; improving energy infrastructure; and promoting the development of advanced energy technologies.

The combustion of fossil fuels is essential to our energy policy and must continue to be a part of a balanced energy plan for this country. Coal is absolutely critical to our nation's economic health and global competitiveness. Coal accounts for more than 50 percent of U.S. electricity generation, far ahead of nuclear, hydroelectric power, petroleum and other sources. There is no present alternative to coal to meet our energy needs. New and improved technologies hold the promise of far greater emissions reductions and increased efficiency.

Clean coal provisions are included in the final conference report that would assist in burning coal more efficiently and cleanly. These clean coal technology initiatives encourage development of new technologies for cleaner, higher efficiency coal combustion in new and established plants with the hope of achieving a healthier environment while maintaining jobs. America's substantial investment in clean coal technology creates 82,000 jobs and ensures Americans new electricity that is abundant, reliable, affordable and cleaner than ever before.

The bill includes a $1.8 billion authorization for the Secretary of Energy to carry out the Clean Coal Power Initiative, which will provide funding to those projects that can demonstrate advanced coal-based power generating technologies that achieve significant reductions in emissions. Further, the bill authorizes $1.422 billion for coal research and development. I fought hard for increases to coal within the fossil energy research and development budget and I was glad to see they were included in the final version.

Finally, the legislation includes a provision, which I authored, called the Clean Coal Centers of Excellence. Under this provision, the Secretary of Energy will award competitive, merit-based grants to universities that show the greatest potential for advancing new clean coal technologies. Southern Illinois University Carbondale (SIUC), which I represent, continues to be a leader in clean coal technology research, doing extensive work at its Coal Research Center. With funding and collaborative support from government, SIUC has conducted long-term projects relating to surface mine reclamation, mine subsidence, coal desulfurization, coal characterization and combustion, coal residue management and utilization, coal market modeling, and environmental policy. Faculty, staff, and students in fields as diverse as engineering, science, business, education, law, and agriculture have contributed to the University's international reputation in coal research. It is well-positioned to be a potential recipient of the Clean Coal Centers of Excellence grant.

In addition to the clean coal provision, the bill contains provisions instrumental in helping increase conservation and lowering consumption. Included in this are ethanol provisions that are used as a replacement and additive for gasoline consumption. Under this legislation, ethanol use would increase, nearly tripling the current requirement. This is expected to increase the average price of corn paid to farmers 6.6 percent, or 16 cents per bushel and increase average net cash income to farmers by $3.3 billion over the next decade, or more than three percent.

This increased use of ethanol will save 1.3 billion barrels of oil by 2016, improve the trade deficit by $28.5 billion over 15 years, add $135 billion to the American economy by 2016 through increased agricultural demand and new capital spending, and generate $32 billion in income for American consumers over 15 years.

Mr. Speaker, this energy bill will shape energy policy for the next decade and beyond. I am glad coal and ethanol remain an integral part of our energy future and I urge my colleagues to support this legislation.

RESOLUTIONS IN SUPPORT OF H.R. 2656

SPEECH OF
HON. DON YOUNG
OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 18, 2003

Mr. YOUNG of Alaska. Mr. Speaker, electron scrubbing is the only air control process that allows older power plants to meet the Clean Air Act Amendments of 1990 (CAAA) and the New Source Performance Standards (NSPS) while burning the least cost, highest energy fuel—high sulfur coal. The electron scrubbing process removes almost all the pollutants emitted from power plants burning high sulfur coal. In a single step, the electrons convert the pollutants into a high grade, agriculture byproduct.

The Department of Energy's (DOE) Chicago Operations Office (COO) has been briefed on the electron scrubbing project at Eagle Valley and has agreed to manage the program. However, DOE must first transfer $5 million in earmarked funds to the COO so that the Director can immediately implement the program.

A letter of intent, dated April 16, 2002, from Greg Daeger, program manager for the electron scrubbing project at Eagle Valley, attests to the commitment and due diligence of Eagle Valley to implement the project pursuant to Congress's direction and intent.

Electron scrubbing uses high-energy accelerators for air pollution cleanup. DOE's COO has the technical management capability in accelerator-related programs and air pollution programs used in other DOE applications. This location is an ideal venue for the effective and successful oversight of the electron scrubbing program. The transfer of funds would allow COO to continue and expand its management of high technology air pollution programs in the area of high-energy electrons.

The energy bill directs DOE to "use $5,000,000 from amounts appropriated to initiate, through the Chicago Operations Office, a project to demonstrate the viability of high-energy electron scrubbing technology on a commercial-scale electrical generation using high sulfur coal." Because it has both the authority and capability to oversee this demonstration project, $5 million must immediately be transferred from DOE to COO.

RESOLUTIONS IN SUPPORT OF H.R. 2656
Bay Area. The resolutions are regarding the planned casino in my congressional district. The communities surrounding the proposed site are all to ensure that their voices are heard on this controversial issue and it is extremely important that all sides of the issue are given a platform to do so. I hope that we can come together for a vote in the near future.

RESOLUTION NO. 2003-220 N.C.S.

Whereas, the Petaluma City Council respects the rights of Native Americans to establish and have recognized tribal sovereignty and secure lands under their jurisdiction; and,

Whereas, under the existing federal legislative framework there is no provision for coordination of gaming proposals or associated major tribal enterprises with established and approved off-reservation local or regional planning law and General Plans in any timely and meaningful way; and,

Whereas, developments of great magnitude are being proposed which are dependent upon local and regional public infrastructure, including highways, streets, transit systems, water, wastewater and energy systems and resources, affordable housing, and emergency services, both built and yet to be built; and,

Whereas, without appropriate mitigation, the developments proposed are very likely to have significant impacts on and place substantial burdens on the public infrastructure with a substantial burden falling upon existing and future taxpayers, residents, visitors, and businesses; and,

Whereas, with the rapid construction of tribal gaming facilities, local governments are experiencing serious, adverse impacts related to economic and environmental, health and safety issues; and,

Whereas, the current conditions placed on Indian gaming to achieve and preserve the environmental, public safety, and public health objectives of both state and local government have been insufficient to prevent such adverse impacts; and,

Whereas, when California voters approved Proposition 1A (Indian Gaming) in March of 2004 as a means of supporting the laudable goal of Indian economic development and self-sufficiency, they were not aware that such approval would allow Nevada developers to seize prized off-reservation environmental resources and development opportunities subject to local approved plans or any meaningful environmental review or protection; and,

Whereas, under the provisions of Proposition 1A and the Tribal-State Compact, local communities have not been granted effective input into the development of proposed tribal casinos that threaten their rights and the State appears to have no effective redress for significant environmental impacts these gambling casinos impose on local communities; and,

Whereas, on February 6, 2003, the California State Association of Counties has adopted a policy document that includes seven critical concerns for counties, including a principle that tribes and local governments enter into binding and enforceable local agreements for the mitigation of significant impacts that arise from a local gaming project; and,

Whereas, approximately 360 acres of prime agricultural lands west of Rohnert Park are proposed for the development of a 2000 seat entertainment venue, a 300 room hotel, spas, restaurants, a 2000 seat entertainment venue, parking and other support services, by Station Casinos, and the Federated Indians of the Graton Rancheria (Graton Tribe); and,

Resolved, That the Petaluma City Council strongly supports the revisions in federal legislation [HR 2665/1342] introduced by Representative Woolsey and Senator Feinstein. The Petaluma City Council also urges all members of the Senate and House of Representatives to support these important statutory changes so they may move for their passage; and be it further Resolved, That the Petaluma City Council supports the California State Association of Counties policy document regarding compact negotiations for Indian Gaming; and requests that the Graton Tribe follow the principles contained therein; and be it further Resolved, That the Petaluma City Council, based on the information currently available, strongly opposes the creation of a gaming property on any site that is inconsistent with the Sonoma County General Plan, on the grounds that the use of this land, sought for gaming, will have significant detrimental impacts on the neighboring communities which outweigh the benefits to the tribe; and,

Resolved, That the Graton Tribe was restored in 2000 based, in part, on its promise not to engage its Indian casino gaming: Now, therefore, be it

Resolved, That the Petaluma City Council, in order to ensure that the citizens of Sonoma County do not bear the costs associated with the proposed Graton Tribe casino resort, the Tribe must agree to mitigate, and must in fact mitigate, all environmental impacts caused by its project; and,

Resolved, That the Petaluma City Council calls on the Board of Supervisors of the County of Sonoma, in all negotiations with the Tribe concerning creation of a gambling casino resort, to safeguard the vital and legitimate interests of all Sonoma County citizens by requiring that the following minimum standards be included in a binding, legally-enforceable Memorandum of Understanding with the Tribe:

1. The proposed casino/resort project must subject, at a minimum, to the same level of public safety review and enforcement as would a private developer.

HELP PARENTS GET REAL JOBS, REAL WAGES, AND REAL SUCCESS

HON. JANICE D. SCHAKOWSKY
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Ms. SCHAKOWSKY. Mr. Speaker, today I am introducing a bill, the Business Links Act of 2003, that would provide needed resources to parents facing serious barriers to employment. The bill would provide grants for transitional jobs programs in order to support State efforts to help these recipients find work. Transitional jobs can provide the right combination of support, work, and vocational training and have the potential to turn many job seekers into permanent wage earners.

I would like to thank my colleagues who have already cosponsored this bill. I would also like to commend Senators Jeff Bingaman who has already introduced companion legislation, S. 786, in the Senate. This legislation would replace the TANF bonus grants currently provided to States and instead provide $200 million for each of fiscal years 2005 through 2009 for grants to be awarded to nonprofit organizations, local workforce investment boards, States, localities, and Indian tribes. The grant funds could be used either to promote business links by improving employee wages and job skills in partnership with employers or to provide fully subsidized wage-paying jobs to individuals who have been unemployed because of limited skills or other barriers. The legislation also includes worker protection provisions that, among other things, require employers to provide transitional job participants from displacing or replacing existing workers or positions and provide participants the same worker protections that all other workers receive. Parents who are currently receiving or have recently received Temporary Assistance for Needy Families (TANF), parents who are at risk of needing TANF, individuals with disabilities, and unemployed, noncustodial parents who are having difficulty meeting their child support obligations would be eligible to participate in transitional jobs programs.

Transitional jobs programs would provide intensive case management access to needed support services such as vocational skills training, basic education, job placement services, and child care to all participants. Transitional jobs programs, which are aimed at helping those who have limited English proficiency and other barriers to employment, can be particularly effective for the hardest to serve welfare recipients. Program participants must work 30 to 40 hours a week, unless they have a child under the age of six, and participation is time limited to between six and 24 months. The goal of transitional jobs programs is to prepare and help eligible welfare recipients to transition to unsubsidized, permanent jobs. Because of the individual attention given to each transitional job holder, various programs across the country
have proven very successful in achieving that goal. From January 2000 to July 2001, a Chicago program known as Transitional Community Service Jobs placed over 75 percent of its participants in unsubsidized jobs, more than one-third of which paid over $8.00 an hour. Many cities and communities across the country have implemented transitional jobs programs because they understand the importance of helping those facing serious barriers to employment, and they recognize the long-term benefits of investing in a future workforce that is well-trained and able to contribute to the economy. However, because the Welfare-to-Work funds that help support transitional jobs programs are nearly exhausted and because of tight State budgets, many of those successful programs are at risk. This bill would provide a more stable funding source to allow many of these programs to survive, enable the development of new programs, and require a rigorous evaluation of funded programs.

I am proud that this bill would help those who are having a difficult time supporting their children by providing them with resources and skills that will help them immediately, as well as sustain them in the future. I urge my colleagues to join me in cosponsoring the Business Links Act of 2003.

EXPRESSING SENSE OF HOUSE REGARDING COURAGEOUS LEADERSHIP OF UNIFIED BUDDHIST CHURCH OF VIETNAM

SPEECH OF
HON. SHEILA JACKSON-LEE
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, November 19, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am here today as a staunch supporter of freedom of religion. While we have made progress in our own country, there are other areas in the world which still persecute unjustly. Buddhism has a 2,000-year tradition in Vietnam, and the Unified Buddhist Church of Vietnam (UBCV) is an heir to this tradition. In 1981, the Government of Vietnam declared the UBCV, one of the largest religious denominations in the country, illegal, confiscated its temples, and persecuted its clergy for refusing to join the state-sponsored Buddhist organizations.

The Government of Vietnam has often imprisoned UBCV clergy and subjected them to other forms of persecution; the Patriarch of the UBCV, the 85-year-old Most Venerable Thich Huyen Quang, has been detained and re-strained for more than 2 decades in isolated areas of Vietnam. The Vietnamese Government has held the Most Venerable Thich Quang Do, the Executive President of the UBCV and his deputy, the Venerable Thich Tue Son, in various forms of detention since 1977. In 1978, he was tortured to death in a reeducation camp.

Many other leading UBCV figures have been detained and harassed. Evading tight surveillance, others have fled to Cambodia to escape religious repression and harassment. Vietnam, however, has acceded to international treaties that prohibit the forced repatriation of UNHCR-recognized refugees and that protect the right to faith, belief, and practice.

Vietnam’s constitution protects the right of religious belief, yet on October 8, 2003, Vietnamese authorities initiated a tense standoff following the meeting, where police stopped a vehicle carrying the UBCV’s new leadership and subsequently detained the eleven passengars. According to reports by the United States Commission on International Religious Freedom, and the European Union, the Socialist Republic of Vietnam systematically limits the right of religious organizations to choose their own clergy.

During the 107th Congress, I along with my colleagues in the House of Representatives, passed H.R. 2833, the Vietnam Human Rights Act, on September 6, 2001, which noted the persecutions faced by various members of the UBCV over the past 25 years. Because of systematic, egregious, and ongoing abuses of religious freedom, the United States Commission on International Religious Freedom recommended that the President of the United States designate Vietnam as a “country of particular concern” under the provisions of the International Religious Freedom Act of 1998.

Today, I am pleased to join the House of Representatives in congratulating the new leadership of the Unified Buddhist Church of Vietnam and urging the Government of Vietnam to respect the right of all independent religious organizations to meet, worship, operate, and practice their faith in accordance with Vietnam’s own constitution and international covenants to which Vietnam is a signatory.

We are joined by our allies in being committed to promoting religious freedom in Vietnam, and, in furtherance of this goal, and urge the implementation of the recommendations of the United States Commission on International Religious Freedom.

We ask that the United States Embassy in Vietnam to closely monitor cases of abuse of religious belief and practice, routinely visit detained clergy members, especially those in need of medical care, and report to the Congress on specific measures taken to protect and promote religious freedom in Vietnam.

HONORING SEEDS OF PEACE FOR PROMOTION OF UNDERSTANDING AMONG YOUTH FROM REGIONS OF CONFLICT

SPEECH OF
HON. SHEILA JACKSON-LEE
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, November 19, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to be here today to honor such a valuable program. Seeds of Peace was founded by John Wallach in 1993. It is a program designed to bring together young people from regions of conflict to study and learn about coexistence and conflict resolution.

The original focus of Seeds of Peace was to bring Israeli, Palestinian, Jordanian, and Egyptian youth together; the program has since expanded to involve youths from other regions of conflict, including Greece, Turkey, Cyprus, the Balkans, India, Pakistan, and Afghanistan.

Seeds of Peace is dedicated to the idea that peace depends on the emergence of a new generation of leaders who will choose dialogue, friendship, and openness over violence and hatred.

In addition to Seeds of Peace, I am a co-sponsor of Global Family Day, a House Resolution that seeks to raise awareness of children by having a one day holiday every year dedicated to family, community and sharing global traditions.

Similar to Global Family Day, Seeds of Peace provides year-round opportunities for former participants to build on the relationships they have forged at camp, so that the learning processes begun at camp can continue back in the participants’ home countries, where they are most needed.

Programs such as these bring us closer to our foreign policy goals of raising our future leaders to think about global issues, and the neighbors as other children like them, rather than enemies.

Both Global Family Day and Seeds of Peace are strongly supported by participating governments and many world leaders. It is especially important to reaffirm that youth must be involved in long-term, visionary solutions to conflicts perpetuated by cycles of violence. I am glad we have the opportunity to honor Seeds of Peace, for the work it has accomplished thus far, and for the impact it will have for generations.

COMMENDING AFGHAN WOMEN FOR THEIR PARTICIPATION IN AFGHAN GOVERNMENT AND CIVIL SOCIETY

SPEECH OF
HON. SHEILA JACKSON-LEE
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, November 19, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to be here today to support H. Res. 393, commending Afghan women for their participation in Afghan government and civil society, encouraging the inclusion of Afghan women in the political and economic life of Afghanistan, and advocating the protection of the human rights of all Afghan women in their Constitution.

As we are all aware, the women of Afghanist suffered horrible tragedies under the Taliban regime. The Afghan people have since resisted the Taliban and are in the process of building a free and democratic republic and repairing the damage. These efforts have improved the daily lives of all Afghan citizens,
Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. 83 which honors the victims of the Cambodian Genocide. Truly, this recognition is overdue for a people who suffered for so long under the brutal dictatorship of Pol Pot. It is unfortunate that the plight of the Cambodian people has not been more recognized in the United States. I want to thank Rep. MILLINDER-McDONALD for introducing this legislation which affects not only the large Cambodian population in this district, but so many Cambodian people throughout the world who were forced to leave their homeland due to the brutalization they faced. 

Mr. Speaker, the fact that between April 1975 and January 1979, up to 3 million Cambodians were deliberately and systematically killed shows the depth of suffering that the Cambodian people had to endure. Not only were scores of people brutally killed but they had to suffer through a vicious system of forced labor. In 1975, Pol Pot led the Communist guerilla group, the Khmer Rouge, in a large-scale insurgency in Cambodia that resulted in the removal of Cambodians from their homes and into labor camps in an attempt to restructure Khmer society. The Khmer Rouge maintained control by mass public tortures and executions. Families were separated. Men, women and young children were sent into labor camps and forced to do strenuous farm work with very little food. famine and disease were epidemic while health care was non-existent. Literally these Cambodians were put through hell in order to maintain Pol Pot's hold on the nation. We as a body must try to ensure that events like the Cambodian Genocide never go unnoticed again. Too many lives were lost and many of those who were killed were simply disposed of by the regime, in their effort to ensure that the victims would be forgotten. This resolution demonstrates that the victims of the Cambodian Genocide will not be forgotten by this Congress or by anyone of conscience. Many of those who suffered during the Cambodian Genocide are now residing in the United States. They are a living testament to the fact that brutality can not crush the spirit of even the most oppressed people.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a supporter of S. 1824 which work to pass in order for women to fully participate in Afghan society, they must have the right to vote, the right to run for office, equality of opportunity, and access to health care, education, and employment. This is why I am joined by my colleagues today to advocate that women's human rights should be guaranteed in the Afghanistan Constitution.

I have traveled to Afghanistan and seen the plight of these women. I have heard their stories of hardships and their wishes for a better life for them and their children. I support this resolution because I know how timely and vital it is for the future of Afghan women to have these rights. The United States is actively involved in encouraging the full inclusion and participation of Afghan women in the political and economic life of their country, and must continue to do so throughout the reconstruction process. We must continue to urge the participation of women in the continued efforts toward a lasting peace in Afghanistan.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Con. Res. 423 which properly recognizes the 5th anniversary of the signing of the International Religious Freedom Act of 1998. The International Religious Freedom Act is an essential demonstration of our commitment to observing religious freedom for all human beings throughout the world.

Mr. Speaker this Nation was built by those who escaped persecution in their own homelands. Today we continue to see people throughout the world who still can not freely practice their faith. The International Religious Freedom Act created the Office of International Religious Freedom in the Department of State and the United States Commission on International Religious Freedom. This has resulted in a greater awareness of religious persecution both in the United States and abroad.

It is vital in order to protect the principles of freedom that this nation was founded on, that we protect the ability of each person in the United States to freely observe their religious practices. This also means that we as a Nation must push other countries throughout the world to do this same ideal standard on religious freedom.

Mr. Speaker it is truly tragic that so many people throughout the world have been murdered, raped, tortured, and brutalized simply because of the faith they belong to. This type of religious hatred must be countered strongly by this body. We can not insist on having full religious freedom for our own citizens and then turn a blind eye to the plight of oppressed people throughout the world. The International Religious Freedom Act was a step in the positive direction of eliminating this global scourge. Religious freedom is a fundamental human right as affirmed by numerous international declarations and covenants, as well as by the United Nations General Assembly. I stand proud to pass the International Religious Freedom Act five years ago and I remain hopeful that we will continue with further efforts to fight religious intolerance.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. 1813, would authorize appropriations for domestic and foreign torture victims treatment centers and for the United Nations Voluntary Fund for Victims of Torture.

In many places around the world, the survivors of torture have to grapple with the lingering effects of their torture alone. In the United States, we have 20 torture treatment centers that provide treatment and care for torture survivors. These centers help the survivors to overcome debilitating psychological and physical problems such as post traumatic stress disorder, depression, anxiety, limbs rendered useless, chronic pain, and excessive guilt. Moreover, torture assaults the victim's core values as a human being, including his humanity and his sense of trust in himself and in the world around him. The treatment centers also assist the victim in restoring these values and in getting on with his life.

Although funding has been increasing, it still remains insufficient to meet the treatment needs of torture survivors. The Torture Victims Relief Reauthorization Act of 2003 would help address these funding issues by authorizing the appropriation of $37 million for the treatment and care of torture survivors both in the United States and overseas. This would include $20 million to fund United States treatment centers, $11 million to fund treatment centers overseas, and $6 million to fund the United Nations Voluntary Fund for Victims of Torture.

With the additional funding, it is estimated that the American centers would have the capacity and ability to assist an additional 2,800 torture survivors per year.

The overseas funding would serve dual purposes. In addition to providing resources needed for treatment, it would also provide resources that the centers need to combat torture in their respective countries, some of which continue to have serious problems with torture.

I urge you to vote for H.R. 1813, the Torture Victims Relief Reauthorization Act of 2003.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a supporter of S. 1824 which amends the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation. It is important that we as a Nation continue these efforts to invest abroad.
This resolution will continue a successful program of overseas investment that was begun more than four decades ago.

I am also encouraged by the provisions in this resolution that outreach to minority-owned and women-owned businesses. The Overseas Private Investment Corporation will collect data on the involvement of minority-owned and women-owned businesses. Indeed, this outreach is needed as minorities and women continue to lag behind their counterparts when it comes to establishing businesses. This economic disparity often results in social inequality that this body must continue to work against. We have made efforts to support these same businesses in the United States and we must make similar efforts abroad.

I want to thank Chairman HYDE and Ranking Member LANTOS for their work in reauthorizing this important endeavor. In the future, I hope we will continue to come together as a body to support increased overseas investment especially among the disenfranchised.
HIGHLIGHTS


Senate and House agreed to the Conference Report to accompany H.R. 1904, Healthy Forests Restoration Act.

Senate and House passed H.J. Res. 79, Continuing Appropriations.


The House agreed to the conference report on H.R. 2622, Fair Credit Reporting Act.


Senate

Chamber Action

Routine Proceedings, pages S15325–S15511

Measures Introduced: Nineteen bills and four resolutions were introduced, as follows: S. 1912–1930, S. Res. 271–272, and S. Con. Res. 84–85.

Measures Reported:

- S. 1522, to provide new human capital flexibility with respect to the GAO, with amendments.

Measures Passed:

- National Women’s History Museum Act: Senate passed S. 1741, to provide a site for the National Women’s History Museum in the District of Columbia.
- Recognition of the Confederated Tribes of the Grand Ronde Community of Oregon: Committee on Indian Affairs was discharged from further consideration of S. Res. 246, expressing the sense of the Senate that November 22, 1983, the date of the restoration by the Federal Government of Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon, should be memorialized, and the resolution was then agreed to.

Employee Retirement Income Security Act Amendment: Senate passed S. 1929, to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions for an additional year.

Veterans’ Compensation Cost-of-Living Adjustment Act: Committee on Veterans’ Affairs was discharged from further consideration of H.R. 1683, to increase, effective as of December 1, 2003, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and the bill was then passed, clearing the measure for the President.

Servicemembers Civil Relief Act: Committee on Veterans’ Affairs was discharged from further consideration of H.R. 100, to restate, clarify, and revise the Soldiers’ and Sailors’ Civil Relief Act of 1940, after striking all after the enacting clause and inserting in lieu thereof, the text of S. 1136, Senate companion measure, after agreeing to the committee amendment in the nature of a substitute.
Subsequently, S. 1136 was returned to the Senate calendar.

**Department of Homeland Security Financial Accountability Act:** Senate passed S. 1567, to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, after agreeing to the committee amendment in the nature of a substitute.

**Chief Justice John Marshall Commemorative Coin Act:** Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of S. 1531, to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall, and the bill was then passed.

**Gold Medal Award:** Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of H.R. 1821, to award a congressional gold medal to Dr. Dorothy Height in recognition of her many contributions to the Nation, and the bill was then passed, clearing the measure for the President.

**Environmental Policy and Conflict Resolution Advancement Act:** Senate passed H.R. 421, to reauthorize the United States Institute for Environmental Conflict Resolution, clearing the measure for the President.

**Southern Ute and Colorado Intergovernmental Agreement Implementation Act:** Senate passed S. 551, 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, after agreeing to the committee amendment.

**Disaster Area Health and Environmental Monitoring Act:** Senate passed S. 1279, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto:

**American Jewish History Month:** Committee on the Judiciary was discharged from further consideration of H. Con. Res. 106, recognizing and honoring America’s Jewish community on the occasion of its 350th anniversary, supporting the designation of an “American Jewish History Month”.

**American Education Week:** Senate agreed to S. Res. 272, designating the week beginning November 16, 2003, as American Education Week.

**U.S. Justices Salary Adjustments:** Senate passed H.R. 3349, to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004, clearing the measure for the President.

**Continuing Appropriations:** Senate passed H.J. Res. 79, making further continuing appropriations for the fiscal year 2004, clearing the measure for the President.

**Intelligence Authorization Act—Conference Report:** Senate agreed to the conference report to accompany H.R. 2417, to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, clearing the measure for the President.

Prior to this action, Senate agreed to the motion to proceed to consideration of the conference report.

**Healthy Forests Restoration Act—Conference Report:** Senate agreed to the conference report to accompany H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, clearing the measure for the President.

**Federal Aviation Administration Authorization—Conference Report:** Senate agreed to the conference report to accompany H.R. 2115, to
amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, clearing the measure for the President.

Prior to this action, the pending Frist motion to reconsider the vote by which the motion to invoke cloture on the conference report failed was withdrawn.

Energy Policy Act—Conference Report: Senate continued consideration of the conference report to accompany H.R. 6, to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people.

By 57 yeas to 40 nays (Vote No. 456), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the conference report.

Senator Frist entered a motion to reconsider the vote by which the motion to invoke cloture on the conference report failed.

Continuing Appropriations—Amendment Modified: A unanimous-consent agreement was reached providing that, notwithstanding the November 20, 2003 passage of H.J. Res. 78, making further continuing appropriations for the fiscal year 2004, Frist Amendment No. 2208, to make a technical correction, which was previously agreed to, was modified.

Defense Production Reauthorization Act: Senate concurred in the amendment of the House to S. 1680, to reauthorize the Defense Production Act of 1950, with the following amendment:

Frist (for Dodd) Amendment No. 2209, to modify the reporting requirements of the Secretary of Commerce relative to the impact of offsets on domestic contractors and lower tier subcontractors.

Individuals With Disabilities Education Improvement Act—Agreement: A unanimous-consent agreement was reached providing that at a time determined by the Majority Leader, after consultation with the Democratic Leader, Senate begin consideration of S. 1248, to reauthorize the Individuals with Disabilities Education Act, with certain amendments to be proposed thereto; that upon disposition of the committee amendment in the nature of a substitute, the Committee on Health, Education, Labor, and Pensions be was discharged from further consideration of H.R. 1350, House companion measure, that all after the enacting clause be stricken, and the text of S. 1248, be inserted in lieu thereof; the Sen-
C. William Swank, of Ohio, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2005. (Reappointment)

James M. Strock, of California, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2006.

Robert Hurley McKinney, of Indiana, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 2004.

Franklin S. Van Antwerpen, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

Routine lists in the Army, Navy. Pages S15510–11

Nominations Withdrawn: Senate received notification of withdrawal of the following nominations:

April H. Foley, of New York, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007, which was sent to the Senate on April 10, 2003.

April H. Foley, of New York, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007, which was sent to the Senate on May 14, 2003. Page S15511

Nominations Discharged and Placed on Calendar: Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nominations:

James McBride, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2008.

David Eisner, of Maryland, to be Chief Executive Officer of the Corporation for National and Community Service.

Read Van de Water, of North Carolina, to be a Member of the National Mediation Board for a term expiring July 1, 2006.

Raymond Simon, of Arkansas, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

Jose Antonio Aponte, of Colorado, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004.

Edward Louis Bertorelli, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Carol L. Diehl, of Wisconsin, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Allison Druin, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Beth Fitzsimmons, of Michigan, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Patricia M. Hines, of South Carolina, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Colleen Ellen Huebner, of Washington, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Stephen M. Kennedy, of New Hampshire, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Bridget L. Lamont, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Mary H. Perdue, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Herman Lavon Totten, of Texas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Public Health Service nomination beginning with Vincent A. Berkley and ending with James Syms.

Drew R. McCoy, of Massachusetts, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of six years.

Carol Kinsley, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2006.

Susan K. Sclafani, of the District of Columbia, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

Laurie Susan Fulton, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor.

J. Robinson West, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007. Pages S15509–10

Messages From the House: Page S15405

Measures Placed on Calendar: Page S15405

Enrolled Bills Presented: Page S15405

Executive Reports of Committees: Pages S15405–06

Additional Cosponsors: Pages S15407–08
Committee Meetings

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported 230 nominations in the Air Force, Army, Navy, and Marine Corps.

BUSINESS MEETING

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the following business items:

S. 1531, to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall; and

The nominations of Alicia R. Castaneda, of the District of Columbia, to be a Director of the Federal Housing Finance Board, and Thomas J. Curry, of Massachusetts, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation.

ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM

Committee on Energy and Natural Resources: Committee concluded an oversight hearing to examine the Department of Energy's implementation of the Energy Employees Occupation Illness Compensation Program Act of 2000, focusing on providing assistance to DOE contract workers in their efforts to obtain State workers' compensation benefits, after receiving testimony from Senator Grassley; Robert G. Card, Under Secretary of Energy; Robert E. Robertson, Director, Education, Workforce, and Income Security Issues, General Accounting Office; John F. Burton, Jr., Rutgers University School of Management and Labor Relations, New Brunswick, New Jersey; Leon Owens, Paper, Allied-Industrial, Chemical and Energy Workers International Union, Paducah, Kentucky; and David Michaels, George Washington University School of Public Health and Health Services, former Assistant Secretary of Energy for Environment, Safety, and Health, Richard Miller, Government Accountability Project; and Donald Elsberg, on behalf of the AFL-CIO and the Building and Construction Trades Department, all of Washington, D.C.

BUSINESS MEETING

Committee on Finance: Committee ordered favorably reported the nomination of Arnold I. Havens, of Virginia, to be General Counsel for the Department of the Treasury.

NOMINATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the Nominations: of James C. Oberwetter, of Texas, who was introduced by Senators Hutchison and Cornyn, to be Ambassador to the Kingdom of Saudi Arabia, and David C. Mulford, of Illinois, to be Ambassador to India, after each nominee testified and answered questions in their own behalf.

BUSINESS MEETING

Committee on Governmental Affairs: Committee ordered favorably reported the Nominations: of James M. Loy, of Virginia, to be Deputy Secretary of Homeland Security, and Scott J. Bloch, of Kansas, to be Special Counsel, Office of Special Counsel.

NOMINATION

Committee on Health, Education, Labor, and Pensions: Committee concluded a hearing to examine the nomination of Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor, after the nominee testified and answered questions in his own behalf.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee approved for reporting the following business items:

S. 1879, to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards;

S. 741, to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, with an amendment in the nature of a substitute;

S. 573, to amend the Public Health Service Act to promote organ donation, with an amendment in the nature of a substitute;

S. 1881, to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee and Modernization Act of 2002, with an amendment in the nature of a substitute; and
The nominations of Jose Antonio Aponte, of Colorado, Sandra Frances Ashworth, of Idaho, Edward Louis Bertorelli, of Massachusetts, Carol L. Diehl, of Wisconsin, Allison Druin, of Maryland, Beth Fitzsimmons, of Michigan, Patricia M. Hines, of South Carolina, Colleen Ellen Huebner, of Washington, Stephen M. Kennedy, of New Hampshire, Bridget L. Lamont, of Illinois, Mary H. Perdue, of Maryland, Herman Lavon Totten, of Texas, each to be a Member of the National Commission on Libraries and Information Science, David Eisner, of Maryland, and Carol Kinsley, of Massachusetts, each to be a Member of the Board of Directors of the Corporation for National and Community Service, Raymond Simon, of Arkansas, to be Assistant Secretary of Education for Elementary and Secondary Education, Read Van de Water, of North Carolina, to be a Member of the National Mediation Board, Drew R. McCoy, of Massachusetts, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation, James McBride, of New York, to be a Member of the National Council on the Arts, Laurie Susan Fulton, of Virginia, and J. Robinson West, of the District of Columbia, each to be a Member of the Board of Directors of the United States Institute of Peace, Susan K. Sclafani, of the District of Columbia, to be Assistant Secretary of Education for Vocational and Adult Education, and Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor, and a list of Public Health Service nominations.

BUSINESS MEETING

Committee on Veterans Affairs: Committee ordered favorably reported the nominations of Cynthia R. Church, of Virginia, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs), Lawrence B. Hagel, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims, Alan G. Lance, Sr., of Idaho, to be a Judge of the United States Court of Appeals for Veterans Claims, Gordon H. Mansfield, of Virginia, to be Deputy Secretary of Veterans Affairs, and Robert N. McFarland, of Texas, to be an Assistant Secretary of Veterans Affairs (Information and Technology).

House of Representatives

Chamber Action

Measures Introduced: 78 public bills, H.R. 3568-3645; 4 private bills, H.R. 3646-3649; and 20 resolutions, H.J. Res. 79-81; H. Con. Res. 336-344, and H. Res. 462, 466-472, were introduced.

Pages H12306–10

Additional Cosponsors:

Pages H12310–12

Reports Filed: Reports were filed as follows today:

H.R. 1629, to clarify that the Upper Missouri River Breaks National Monument does not include within its boundaries any privately owned property (H. Rept. 108–392);

H.R. 2896, to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad, amended (H. Rept. 108–393);

H. Res. 463, waiving points of order against the conference report to accompany the bill (H.R. 1) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings accounts and health savings accounts, to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, (H. Rept. 108–394);

Efforts to Rightsize the U.S. Presence Abroad Lack Urgency and Momentum (H. Rept. 108–395);

Conference report on H.R. 2622, to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, (H. Rept. 108–396);

H.R. 2696, to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West, amended, (H. Rept. 108–397, Pt. 1);

H. Res. 464, providing for consideration of a joint resolution appointing the day for the convening of the second session of the One Hundred Eighth Congress (H. Rept. 108–398);

H. Res. 465, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 108–399); and
H.R. 958, to authorize certain hydrographic services programs, to name a cove in Alaska in honor of the late Able Bodied Seaman Eric Steiner Koss, amended, (H. Rept. 108–400).

Pages H1219B–H12213, H12306

Consideration of measures under suspension of the rules: The House agreed to H. Res. 456, providing for consideration of motions to suspend the rules by a voice vote.

Pages H12107–13

Healthy Forests Restoration Act of 2003: The House agreed to the conference report on H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, by a yea-and-nay vote of 286 yeas to 140 nays, Roll No. 656.

Agreed to H. Res. 457, the rule providing for consideration of the conference report, by voice vote.

Pages H12113–17

Suspensions: The House agreed to suspend the rules and pass the following measures:


Agreed to amend the title so as to read, a bill to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes.

Page H12121

Twenty-First Century Water Commission Act of 2003: H.R. 135, amended, to establish the “Twenty-First Century Water Commission” to study and develop recommendations for a comprehensive water strategy to address future water needs;

Pages H12121–25

Conveyance of a decommissioned NOAA ship: H.R. 2584, amended, to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship;

Agreed to amend the title so as to read, a bill to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes.

Page H12126

Predisaster Mitigation Program Reauthorization Act of 2003: H.R. 3181, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program;

United States Fire Administration Reauthorization Act of 2003: S. 1152, to reauthorize the United States Fire Administration—clearing the measure for the President;

Pages H12129–33

Condemning the terrorist attacks in Istanbul, Turkey on November 15, 2003: H. Res. 453, amended, condemning the terrorist attacks in Istanbul, Turkey, on November 15, 2003, expressing condolences to the families of the individuals murdered and expressing sympathies to the individuals injured in the terrorist attacks, and standing in solidarity with Turkey in the fight against terrorism, by a ⅔ yea-and-nay vote of 426 yeas with none voting “nay”, Roll No. 657;

Agreed to amend the title so as to read, a resolution condemning the terrorist attacks on Istanbul, Turkey, on November 15 and 20, 2003, expressing condolences to the families of the individuals murdered and expressing sympathies to the individuals injured in the terrorist attacks, and expressing solidarity with Turkey and the United Kingdom in the fight against terrorism.

Page H12137

Department of Veterans Affairs Long-Term Care and Personal Authorities Enhancement Act of 2003: 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, by a ⅔ yea-and-nay vote of 423 yeas to 2 nays, Roll No. 658;

Pages H12137–57, H12173

Supporting the National Bone Marrow Program: H. Con. Res. 206, supporting the National Marrow Donor Program and other bone marrow donor programs and encouraging Americans to learn about the importance of bone marrow donation, by a ⅔ yea-and-nay vote of 423 yeas to 2 nays, Roll No. 663;

Pages H12157–59, H12226–27

Can-SPAM Act of 2003: S. 877, amended, to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet, by a ⅔ yea-and-nay vote of 392 yeas to 5 nays, Roll No. 671;

Pages H12186–98, H12297–98

Fair Credit Reporting Act: Conference report on H.R. 2622, to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer
records, make improvements in the use of, and consumer access to, credit information, by a ⅞ yea-and-nay vote of 379 yeas to 49 nays, with one voting present", Roll No. 667. Pages H12198-H12224, H12247

Medicare Prescription Drug and Modernization Act of 2003—Consideration of Conference Report: The House agreed to the conference report on H.R. 1, to amend title XVIII of the Social Security Act to provide for a voluntary prescription drug benefit under the medicare program and to strengthen and improve the medicare program, by a vote of 220 yeas to 215 nays, Roll No. 669. Following the vote on agreeing to the conference report, the House agreed to table the motion to reconsider by a yea-and-nay vote of 210 yeas to 193 nays, Roll No. 670. Pages H12174-81, H12247-97

Rejected the Turner of Texas motion to recommit the conference report to the conference committee with instructions, by a recorded vote of 211 ayes to 222 noes, Roll No. 668. Pages H12294-95

Agreed to H. Res. 463, the rule providing for consideration of the report, by a recorded vote of 225 ayes to 205 noes, Roll No. 666, after agreeing to order the previous question by a yea-and-nay vote of 228 yeas to 204 nays, Roll No. 665. Pages H12230-46

Agreed to H. Res. 459, the rule providing for same day consideration of the conference report, by a yea-and-nay vote of 228 yeas to 200 nays, Roll No. 660, after agreeing to order the previous question by a yea-and-nay vote of 225 yeas to 202 nays, Roll No. 659. Pages H12174-81, H12224-25

Rule for consideration of continuing appropriations measure and/or general appropriations bills: The House agreed to H. Res. 458, the rule providing for same day consideration of a measure making further continuing appropriations for FY 2004 or a measure making general appropriations for FY 2004, by a yea-and-nay vote of 224 yeas to 203 nays, Roll No. 662, after agreeing to order the previous question on the resolution by a yea-and-nay vote of 225 yeas to 202 nays, Roll No. 661. Pages H12181-86, H12225-26

National Flood Insurance Program Reauthorization Act of 2004: The House agreed by unanimous consent to discharge from committee and pass S. 1768, to extend the national flood insurance program. Page H12227

Agreed to the Oxley amendment in the nature of a substitute by voice vote. Page H12227


The resolution was considered under a unanimous consent agreement. Page H12228

Recess: The House recessed at 8:04 p.m. and reconvened at 8:50 p.m. Page H12229

National Prison Rape Reduction Commission: Read a letter from the Minority Leader wherein she appointed Ms. Brenda V. Smith of the District of Columbia to the Prison Rape Reduction Commission.

Meeting Hour: Agreed that when the House adjourn today, it adjourn to meet at 12:00 noon on Tuesday, November 25. Page H12298

Convening of the 2nd Session of the 108th Congress: The House passed by unanimous consent H. J. Res. 80, setting the convening day of the 2nd session of the 108th Congress as January 20, 2004. Page H12298

Adjournment Resolution: The House agreed by unanimous consent to H. Con. Res. 339, providing for the sine die adjournment of the One Hundred Eighth Congress, First Session.

National Transportation Safety Board Reauthorization Act of 2003: The House by unanimous consent S. 579, to reauthorize the National Transportation Safety Board. Pages H12298-99

Hometown Heroes Survivor's Benefits Act of 2003: The House passed by unanimous consent S. 459, amended to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits. Pages H12299-H12300

Senate Messages: Messages received from the Senate today appear on pages H12126, H12157, H12186, H12224, H12246, and H12247.

Senate Referral: S. 1561 was referred to the Committee on Government Reform; S. 1741 and S. 579 were ordered held at the desk. Page H12300

Quorum Calls—Votes: 13 yea-and-nay votes and three recorded votes developed during the proceedings of the House today and appear on pages H12171-72, H12172-73, H12173, H12224, H12224-25, H12225-26, H12226, H12226-27, H12230, H12245-46, H12246, H12247, H12295, H12295-96, H12296-97, and H12297-98. There were no quorum calls.

Amendments: Amendments ordered printed pursuant to the rule appear on page H12312.

Adjournment: The House met at 9:00 a.m. and adjourned at 6:32 a.m. on Saturday, November 22.
Committee Meetings

SAME DAY CONSIDERATION OF RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Committee on Rules: Granted, by voice vote, a rule waiving a requirement of clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The rule applies the waiver to any special rule reported on or before the legislative day of January 31, 2004, providing for consideration or disposition of any of the following:

(A) A bill or joint resolution making continuing appropriations for the fiscal year 2004, or any amendment thereto, or any conference report thereon; or

(B) A bill or joint resolution making general appropriations for the fiscal year ending September 30, 2004, any amendment thereto, or any conference report thereon.

CONVENING DAY FOR 2ND SESSION OF THE 108TH CONGRESS

Committee on Rules: Granted, by voice vote, a closed rule providing 1 hour of debate in the House on H. J. Res. 464, appointing the day for the Convening of the Second Session of the One Hundred Eight Congress, equally divided and controlled by the Majority Leader and the Minority Leader or their designees. The rule provides one motion to recommit.

CONFERENCE REPORT—MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Committee on Rules: Granted, by a vote of 8 to 4, a rule waiving all points of order against the conference report to accompany H.R. 1, Medicare Prescription Drug and Modernization Act of 2003, and against it consideration. The rule provides that the conference report shall be considered as read. Testimony was heard Chairmen Thomas and Tauzin; Representatives Johnson of Connecticut, Rangel, Dingell, Pelosi, Jones of Ohio, Brown of Ohio, Pallone, Schakowsky, and Jackson-Lee of Texas.

BRIEFING—INTELLIGENCE UPDATE

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on Intelligence Update on Iraq. The Committee was briefed by departmental witnesses.

Joint Meetings

HEALTHY FORESTS RESTORATION ACT

Conferes on Thursday, November 20, 2003, agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape.

MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT

Conferes on Thursday, November 20, 2003, agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 1, to amend title XVIII of the Social Security Act to provide for a voluntary prescription drug coverage program under the medicare program, to modernize, strengthen, and improve the medicare program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings accounts, to amend the Federal Food, Drug, and Cosmetic Act with respect to abbreviated applications for the approval of new drugs and the importation of prescription drugs.

FOREIGN OPERATIONS APPROPRIATIONS ACT

Conferes agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 2800, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004.

CONGRESSIONAL PROGRAM AHEAD

Week of November 24 through November 29, 2003

Senate Chamber

Senate’s program is uncertain.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on the Judiciary: November 24, business meeting to consider H.R. 1437, to improve the United States Code, S. 1129, to provide for the protection of unaccompanied alien children, S. 1602, to amend the September 11th Victim Compensation Fund of 2001 to extend the
deadline for filing a claim to December 31, 2004, S. 1728, to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001, S. 1740, to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001, and the nominations of Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit, Claude A. Allen, of Virginia, to be United States Circuit Judge for the Fourth Circuit, Judith C. Herrera, to be United States District Judge for the District of New Mexico, F. Dennis Saylor IV, to be United States District Judge for the District of Massachusetts, Sandra L. Townes, to be United States District Judge for the Eastern District of New York, and Michele M. Leonhart, of California, to be Deputy Administrator of Drug Enforcement, and Domingo S. Herraiz, of Ohio, to be Director of the Bureau of Justice Assistance, both of the Department of Justice, 10 a.m., SD–226.

House Chamber
No Committee meetings are scheduled.

House Committees
No Committee meetings are scheduled.
House Chamber

Program for Saturday: Senate will consider the conference report to accompany H.R. 1, to amend title XVIII of the Social Security Act to provide for a voluntary prescription drug coverage program under the medicare program, to modernize, strengthen, and improve the medicare program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings accounts, to amend the Federal Food, Drug, and Cosmetic Act with respect to abbreviated applications for the approval of new drugs and the importation of prescription drugs.

Extensions of Remarks, as inserted in this issue

House Chamber

Program for Tuesday: The House will meet at 12:00 noon in pro forma session.

NOTICE

Effective January 1, 2004, the subscription price of the Congressional Record will be $503 per year or $252 for six months. Individual issues may be purchased at the following costs: Less than 200 pages, $10.50; Between 200 and 400 pages, $21.00; Greater than 400 pages, $31.50. Subscriptions in microfiche format will be $146 per year with single copies priced at $3.00. This price increase is necessary based upon the cost of printing and distribution.

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