



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 150

WASHINGTON, TUESDAY, JULY 13, 2004

No. 96

## House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. BRADLEY of New Hampshire).

### DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,  
July 13, 2004.

I hereby appoint the Honorable JEB BRADLEY to act as Speaker pro tempore on this day.

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

### MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

### RECOGNITION OF RETIRING REPUBLICAN DOUG BEREUTER

Mr. BLUMENAUER. Mr. Speaker, I was sorry that I was unable to join my colleagues last Thursday in saluting our departing Member, the gentleman from Nebraska (Mr. BEREUTER). He is everybody's model legislator. He is quiet and thoughtful, a serious man but with a light touch that sometimes one has to scratch the surface to reveal.

But he is, first and foremost, a policy maker, a policy maker by training, with a temperament and commitment to make things better within the limits and responsibilities of government. He represents a very exclusive cohort, he has graduate degrees from both the Harvard Graduate School of Design and the Harvard Kennedy School of Government, who over 30 years ago was working in the heartland dealing with planning and promoting economic development for the State of Nebraska.

I think of him still as an intelligence officer with an insatiable quest for information and direct contact. He is a tireless worker on his various committees, always a full participant whether it is the Permanent Select Committee on Intelligence, Committee on Transportation and Infrastructure, Committee on International Relations, or Committee on Financial Services, or some of the other activities that related to his work like the American Parliamentary Union. The list has been as extensive as it is impressive and important.

The gentleman from Nebraska (Mr. BEREUTER) has always been someone in this chamber who understands how to make things happen, whether it is as a junior or a senior Member of this body, whether in the majority or the minority, he understood what it took to be an effective Member of Congress. He would push against political currents, willing to debate those who are more interested in ideology and politics than they are in understanding and representing the unique interests of the broad public.

He was willing to be unpopular with some in the political class but he struck a resonant chord for both Houses of Congress, in the media, with staff, and with Americans everywhere, but, most of all, election after election, in his home state of Nebraska.

It is also important to note that he understood how to work with the out-

standing men and women who are of his staff who make things happen. For over 26 years in his office, committees, interns and fellows, he helped launch hundreds of the best and brightest into careers in and out of government.

For 6 years it was my pleasure to work with him on a particular issue, reforming our Federal flood insurance program. Some may think it somewhat esoteric, but it had profound effects in terms of the Federal budget, the environment, and in the lives and livelihood of people who were unnecessarily at risk.

I must confess that I think I learned more about the legislative process working with the gentleman from Nebraska on this single bill than I did previously in law school and my own experience as a policy maker before coming to Congress. He is a master at his craft which is making public policy and bringing people together.

One of my colleagues referenced my notion that the gentleman from Nebraska (Mr. BEREUTER) is the glue that helps hold Congress together in occasionally fractious times.

One cannot reflect on his career without mentioning his spouse Louise, herself an educator and artist, in addition to playing the valuable role of congressional spouse.

It was my privilege to travel and share experiences with the Bereuters. I came to appreciate their insights into what a critical role is played by a congressional family. A life partner plays a critical role at home, with children, dealing with politics, providing their partner with insights and, generally, contributing to the well-being of this body.

We in Congress will miss them both, but our loss is good news for many because he and Louise relocate to the West Coast and look forward to assuming a new position as president of the Asia Foundation in September.

I know we all join in wishing them well and look forward to working with

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

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



Printed on recycled paper.

H5539

them in this new chapter in their lives. In the meantime, we thank them for enriching our lives for over two decades.

#### OVERSPENDING AND OVER-PROMISING

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Michigan (Mr. SMITH) is recognized during morning hour debates for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I would just like to speak about what some consider boring statistics on government growth. I can add later in this 5-minute short brief, on where we are on not only overspending but over-promising.

We are now doing the appropriations bills. This is my last year in Congress. In the 12 years that I have been in Congress, all spending appropriations are increasing much faster than inflation. That means government is growing faster than everybody else's financial pocketbook who are citizens in this country.

Some years we have seen 3, 3½, one year almost 4 percent growth in the Federal Government faster than inflation.

The percentage of our total Federal budget that goes to service the debt, pay interest on the debt, of our annual overspending is now \$7 trillion. And what it costs the taxpayers of this country to pay the interest on that debt is 14 percent of our total Federal spending. 14 percent represents a little more than \$300 billion a year that we are spending on interest.

And so I ask, Mr. Speaker, guess what is going to happen to interest rates over the next couple of years or the next 10 years. Interest rates are going to go up. They are now at a relatively low percentage. And if the lower percentage represents a cost to us of \$300 billion a year, what if interest rates were to go back up to where they were in the early 1980s?

Now, let us move from the high interest rates and that cost to taxpayers in the future to how much the total debt of this country is increasing. Now, I mentioned about \$7 trillion current debt. We are increasing the debt now by over \$500 billion a year. That means that this body, this Congress, these Members are going to have to look their grandkids in the face and try to explain today's overspending, saying something, some excuse, it was not my fault, it was somebody else's fault that taxes in your generation are so high.

We are going to hear a lot of rhetoric during these appropriation bills that Congress should spend more, in other words, go deeper into debt. And it is somewhat of an egotistical attitude that somehow we are pretending that our problems today are greater than what the problems are going to be for our kids and our grandkids.

Let me conclude by suggesting that it is not good for our security in this

country. The Department of Treasury reports that 45 percent of our marketable debt for this government is held by foreign interests. Last year the overspending, which means more borrowing, resulted in 75 percent of it being picked up by foreign interests. China is now the country that is accumulating more of our debt. Just imagine, for a moment, the vulnerability that puts us in when we become so subject to another country in any kind of negotiations. Whether it is military or whether it is trade, and that country that owns so much of our equity says, well, you might not be the country we wish to invest in. That would put us in a very serious economic situation.

I conclude with the estimate by the actuaries of Medicare, Social Security, and Medicaid that are now predicting that the over-promising, the unfunded mandates, meaning how much money we are going to have to come up with over and above what is coming in currently in the FICA tax, the payroll tax, to accommodate the extra spending that is needed, again over and above the money that is coming in, is \$73.5 trillion. So if one adds the unfunded liability of \$73.5 trillion to \$7 trillion debt, that means \$80 trillion plus responsibility that we are loading on our kids.

I am a farmer from Michigan. We try to pay down the mortgage on the farm. This body is in effect saying let us spend more, let us solve more of the problems by borrowing more and let us pass the bill on to our kids.

#### SECOND ANNUAL TRI-CAUCUS

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentlewoman from California (Ms. SOLIS) is recognized during morning hour debates for 1 minute.

Ms. SOLIS. Mr. Speaker, this morning I would like to report on the Second Annual Tri-Caucus Health Care Conference that was held this past weekend regarding health disparities that was sponsored by the Hispanic, the Black Caucus, and the Asian Pacific Islander Caucus. It was the first time that 12 Members gathered there in Miami, Florida, to begin the discussion to hear from the public as well as health care practitioners regarding chronic illnesses affecting these populations.

A resounding number of them continue to say that obviously we need more support from the Federal Government. We need more funding to combat the rising number of HIV and AIDS incidents reported among black teenagers and Hispanic teenagers, particularly among girls. Girls in their teenage ages are contacting HIV and AIDS in heterosexual relationships.

We need more research funding for planning to begin to address the issue of obesity which is now affecting many of our black and Latino students. Diabetes treatment, nutrition planning for

low income minority communities was also outlined. We talked about expanding the need for the SCHIP program and also for Medicaid.

Mr. Speaker, I would ask that the public continue to support the health care disparities bill that was introduced in the House and the Senate earlier this year.

#### THE PASSING OF AL CASEY

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Texas (Mr. FROST) is recognized during morning hour debates for 1 minute.

Mr. FROST. Mr. Speaker, I rise this morning to mark the passing of a great and unique American, my friend Al Casey. Al died at his home in Dallas Saturday at the age of 84.

Few people have led more productive and significant lives. Al Casey was chairman and CEO of American Airlines when the company made the decision to move its corporate headquarters from New York to north Texas in 1979. That single decision did more for the economy of the Dallas/Fort Worth area than anything that has happened in the last 25 years. Today American Airlines is the largest single employer in the DFW metroplex. The ripple effects of its move will continue to be felt for many years.

Al Casey was more than just a successful CEO of a major U.S. company. He served our country's president and chief executive of the Resolution Trust Corporation from 1991 to 1993. This was the entity charged with cleaning up the savings and loan mess in the southwestern part of our country. He served as Postmaster General of the United States in 1988 and was Distinguished Executive in Residence at the Cox School of Business at SMU.

Al Casey was my friend. Even though he was a committed Republican, he always had a kind and encouraging word for me whenever we saw each other at the many public functions he attended in Dallas. He was the most optimistic and genuine person I knew and made everyone feel better when they were in his presence.

Though we came from different religious traditions, I do not think Al would mind if I used a Yiddish word to describe him. Al Casey was a mensch. We will all miss him.

#### PRESCRIPTION DRUG REIMPORTATION

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Illinois (Mr. EMANUEL) is recognized during morning hour debates for 5 minutes.

Mr. EMANUEL. Mr. Speaker, today the House of Representatives will vote for a third time this session in overwhelming bipartisan manner to allow Americans to import drugs from Canada and Europe where prices for those

prescription drugs are 30 to 70 percent cheaper than they are on the American shelves at our pharmacies and grocery stores.

Members of this body on both sides of the aisle last year voted against the pharmaceutical industry's intense lobbying where they spent well over \$200-some-odd million, they hired well over 600 lobbyists to try to prevent the American consumers and senior citizens from accessing drugs and prescription drugs and medications that their doctors prescribed at prices that they can afford.

People from all over the world come to the United States for their medical care. Yet, Americans are forced to go all over the world for their medications. That is wrong. We can do better.

Prices here in the United States are artificially kept high because of a closed market. What this would allow, the legislation allowing reimportation, would allow Americans to have an open market, a free market when it comes to the pricing of prescription drugs.

Every other product, cars, autos, software, food, we have free access, and Americans pay some of the lowest prices in the world. There is only one product line Americans have a closed market to and we are forced to pay the highest prices in the world and that is in the area of prescription drugs.

In Canada, in Europe, the same medications that we find on our shelves here are, as I said, 30 to 70 percent cheaper. Americans know that. 2 million seniors a year go over the Canadian-U.S. border to get their prescription drugs with their prescriptions that their doctors have asked them to take. Rather than cut pills in half, rather than skip a month, rather than skip a day, rather than allow only their spouse to get medications and preventing themselves from getting medications, those seniors go over to Canada, save hundreds upon hundreds of dollars a month in their prescription drugs.

What this legislation would do is allow the free market to work, creating competition, bringing prices down, and ensuring the American consumer, American seniors and, most importantly, now that we have a prescription drug bill to Medicare, the American taxpayer that they would get their fair price and world price for world-class drugs.

What is ironic here is that the American taxpayer pays for the research for these new life saving medications both through the direct funding of the National Institute of Health and through the R&D tax credit. The American taxpayer is subsidizing the pharmaceutical industry's research and development in new life-saving drugs. And yet what do we get for all that taxpayer support for the industry? We get to pay the highest prices in the world. That is the unique position of the American senior citizen and taxpayer.

The reimportation of prescription drugs would allow our seniors, our fam-

ilies who need medications for their children and for their parents, would allow them those medications at the prices that consumers in Europe and Canada are paying which is 30 to 70 percent cheaper.

It is the right thing to do not only because we pay for the R&D, but it is the right thing to do if you believe in the free market. We should allow the free market to work, creating that competition, bringing prices down. As I said, literally 2 million seniors a year do it every year. They have been doing it for years going to Canada, finding somewhere close to a little over a \$1 billion worth of savings.

We are voting on it for the third time here in the House. Hopefully in the other body they will now begin to take up this legislation and start to create that bipartisan focus on bringing the prices of prescription drugs down.

I set up in my office a Web site, just so my colleagues know, we took Costco which is a discount retailer, we have a Costco in Chicago. We listed the 10 most used drugs by senior citizens and the price at that Costco in Chicago of those 10 medications. Then we took the Costco in Toronto, same store, same medications, same discounts. In Canada one would save, versus the United States, for those same medications close to \$1,000 if one bought at the Costco in Canada versus the Costco in Chicago. That is a discount retailer. And people know that. And we must afford our seniors the ability to get the medications they need at the prices they can afford.

Everybody lately has been touting this Health and Human Services discount card, the Medicare discount card. In fact, in Canada one would save more than one would on that discount card. In our 70 percent of that discount card, the fact is that the reimportation would allow one cheaper savings than it does on that discount card. If the discount card was designed for senior citizens, it would not be as complicated. It was not designed for senior citizens, it was designed for the pharmaceutical industries that invested close to \$200 million in that legislation.

#### PRESCRIPTION DRUG REIMPORTATION

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, last year Republicans here in the House approved the prescription drug bill that did more to help the pharmaceutical companies than senior citizens. The pharmaceutical companies can continue to charge outrageous prices because Republicans refuse to give the Secretary of Health and Human Services the ability to negotiate better prices for seniors in the government.

The pharmaceutical companies also benefit from the fact that Republicans

also refuse to allow for the reimportation of prescription drugs from other countries. My colleagues probably heard of seniors taking bus trips across the border into Canada to purchase their prescription drugs. And that is because drugs in other countries, including Canada, cost 40 percent less than they do here.

This year alone experts at Boston University estimate that Americans would save \$59.7 billion by paying Canadian prices for brand name drugs, and, yet, Republicans refuse to include a provision in their legislation that would provide seniors with this much needed assistance.

Why would Republicans pass a prescription drug bill that helps the pharmaceutical companies out more than the very seniors who have been waiting for help? What one of the reasons is that the Bush administration's main negotiator on the bill, then Medicare administrator Tom Scully, was actually looking for a job with the very pharmaceutical companies at the same time he was hammering out the final Medicare legislation.

Mr. Speaker, there is no better indication that Medicare administrator Tom Scully was working on behalf of the pharmaceutical companies than when he refused to provide critical information to one of my democratic colleagues on the actual cost of the Medicare bill. Last week the Bush administration announced that Tom Scully did, indeed, threaten to fire Richard Foster, a career civil servant, if Foster told Congress that the Republican prescription drug bill would actually cost more than they previously thought. Now, unfortunately, even though the administration has admitted that, Scully cannot be punished for withholding this information to Congress. He no longer works at Health and Human Services. Guess where he works? He now lobbies for the drug companies.

Now, Mr. Speaker, my democratic colleagues and I, we really feel very strongly that we have to continue to fight this new Medicare law and will work to provide seniors a meaningful benefit within the Medicare system. We still can have a good law. Today, thanks to the tenaciousness of the gentlewoman from Ohio (Ms. KAPTUR) we are going to vote on an appropriations bill amendment that allows for the safe reimportation of prescription drugs. The gentlewoman from Ohio (Ms. KAPTUR) offered the amendment in committee last week. Republicans tried to block it but they failed. And that is because it is the right thing to do.

Seniors need help now with lower drugs costs and the reimportation provisions that Democrats inserted into the agriculture appropriation bill. I think it is a good start.

Democrats have also filed a discharge petition on a bill that would finally allow the Secretary of Health and Human Services to negotiate for cheaper prices on behalf of the more than 40

million Medicare beneficiaries. The bill we want to bring to the floor ensures that the government will use the purchasing power of millions of seniors to negotiate lower drug costs just like we do for the veterans health care system. And this would lower prices by about 50 percent.

Now, Mr. Speaker, in order to truly help seniors with the prescription drug bills, we have to do something about the outrageous and skyrocketing costs. That is the key. Republicans and the pharmaceutical companies shamefully refuse to address the cost issue. As I have stated before, Democrats will continue to work on behalf of America's seniors and continue to fight to pass legislation that finally addresses the high cost of prescription drugs.

#### AD GROWTH INDUSTRY

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Washington (Mr. McDERMOTT) is recognized during morning hour debates for 4 minutes.

Mr. McDERMOTT. Mr. Speaker, the President keeps telling America that his administration is good for the economy. I have to admit under this administration one sector is booming. In fact, booming may not be a strong enough descriptor. Stellar, bottomless, and gusher could easily describe the runaway growth in the need and use of political campaign commercials by the administration's campaign.

They are awash in cold, hard cash, and they are spending it as fast as they can get it in. They are spending more on airing a 30-second commercial than the network spends on making a 30-minute hit show. Talk about a growth industry.

The networks have brought us reality TV, but this administration has brought us fiction TV. After 30 seconds one would swear the moon is made of Swiss cheese and the U.S. economy is too good to be true. Remember what our mothers taught us, if it is too good to be true, it is not true.

Every time a new spot runs extolling the virtues of the administration, keep these numbers handy because the administration will not be talking about them: Since the President took office the stock market is down. Yes, down. Forget the slight-of-mouth they are attempting, look the numbers up. The Dow Jones industrial average is lower than when the President came in. 4 years later they have negative growth in the stock market. Is that the kind of economy America wants?

If one is saving for their retirement, they have just experienced 4 years of net loss. If one is living on a fixed income, their nest egg has 4 years of constant financial assault. If one is a tech buff, the same is true about the NASDAQ, 4 years later it is significantly lower than when he came in. Is that the kind of economy that is good for America? Four years later the money is worth less, lots less.

So the administration uses special effects in its commercials to make it seem like Americans are better off. The smoke and mirrors might cloud the truth, but the smoke is only good for 30 seconds and then reality takes over.

If the administration wants to take credit, and they say they do, then they have to take credit for the U.S. stock markets that are lower than when they came in. The stock markets tell the story about the U.S. economy under the stewardship of this administration.

This can be summed up this way: The privileged few became the beneficiaries of the administration's use of our tax money. Do not let their commercials trick my colleagues into thinking anything else. Millionaires got a cool extra \$100,000 from this administration's tax cuts. Go look at your own 1040 and do the math. What did you get? The average is about \$700. The administration gave the rich about \$10,000 per month and the rest of America got 60 bucks a month. That is a lot of zeros. That is a lot of smoke and mirrors to cover that up.

Now the administration claims we never look at what has been going on. So let us be fair. When the President took office, the Nation's unemployment rate was 4.2 percent. Today's unemployment rate is 30 percent higher than it was when the President took office. That is the record. But one will not find it in any commercial that this administration is showing.

Millions of Americans are without jobs. I cannot call that economic growth. I call it a real life crisis for people when they cannot find a job and the administration is unwilling to help. Unemployment is 30 percent higher today than when the President took office. This administration has 2 million jobs less than when they took office. That record is only surpassed by the great Herbert Hoover in the Great Depression.

Now, there is a commercial for you. The administration would need a lot of extra smoke to cover that up. The administration's economic policies have their closest comparison with the Great Depression. These are the facts. One might say this is reality TV just in case all those fictional accounts of the U.S. economy under the administration have one confused.

With the amount of smoke the American administration is using, it is no wonder the level of pollution across America is higher than ever. America is choking from pollution caused by their fictional TV adds. They have got 112 more days and it is over.

#### SUDAN GENOCIDE

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized during morning hour debates for 2 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, we should be troubled by a

number of concerns that are getting sometimes less attention than I think they should. First let me say I am so very proud to acknowledge two Members in the other body that will be addressing the Payne-Wolf resolution to declare the acts in Sudan genocide. With 400,000 people displaced, women and children and men being murdered, villages being burned, the world watches.

I am reminded of the millions who died in Rwanda. And we cannot stand idly by. It is imperative that the people of Sudan rise up in opposition to their government that continues to allow the murder and pillage against those innocent individuals.

I look forward to working with the United States Congress in ensuring that Sudan, the government in Khartoum, understands that we mean business and will not stand by while this tragic, murderous brutality occurs.

Then, Mr. Speaker, I would ask the American people to look closely at this question of the CIA intelligence breakdown before the war in Iraq. Because I believe every life is precious. And I believe our Constitution ensures that we in America pride ourselves in supporting peace over war and that we understand the importance of teaching and giving truth to the American people.

And so this breakdown in intelligence, which caused or at least gave to the Congress the basis upon which that resolution was passed, many of us knew it was wrong and voted against it, we should not allow that perspective to go off silently into the night. It is important for the American people to ask the question why and to get the right answers.

Because it is important when we take our young soldiers, our family members into war, they go into battle on truth and on a Constitutional purpose and that Congress votes for war in a Constitutional manner.

Mr. Speaker, I believe this country has the opportunity to rise to its highest moral values and that means that it does believe that freedom is not free and that we all will rise to defend our Nation and that we recognize the tragedy of 9/11, that we will not use falsehoods, however, in order to engage in a war that could have been solved by U.N. inspectors, could have been solved by coalition.

So I ask my colleagues to help support the resolution that we offered in the Senate and the one in the House on Sudan. I ask my colleagues to ask the questions of why our intelligence failed, that it never fail again that we send out Americans into war for falsehoods as opposed to truth.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m. today.

Accordingly (at 9 o'clock and 33 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

#### AFTER RECESS

The recess having expired, the House was called to order at 10 a.m.

#### PRAYER

The Reverend Dr. Joseph W. Collins, Pastor, Mount Carmel United Methodist Church, Winston-Salem, North Carolina, offered the following prayer:

Almighty God, this Congress of the United States represents the diversity of our land from the Potomac to the Pacific, from the Great Lakes to the Rio Grande, from the Everglades to Mt. McKinley, from the Rocky Mountains to the Appalachian hills; yet we are one Nation.

Almighty God, this Congress represents the diversity of our people from Native American to each new immigrant, from those in poverty to those living in prosperity, from the newborn child to those in their 90s. We are one Nation.

One Nation with a common heritage, a heritage consecrated at Yorktown, fought and died for on Gettysburg's fields, washed in blood on the beaches of Normandy.

Almighty God, shower upon this Congress Your wisdom and guidance. Amidst our diversity help us to remember that we are one. We share a common heritage, the right to life and liberty. Help this Congress to govern fairly and effectively. May they seek to do that which is worthy of Your blessing. 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 North Carolina (Mr. ETHERIDGE) come forward and lead the House in the Pledge of Allegiance.

Mr. ETHERIDGE led the Pledge of Allegiance as follows:

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

#### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 410. Concurrent Resolution recognizing the 25th anniversary of the adop-

tion of the Constitution of the Republic of the Marshall Islands and recognizing the Marshall Islands as a staunch ally of the United States, committed to principles of democracy and freedom for the Pacific region and throughout the world.

#### WELCOMING DR. JOSEPH W. COLLINS

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

Mr. COBLE. Mr. Speaker, the guest chaplain for today is Dr. Joe Collins; and as the Speaker pointed out earlier, Joe is presently the senior minister at the Mt. Carmel Methodist Church in Winston-Salem, North Carolina, which is in the gentleman from North Carolina's (Mr. BURR) district. But Dr. Collins served for 8 years at the Central United Methodist Church in Denton, North Carolina, which is located in the district that I am pleased to represent.

Dr. Collins is a graduate of the Duke Divinity School and was awarded his Doctor of Minister degree from Drew University in New Jersey. Joe and his wife, Lynne, are parents of three children, and his son Garrett accompanies him today.

Mr. Speaker, we are indeed pleased to cordially welcome Dr. Collins to the people's House.

#### REPUBLICAN ATTACKS ON SENATOR JOHN EDWARDS ARE WRONG

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

Mr. ETHERIDGE. Mr. Speaker, I rise today to defend the honor of my State's senior Senator. Last night on this floor, Republican Members attacked Senator JOHN EDWARDS over his career as an attorney for ordinary people who have been wronged. The critics could not be more wrong.

Growing up in the small town of Robbins, JOHN EDWARDS learned the values of hard work and standing up for the little guy. He used those values in his profession as an outstanding legal mind to fight for folks who would turn to him as their last chance for justice.

In North Carolina, we know well that JOHN EDWARDS earned a reputation as the people's lawyer. The Raleigh News and Observer called him "an avenging angel." The Charlotte Observer called him a "powerful advocate for average North Carolinians. And the Wilmington Morning Star said, "By background and occupation, Mr. EDWARDS seems inclined to take up for people who work hard and struggle against long odds." Others described him as a "soft-spoken David who has done battle with the Goliaths" on behalf of the little guy.

Mr. Speaker, the Republicans are wrong to attack JOHN EDWARDS. He has earned an outstanding record for leadership and service for the people of

North Carolina. He will make a great Vice President.

#### TRUE CONSERVATIVES SUPPORT THE FEDERAL MARRIAGE AMENDMENT

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

Mr. PENCE. Mr. Speaker, full-page ads across official Washington say it all: "True conservatives oppose the Federal Marriage Amendment."

Oh, really? As one of a handful of Members of Congress with a 100 percent rating from the American Conservative Union, I think I can legitimately claim that title, and I profoundly disagree with the assertion in the ads.

In fact, true conservatives believe in conserving, protecting, and defending the foundational institutions of our society and of Western Civilization. True conservatives believe, as I do, that marriage was ordained by God, established by law, that it is the glue of the American family and the safest harbor to raise children. And true conservatives also know that the only effective response to judicial activism at the State and Federal level is a constitutional amendment that defines marriage as the union between a man and a woman.

Do not believe what one reads, Mr. Speaker. True conservatives support the Federal Marriage Amendment.

#### CONGRATULATING HOUSTON, TEXAS

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I just want to announce that I believe JOHN EDWARDS will be an excellent Vice President, and certainly I hope that those of us who adhere to the Constitution will do what is right and not amend it.

But I rise today to congratulate Houston, Texas, because this evening we will be the host of the All-Star Game. I want to congratulate Drayton McLane, and I want to congratulate the Astros because we are a team that loves America's pastime; and, frankly, I believe it will be an exciting evening and afternoon of events, and we will get the chance to see great outstanding Americans play America's most favorite pastime.

We know these are difficult times, but I think it is just appropriate to celebrate a city that is welcoming all those who are coming to enjoy a wonderful evening and see all the great All Stars from all over the Nation.

And I also want to congratulate Drayton McLane and the Astros for their great charitable contributions to our community: the Urban Initiatives program of Major League Baseball that encourages inner-city youth to play

baseball, the new baseball field at Yellowstone Park; and, of course, our Little League's Mr. Dwight Raiford, who is in our town. Congratulations to Mr. Drayton McLane and the Houston Astros for hosting the All-Star Game.

#### AMISH SHOW SHOULD BE SCRAPPED

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

Mr. PITTS. Mr. Speaker, UPN is making a new reality TV show about the Amish. The very act of making this show violates a fundamental Amish religious tenet, and paying a few Amish teams to participate requires them to break it.

See, the Amish believe that television or photographs themselves violate the Ten Commandments' ban on graven images. If one is selling a show based on its participants' religious identity, should they not at least respect the religious tenets of those participants and their families?

One affiliate in Pennsylvania, UPNTV15 in Harrisburg, has decided not to air the program until it previews its content. UPN15 has taken a principled and courageous stand. Its request to prescreen the show will help them ensure that the show's content does not offend its viewers. Other affiliates should follow suit, and advertisers should think twice before attaching their names to a show that potentially degrades a minority religious community.

This series would be offensive, exploitative, and inaccurately portray a minority group. It should be cancelled.

#### WE ARE NOT SAFER BECAUSE OF WAR WITH IRAQ

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

Mr. DEFAZIO. Mr. Speaker, the world and Iraq are better off without that murderous despot Saddam Hussein in power. But the unanimous report of the Republican-led Senate Intelligence Committee refutes the Bush administration's principal premise of the war that Saddam Hussein had weapons of mass destruction. They concluded he did not, that he presented a danger. They said the sanctions were working and his military was degraded and rapidly disintegrating. No links to 9/11; yet the President said seven times in 32 minutes the American people were safer because of the war in Iraq.

He can say it, but it does not make it so. Osama bin Laden is still out there plotting and planning. We are on a heightened alert. They say he is going to attack anytime soon, but he has given a bye for the last 2 years by the Bush administration because of their obsession with Iraq instead of those who attacked us on 9/11.

We are not safer because of the war in Iraq. We are in fact more at risk be-

cause Saddam Hussein was not the real threat. It was Osama bin Laden, who has had the chance to regroup, strengthen his forces, and plan new attacks because the Bush administration has not been adequately pursuing it.

#### MEDIA BIAS, PUTIN'S COMMON SENSE

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

Mr. WILSON of South Carolina. Mr. Speaker, leave it to the former head of the KGB to inject a little common sense into the American political race, and leave it to the partisan American media to ignore it.

During the recent G-8 Summit in Georgia, Russian President Vladimir Putin said to a gathering news media: "I am deeply convinced that President Bush's political adversaries have no moral right to attack him over Iraq." I did not find this quote in the New York Times or The Washington Post because they refused to report it. I did not find it broadcast on CBS, NBC, or ABC News either. I found this quote in China Daily, straight from Beijing.

We could have found the same quote in some Russian publications as well, including Pravda and the British-based Reuters News Service. But we could not find that quote in the American media except for one outlet, CBN.

It is a sorry day for American journalism when they find themselves outbalanced by their counterparts in Communist China and Russia. It is a new low for partisan media bias.

In conclusion, may God bless our troops, and we will never forget September 11.

#### NEGATIVE ADS

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

Mr. CROWLEY. Mr. Speaker, to quote Ronald Reagan, "There they go again." Republicans have hit a new low point. The Bush campaign has run over 49,000 negative ads nationwide, and it is understandable. With the largest budget deficit in our history, a growing tax burden on our middle class, gas prices at a 23-year high, and no positive vision for our country, the GOP have no choice but to attack. They cannot talk about the economy because we have lost 1.8 million private-sector jobs under this administration. They cannot talk about health care because insurance costs are spiraling out of control and nearly 4 million more Americans have become uninsured since 2000.

So now what do they do? They blame President Clinton for the creation of 21 million private-sector jobs during his administration. They blame JOHN KERRY and JOHN EDWARDS for wanting to fight for a stronger and more positive America. But never will they ac-

cept the responsibility for egregious policies that they have passed. They are doing everything possible to create a diversion and shift attention somewhere else.

Democrats are fighting for the middle-class values of fairness and responsibility. Republicans are still pushing the same old negative attack ads.

#### WEAPONS OF MASS DESTRUCTION IN IRAQ

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

Mr. GARRETT of New Jersey. Mr. Speaker, for months now, critics of the war in Iraq have asked the question: Where are the weapons of mass destruction? Recently former Vice President Al Gore said that none have been found in Iraq. Just as he was wrong when he said he was the inventor of the Internet, he is wrong on this point as well.

Recently, Charles Duelfer, the head of the Iraq Survey Group, reported the finding of 12 mustard and sarin gas shells in various locations in Iraq. Intelligence sources say that these are still extremely dangerous shells.

Mr. Duelfer also reported that terrorists in Iraq are trying to tap into the Iraqi WMD intellectual capital. They are keenly interested in developing chemical weapons in there and also in Afghanistan.

So where are the weapons of mass destruction? Where they have always been, in the Iraqi area, within the reach of terrorists, a threat to U.S. troops, the region, and the world community as well.

#### SAVE OUR NATURAL RESOURCES

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

Mr. MCDERMOTT. Mr. Speaker, I would suggest to the last speaker the weapons of mass destruction are in the minds of the administration.

If anyone needs a reason to send this administration packing, here it is: the President has announced the biggest land grab in U.S. history. The beneficiaries are the big timber companies. The victims are our national forests and the American people.

The President has proposed new rules that would declare open season for big timber companies to log 58 million acres of our most precious wilderness areas and our most precious national forests. Roads to nowhere will scar the land forever. It will turn old growth into board feet, two by fours.

Unless we act, this administration will repeal the last protection of our wilderness areas.

□ 1015

Our only hope is for a new administration that can prevent this environmental disaster from happening.

We have 112 days before we get rid of the biggest national disaster we have ever had, the President and his environmental policies.

Mr. Speaker, the Republicans need to play by the rules.

#### RELEASE KERRY-EDWARDS PRESIDENTIAL CAMPAIGN VIDEO

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

Mr. MILLER of Florida. Mr. Speaker, I am a conservative and I support the Federal marriage amendment. I understand that JOHN KERRY will make a cameo appearance this week in Washington to vote against it.

With that said, I rise to call attention and request a videotape release of the Democratic Presidential fundraiser that was held last Friday night, which quickly descended into a celebrity Bush-bashing event of low blows.

On Friday night, JOHN KERRY touted his Presidential campaign's positive tone, telling a crowd at another fundraiser that JOHN and he did not run one negative ad against each other and any of their opponents all through their primaries, and they have not done a single negative ad against the president, because "we think Americans want real solutions to real problems."

This is more proof that JOHN KERRY and his campaign have developed campaign amnesia. Just a few hours prior to those comments, his campaign fundraiser attendees listened to hours of celebrities use vulgar and tasteless attacks against our President, which KERRY endorsed, characterizing it as the heart and soul of America.

His campaign endorsed the hate-filled celebrity event, so he should share those comments with voters. I ask that they release the video today. There is no reason why they should not do it, and America deserves to see the real JOHN KERRY and JOHN EDWARDS.

#### LETTING AVERAGE AMERICANS PREVAIL

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

Mr. NADLER. Mr. Speaker, time after time in this body, the interests of the middle-class have come in second to the interests of the special interests. One example is the issue of drug reimportation.

Medications in other countries cost 40 percent less than they do here. Even Secretary Tommy Thompson recently acknowledged what Americans know all too well, reimporting prescription drugs from Canada and other industrialized countries is one of the fastest ways Americans can get lower cost drugs. Experts at Boston University estimate Americans would save \$60 billion by paying Canadian prices for brand-name drugs. What are we waiting for?

Republicans in Congress continue to stall, promoting the false promise of the new prescription drug discount

cards as a substitute for reimportation. When the gentlewoman from Ohio (Ms. KAPTUR) offered an amendment in the agricultural appropriation bill in committee that allowed for the safe reimportation of prescription drugs, Republicans tried to block it and failed. Today, that bill is on the floor. It would allow Americans to purchase these prescription drugs from other countries and lower drug costs in a straightforward way.

We should pass that amendment. I dare the Republicans to block it, as I know they will, because they are the servants of the pharmaceutical companies, and they are even trying to put that into the treaty with Australia.

#### AN ADMISSION FROM WITHIN

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

Mr. SMITH of Texas. Mr. Speaker, some of us have been saying it for years, there is a liberal bias in the media. Last weekend, we witnessed a brief moment of candor. Evan Thomas, the assistant managing editor of Newsweek Magazine, admitted on a radio station that, "The media, I think, wants KERRY to win. And I think they are going to portray KERRY and EDWARDS, I am talking about the establishment media, not Fox, but there is going to be this glow about this that is going to be worth maybe 15 points."

Let me repeat the words of this top Newsweek editor. "The media, I think, wants KERRY to win, and they are going to portray KERRY and EDWARDS in a certain way to help elect them." He says, "The media bias is worth 15 points in the polls." In other words, without media bias, President Bush would be cruising to a landslide election.

Mr. Speaker, the biased media is getting dangerously close to becoming a real threat to our democracy.

#### A "STRONG" ECONOMY?

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

Mr. PRICE of North Carolina. Mr. Speaker, I rise today in some puzzlement. The President came to my part of our State last week and announced, "The economy is strong here in North Carolina." As the Raleigh News & Observer observed, "Is the President an optimist, or does he need an optometrist?"

Perhaps our economy seems strong to Mr. Bush. After all, he raked in over \$2 million at his afternoon fundraiser. But he did not seem to notice that we have record numbers of laid-off workers who have exhausted their unemployment benefits, 68,000 at last count. Our unemployment rate in the Raleigh-Durham area is creeping up again. The rolls grew by almost 2,000 last month.

#### PRESERVING MARRIAGE BETWEEN A MAN AND A WOMAN

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

Mr. BARRETT of South Carolina. Mr. Speaker, this week the Senate is dealing with a very important issue, one that goes to the heart of our families and society. I am speaking of marriage.

In my home State of South Carolina, we are one of 42 States that have laws on the books defining marriage as the union between a man and a woman. These laws were passed by State legislatures, those elected to represent the views of their constituents.

My constituents contact me on a daily basis about this one issue more than any other issue we deal with. They ask me to do everything I can to ensure marriage between a man and a woman is preserved. Yet some in this country, elected by no one, believe they have the right to supersede the wishes of my constituents and the constituents of other Members here today.

I respectfully disagree. I truly believe the only way to ensure court action does not override State law is for the House and Senate to take action.

Mr. Speaker, I urge the House to follow the Senate's lead on this issue and bring up this issue for a vote so we can have an open debate in the People's House.

#### HOUSE REPUBLICANS REFUSE TO PLAY BY THE RULES

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

Mr. COOPER. Mr. Speaker, nothing is more important in a democracy than free and fair elections. Unfortunately, even in this, the People's House, there have been a series of abuses of the voting process by the Republican majority. How can we effectively champion democracy around the world if even here the Republican majority will not allow it to be practiced on the House floor?

Just last week, because the Republican majority did not like the outcome of our usual 15-minute vote, they held the vote open for 30 minutes. Why? In order to change the outcome. We went from a fair and square 219 vote victory to a 210-210 tie due to Republican arm-twisting, while the whole world was watching on CSPAN.

If this were the only instance of Republican tyranny in this House, perhaps it could be excused. But just last year we sadly witnessed the longest vote in American history, just so they could change the outcome.

We have had even heavier losses in manufacturing Statewide, where 158,000 such jobs have disappeared since the President took office.

President Bush's declaration of our so-called "strong" economy is simply out of touch. He is peddling the idea is that his tax cuts for the wealthiest 1 percent have worked miracles. But North Carolinians know a sluggish recovery when they see one.

Declaring our economy strong does not make it so, and it does not put food on the table either. The News & Observer noted that the President did not take questions from local reporters. Is it any wonder why?

#### SENIORS AND DISABLED DESERVE BETTER PRESCRIPTION DRUG COVERAGE

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

Mrs. CAPPS. Mr. Speaker, I rise today on behalf of millions of American seniors who deserve lower prescription drug prices. And when I say lower drug prices, I mean real discounts and real drug coverage, not meaningless discount cards.

Congress has before it legislation that requires the Federal Government to negotiate real discount prices on prescription medicine for seniors. The VA, the Veterans Administration, already uses a system like this and obtains prices significantly lower than current plans, sometimes as much as 50 percent lower. But this bill, which would make such a difference, has not been allowed to come to the floor.

The same forces withholding this floor vote are the forces lauding the current Medicare law, the new law that does nothing to actually lower the cost of prescription medicines, that prohibits Medicare from using the bargaining power of Americans, 40 million seniors, to negotiate lower prices.

Our current Medicare law tells seniors to buy drug discount cards which do not give discounts for all drugs at all pharmacies. Seniors and the disabled deserve better than this. Let us do what is right on their behalf.

#### PROTECT AMERICAN SENIORS, NOT DRUG COMPANIES

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

Ms. BERKLEY. Mr. Speaker, last year the Bush administration forced through a sham prescription drug bill that does absolutely nothing to lower drug costs, prohibits the government from negotiating with drug companies and blocks the reimportation of drugs from other countries. Under this bill, 20,000 seniors in Nevada will actually pay more for their prescription drugs than they need.

A recent study reported that the prices of the top 30 brand-name drugs

used by seniors rose by four times the rate of inflation in 2003. For years, seniors throughout the United States have been struggling with the dramatically increasing costs of their medications, while seniors in Canada can purchase the exact same drugs for 40 percent less.

Seniors need help now, and we need new leaders in the White House who will fight for all Americans' interests. Protect our seniors and not the drug companies.

#### MAKING IN ORDER AT ANY TIME AMENDMENT PRINTED IN HOUSE REPORT 108-591 DURING FURTHER CONSIDERATION OF H.R. 4766, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2005

Mr. HYDE. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 4766, pursuant to House Resolution 710, the amendment printed in House Report 108-591 be permitted to be offered at any time.

The SPEAKER pro tempore (Mr. OSE). Is there objection to the request of the gentleman from Illinois?

There was no objection.

#### GENERAL LEAVE

Mr. LEWIS of California. 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 motion to go to conference on H.R. 4613, and that I may include tabular material on the same.

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

There was no objection.

#### APPOINTMENT OF CONFEREES ON H.R. 4613, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4613) making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

#### MOTION TO INSTRUCT CONFEREES OFFERED BY MR. JACKSON OF ILLINOIS

Mr. JACKSON of Illinois. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. JACKSON of Illinois moves that the managers on the part of the House at the

conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 4613, be instructed to insist on the maximum level within the scope of conference to respond to the humanitarian crisis in the Darfur region of Sudan and in Chad.

The SPEAKER pro tempore. Under rule XXII, the proponent of the motion and a Member of the opposing party each will control 30 minutes.

The gentleman from Illinois (Mr. JACKSON) is recognized for 30 minutes.

#### GENERAL LEAVE

Mr. JACKSON of Illinois. 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 my motion to instruct conferees on H.R. 4613.

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

There was no objection.

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

Mr. Speaker, I want to recognize the tireless work of the gentleman from Virginia (Mr. WOLF), the chairman of the Subcommittee on Commerce, Justice, State, Judiciary and Related Agencies of the Committee on Appropriations, who has just returned from Sudan. Without the gentleman from Virginia's tireless efforts in this area, we simply would not be where we are today.

I want to thank the chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations, the gentleman from Arizona (Mr. KOLBE), and the ranking member, the gentlewoman from New York (Mrs. LOWEY), for their work on this issue.

I want to thank the chairman of the Subcommittee on Defense of the Committee on Appropriations, the gentleman from California (Chairman LEWIS), and the ranking member, the gentleman from Pennsylvania (Mr. MURTHA), and the chairman of the Committee on Appropriations, the gentleman from Florida (Chairman YOUNG), and the ranking member, the gentleman from Wisconsin (Mr. OBEY) for all of their efforts and continued support.

Mr. Speaker, I offer this motion to instruct the defense appropriations conferees to provide the highest possible funding level in the supplemental title of their conference report to help alleviate the incredible humanitarian crisis that is unfolding over the last year in the Darfur region of Sudan and in eastern Chad.

Currently, the House version of the defense appropriations bill contains \$95 million for humanitarian relief in Sudan, \$25 million for refugees, and \$70 million for disaster assistance.

In 1994, this country, along with rest of the world, stood and watched as 800,000 men, women, and children were slaughtered in Rwanda.

□ 1030

Two months ago, the world community marked the 10-year anniversary of a modern-day genocide in Rwanda and said, Never again.

In Sudan, by conservative estimates, at least 10,000 people, perhaps as many as 30,000, have been killed in the last year in Darfur, in the western region of Sudan. More than 1 million black Sudanese have been forced from their homes by government-backed militias, and as many as 200,000 Sudanese reside in makeshift refugee camps in Chad. The lack of food and water and the current rainy season will surely wreak havoc on the lives of these people.

The U.S. Agency for International Development, USAID Administrator Natsios has said that even if relief efforts were accelerated, more than 300,000 forced from their homes would die of starvation and disease. But the Sudanese government and their militias keep blocking aid. If foreign governments hesitate, Natsios said the death rates could be dramatically higher, approaching 1 million people. That assumes that the conferees, when they meet, if they increase the levels, nearly 300,000 people are likely to die. Surely these facts merit the highest possible funding levels in the supplemental title of the defense conference report.

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

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

Mr. Speaker, the 30 minutes of time that this side controls is 30 minutes that I do not intend to expend, largely because we had a thorough discussion of this matter within the committee. As the gentleman has indicated, it has very broadly based bipartisan support.

The gentleman from Virginia (Mr. WOLF) was the point person on this issue. The only reason it is being considered as we go forward with the Defense Subcommittee report is because we want to move on this very quickly, and it would appear that this bill will go through, work its way through conference reasonably quickly, and on the President's desk before the break. It is very appropriate that the House be responding effectively regarding this matter; and, frankly, it is very important that we stand together as Americans reflecting our concern about this tragic reality in Sudan.

Mr. Speaker, I appreciate the cooperation of the gentleman from Illinois (Mr. JACKSON).

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

Mr. JACKSON of Illinois. Mr. Speaker, I am now privileged to yield such time as she may consume to the gentlewoman from California (Ms. PELOSI), the distinguished minority leader.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding and commend him for his leadership on this very important subject.

The situation in the Sudan challenges the conscience of the world, cer-

tainly of our country; and I am happy that this Congress is responding. I am pleased that the gentleman from California (Mr. LEWIS) is not in opposition to this motion to instruct the conferees to support the highest level of funding to respond to the crisis in the Darfur region of Sudan. Again, I thank the gentleman from Illinois (Mr. JACKSON) for offering the motion. I also want to acknowledge the leadership of the ranking member, the gentleman from Pennsylvania (Mr. MURTHA), for his leadership in including \$95 million in funding for the humanitarian crisis in the Sudan in this bill.

Mr. Speaker, the situation in Darfur is truly an emergency; it is a crisis. Without immediate and effective international intervention, hundreds of thousands of people will die. That is for sure. It is so sad.

The Sudanese government has mobilized militias to carry out a scorched-earth policy of indiscriminate attacks on African civilians. As many as 30,000 civilians may have already been murdered, and more than 1 million driven off their land into unprotected camps in the Sudan and neighboring Chad.

Both USAID and the United Nations have described these atrocities as "ethnic cleansing," and the Committee on Conscience of our own Holocaust Museum has issued a genocide warning for Darfur. Ethnic cleansing, genocide. We must act.

A genocide in the making demands the immediate attention of our government.

I call upon the Bush administration to keep the pressure on the Sudanese government. Sudanese officials must know that the United States and the international community will not tolerate the continuation of the humanitarian tragedy in Darfur.

Both the House and Senate Defense Appropriations bills contain \$95 million for emergency humanitarian relief in Darfur. As critical as these funds are, however, they can only help those whose lives are in danger if the Sudanese government cooperates.

The Sudanese government must fulfill its promises to restrain the militias it controls and to remove the bureaucratic barriers that make delivery of relief supplies so difficult. That includes facilitating visas for providers to enter the country. The evidence to date does not suggest that the Sudanese are serious about helping to end the misery in Darfur.

The recent visits of Secretary Powell and U.N. Secretary General Annan to Darfur were helpful in focusing attention on this crisis, and I commend both of them for the priority they have given to the Sudan, but much more needs to be done if we are to avert a catastrophe.

We spoke so much about the situation in Rwanda and we did not act soon enough, and it was horrible. If we ever had the opportunity again, we would certainly rise to the occasion. Well, it is happening again; and we must rise to

the occasion. The Sudanese government is not.

President Bush must not hesitate to impose sanctions as necessary to encourage a much higher degree of cooperation by the Sudanese government. Our response to the daily misery in Darfur must not be half-measured and delayed. We must act now while there is time to stop further slaughter, or our country will look back at lives lost in Darfur with the same regret and shame that we feel for other events in other parts of Africa, as I mentioned, Rwanda. My colleague, the gentleman from Illinois (Mr. JACKSON), pointed out that even if we acted now, still about 300,000 people will die. We can hopefully lower that number, but it certainly will be higher if we do not act.

How many times have we heard the public outcry, Why did we not stop the killings? This is a crisis. This is an emergency. We must act now to stop the slaughter of thousands of innocent people.

Mr. Speaker, I commend once again the gentleman from Illinois (Mr. JACKSON), our colleague; and the gentlewoman from Michigan (Ms. KILPATRICK), a member of the Subcommittee on Foreign Operations, Export Financing, and Related Programs of the Committee on Appropriations, working with the gentleman from Illinois (Mr. JACKSON) to get additional funding in that bill, in addition to the \$95 million.

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

Let me just say that I very, very much appreciate the gentleman raising this question this way. We need to absolutely act together as a reflection of the people's body regarding this tragic circumstance in the Sudan. The gentleman from Virginia (Mr. WOLF) unfortunately has been detained elsewhere or I would have him really leading this portion of the discussion.

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

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

Mr. Speaker, let me once again thank the distinguished gentlewoman, the ranking member of the Subcommittee on Labor, Health, and Human Services of the Committee on Appropriations, and the minority leader, the gentlewoman from California (Ms. PELOSI), for her leadership on this issue in working closely with the gentleman from Illinois (Speaker HASTERT) to truly advance a bipartisan cause in this House.

Mr. Speaker, if genocide is the deliberate and the systematic destruction of a racial, political, or cultural group, then the deliberate killings of thousands of black Sudanese happening right now certainly qualifies. Sadly, the situation in Sudan is the worst humanitarian crisis in the world today, and the gentleman from Virginia

(Chairman WOLF) is to be congratulated for helping raise the consciousness of this Congress, this country, and indeed this world for immediate action.

Obviously, what is happening in Darfur is a genocide, and the U.S. Government must call it by that name. The term "genocide" not only captures the fundamental characteristics of the Khartoum government's intent and actions in western Sudan; it also invokes clear international obligations.

As parties to the Genocide Convention, all permanent members of the U.N. Security Council, including the United States and more than 130 countries worldwide, are bound to prevent, to stop, and to punish the perpetrators of genocide. Genocide is a unique crime against humanity in international law.

The legal definition of genocide, the international legal definition of the crime of genocide is found in articles 2 and 3 of the 1948 Convention on the Prevention and Punishment of Genocide. Article 2 describes 2 elements of the crime of genocide. The crime must include both elements to be called "genocide." They are, one, the mental element, meaning the "intent to destroy, in whole or in part, a national, ethnic, racial, or religious group as such"; and, secondly, the physical element, which includes five acts described in sections A, B, C, D, and E; (a), The killing of members of a group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; and (e), forcefully transferring children of the group to another group.

When the gentleman from Virginia (Chairman WOLF) returned from Sudan most recently, he approached Members on the floor and he said, in light of this definition, there is a genocide taking place in the Sudan. There is a genocide in the making in Sudan, and we must stop it.

While some may argue that the situation in the Sudan does not rise to the level of genocide, we cannot be so pedantic or myopic or callous to allow legalistic disputes over definitions and terms to prevent us from acting now to prevent rape and slaughter and torture. Providing the highest possible funding level in this conference report is the first step we must take to stop the death and the destruction in Darfur.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Michigan (Ms. KILPATRICK), a member of the Subcommittee on Foreign Operations, Export Financing, and Related Programs of the Committee on Appropriations, who has been a tireless leader in this effort.

Ms. KILPATRICK. Mr. Speaker, I thank my colleague, the gentleman from Illinois (Mr. JACKSON), for his leadership on this issue.

As members of the Subcommittee on Foreign Operations, Export Financing

and Related Programs of the Committee on Appropriations, I first also want to thank our chairman, the gentleman from Arizona (Mr. KOLBE), as well as the gentleman from California (Chairman LEWIS) and the gentlewoman from New York (Mrs. LOWEY), for letting us work together on the problems of the world, or, if you will, the good things about the world. Our Subcommittee on Foreign Operations of the Committee on Appropriations handles much of that. I commend the gentleman from Illinois (Mr. JACKSON) for his leadership on this issue.

The Sudan is an oil-rich country in Africa where the Sudanese government, headquartered in Khartoum, I believe is in cahoots with the Janjaweed who are wreaking havoc on the geographic areas of Darfur in Sudan. As was mentioned by the gentleman from Illinois (Mr. JACKSON), the elements of genocide are prevalent. Those five things that are outlined that define genocide, when members of groups are being killed, and they are in Darfur; causes serious bodily harm and injury to any member of that group, and they are doing that as well; causes permanent impairment of mental faculties to the group through drugs, torture, and similar techniques; and they are doing that in that region of the Sudan; and it goes on and on.

I call upon the United Nations, which must act immediately. The Security Council today must meet and act immediately. Secretary Powell has gone and seen the tragedy. Our member, the gentleman from Virginia (Mr. WOLF), has gone to see the tragedy. Also, Kofi Annan, Secretary General of the United Nations. We can wait no longer. The Security Council must act. There needs to be an international force in the Sudan today. There is no need for the Janjaweed and the Sudanese government, who we help, by the way, who we also send money to, who we also have our NGOs, our nongovernmental organizations working in Sudan. Let us cut off the funds if they are not going to save the people; we should cut off the funds. These are U.S. tax dollars going into the Sudan; and at the same time, they are wreaking genocidal havoc where more than 1 million Sudanese will die if we do not do something over the next month.

So I call upon the United Nations, Kofi Annan, Secretary General, the Security Council, those 17 countries who make the decisions. And, yes, oil. No one says it, but there is oil, land-rich oil that is in that region of the world. Many international countries are there, like Canada, my neighbor from Michigan, like the EU. We call upon you, in spite of the oil investments, to save the lives of millions of people in Darfur who find themselves being afflicted by genocide in their own government.

I am a mother and I am a grandmother, and I believe that children are the basis for which we live. Raising your own children, it is one struggle

and one thing that you have to do; but it is the grandchildren and generations beyond whom we must leave this great world for.

So again, I commend the gentleman from Illinois (Mr. JACKSON) for his leadership, as well as the gentleman from Arizona (Chairman KOLBE), the gentleman from California (Chairman LEWIS), and the gentlewoman from New York (Mrs. LOWEY.)

□ 1045

The Sudan must not go unanswered. America is the power of the world, and we can determine, America, Mr. President, the United Nations, Mr. Kofi Annan, that we must today stop the genocide. Call it what it is. Use the genocide term and those things that respond to it that the United Nations in an international way can do it. The U.S. could not do it alone, but the G-8 countries and the Security Council of the United Nations must stand up.

Genocide is a horrible thing to happen in our lifetime. Too many people died that we might have alive today to be leaders, to be parents, to be the free world and not speak up one more time.

So, Mr. Speaker and members of the subcommittees, time has passed for many children who are dying as we speak. We have the resources in our 2005 appropriation. We need the leadership today to stand up, to go to the Sudan, as Secretary Powell has already done, to go to the Sudan with the resources that they need. You see, they are having problems even getting food and supplies to the Darfur region where they need them today.

So, Mr. Annan, Mr. President, please rise up. The children are calling.

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

By way of a bit of an exchange with the gentlewoman who just spoke but also with my friend, the gentleman from Illinois (Mr. JACKSON), is it not interesting we could have a crises like this, a crises like this that affects so many thousands and thousands of lives, men, women and children, a tragic circumstance, and, yet, oftentimes in this country the inane things that we see on the front pages of our newspapers, the New York Times, the Washington Post, et cetera, hardly a word about this crises. Is this not front-page material in this country if we truly have concern about the world? I would hope maybe as we go forward in this discussion today, we might send that message as well.

Ms. KILPATRICK. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentlewoman from Michigan.

Ms. KILPATRICK. Mr. Speaker, absolutely it is front page. Absolutely we have to get it on everyone's radar screen. It is just as important as anything else we might do in the world, because we are talking about human life, because we are talking about people dying hourly as we speak. We must.

And the news media, print, audio, video, all have a responsibility, and the international community, to speak up.

Mr. LEWIS of California. For those who suggest they care about the people of the world, this is more than symbolism. It is very, very real; and I would hope they would begin to pay some attention.

Mr. Speaker, I yield whatever time he may consume to the gentleman from Virginia (Mr. WOLF) who helped us focus initially in committee on this issue.

Mr. WOLF. Mr. Speaker, I thank the chairman for yielding me this time; and I thank his position, too. I want to thank the gentleman from Illinois (Mr. JACKSON) for offering this and all the comments that have been made.

Senator BROWNBACK and I were in the Sudan, Darfur, a week and a half ago, where we witnessed firsthand the destruction and immense suffering taking place at the hand of the Janjaweed militia and the government of Sudan.

I think members of the subcommittees have to know the United Nations Convention on the Prevention and Punishment of the Crime of Genocide describes genocide as acts committed with intent to destroy, in whole or in part, national, ethnic, racial or religious groups. Specifically, it cited killing members of the group. Thousands of black Africans have been killed. I heard a report yesterday from somebody on the scene that saw a mass grave, 14 black Africans face down, shot in the back of the head.

It also says, causing serious bodily or mental harm to members of the group. We heard stories of rape and branding. Some women were told that they were being raped because they were African. One woman told us personally that the Janjaweed told her that she was being raped "to create a lighter-skinned baby."

We were given a letter from a group of women who were raped. There were 40-some women. This is what the letter says. "We are 44 raped women. As a result of that savagery, some of us are pregnant, some have aborted, some took out their wombs, and some are still receiving medical treatment. We list the names," and all the names of the women are on the letter, "of the raped women and state that we have high hopes in you and the international community to stand by us, not to forsake us to this tyrannical, brutal and racist regime which wants to eliminate us racially, bearing in mind that 90 percent of our sisters at this camp are widows."

Deliberately inflicting on the group conditions of life calculated to bring about physical destruction in whole, it is clear that the complete eradication of the Darfurian African population will occur if people do not return to their homes. We stood in burned-out villages. The Janjaweed have systematically ensured the villagers can no longer return. Bombing with bombers, Soviet helicopters, Janjaweed come in

on camels and horses, kill the men, rape the women, brand the women, loot the village, put the loot on the helicopters, then torch the place and burn it up.

Darfur is a harsh climate, so when you push people out of the villages, they die; and when people are forced to live in crowded IDP camps, they continue to die.

I believe that after seeing with my own eyes, and Senator BROWNBACK with his own eyes, that there are indications that what is happening in Darfur meets the test of genocide. Now, people may not want to say that, but when you see it, no matter what we call it, genocide, ethnic cleansing, crimes against humanity, people are dying on a massive scale, which is unacceptable, what the gentleman from Illinois (Mr. JACKSON) said.

I think what matters now is action. The United Nations Security Council needs to take immediate steps to end this crisis. A large peacekeeping force made up of troops from the African union is needed to allow Darfurians to return to their homes and to verify that the government of Sudan is disarming the rebels. Without having a verification group in there, there is no way to know if what they say they are doing is really, really being done.

We must remember that the government of Sudan armed the rebels, so we need independent monitors to ensure that they are disarmed. We also need monitors, including forensic experts on the ground, to preserve the evidence for future war crime trials.

In any event, I thank the gentleman from California (Mr. LEWIS) for the time, and I, too, thank the gentleman from Illinois (Mr. JACKSON). And he has been out talking about this for a long time. Every day we delay and hesitate, more people die. We are told in the one IDP camp, Abu Shouk, nine people die every day. We left Abu Shouk several days ago, and by those estimates, if you count, in essence, nine people, so the clock runs in that one camp, and then there are many, many other camps. And Abu Shouk, where all these people died, is probably the best-run camp in that region.

So I think it is important to adopt this and also to put pressure, and I think the Bush administration has done a good job. I think John Danforth has to be very aggressive, though. Up at the U.N., some of our allies are not with us on the Security Council resolution, and I think the more pressure and the more the world faces this and addresses it, you will not be able to say when people write stories about this that we did not know, because we now know. We have seen it with our own eyes. We have talked to people that have seen it, and we now know.

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

Let me once again congratulate the gentleman from Virginia (Chairman WOLF) for his outstanding leadership

on this question, including the authorizer, the gentleman from New Jersey (Mr. PAYNE), who has been steadfast in this effort.

The gentleman from Arizona (Mr. KOLBE) of the Committee on Appropriations Subcommittee on Foreign Operations, Export Financing and Related Programs this week will be leading a delegation to Darfur. I will participate in that delegation. I also want to congratulate him for his outstanding leadership for including and fighting for this money in the supplemental bill.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. WYNN) who serves on the Committee on Appropriations Subcommittee on Commerce, Justice, State, Judiciary and Related Agencies with great distinction.

Mr. WYNN. Mr. Speaker, let me begin by thanking the gentleman from Illinois (Mr. JACKSON) for his leadership on this issue and allowing me to speak briefly this morning.

Let me also note particularly the role of my Washington area colleague, the gentleman from Virginia (Mr. WOLF) who just spoke, who has been an outstanding leader on the issue of human rights throughout his career but particularly on this issue of the crisis in Darfur. He recently visited, he came back and provided all of us with valuable information, along with Senator BROWNBACK, who accompanied him.

And what they said to us is that we have a grave humanitarian crisis in the Darfur. People are dying daily. 30,000 people have died. 350,000 will die. A million people have been displaced. This is an opportunity for the United States to play a pivotal role, which is why I strongly support the motion to instruct conferees to request the maximum amount of U.S. aid possible.

It is sometimes said, but certainly accurately, that America is great because America is good. This is an opportunity for America to do a great deal of good. These people are being victimized in what is clearly a case of genocide. They are being displaced, and we have an opportunity to provide humanitarian aid and to provide a leadership role and a model for the world.

Which brings me to a second point that I would like to make, which is to say that part of what we are trying to do in terms of foreign policy is to suggest to the world that we are not just militarily the most powerful country in the world but that we are morally the most powerful country in the world and a country that believes in leadership. And the way you demonstrate leadership is providing aid to those who need it. This situation in Darfur, clearly a case in which leadership is needed. We can provide that leadership. We can show the world that it is not just a matter of Iraq or our oil interests or other things. We care about humanity. This is the example that we need to set.

I thank the gentleman. I believe that there is a large consensus of support

for this approach for maximizing aid to Darfur, and I just hope we will move this matter as quickly as possible.

Finally, I would add we do need to go aggressively to the U.N. and say this is genocide, call for a declaration of genocide, call for the application of peace-keeping troops so that we can address the security concerns that are here.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he might consume to the gentleman from Arizona (Chairman KOLBE) of the Committee on Appropriations Subcommittee on Foreign Operations, Export Financing and Related Programs.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding me this time, and I certainly thank the gentleman from Illinois for bringing this matter to the attention of the body with this motion to instruct.

Both the House and the Senate bills have the same amount of \$95 million, an additional amount beyond what is contained in the foreign operations bill for the humanitarian relief and the implementation of the peace settlement in Sudan. So the motion to instruct here today is simply a way for us to call attention to an enormous problem, and I thank the gentleman from Illinois for doing that.

There is no question that we have a great emergency that has been emerging over time over the last several months in Darfur. I think many of us had hoped that the kind of genocide that took place in Rwanda a few years ago, 10 years ago, was behind us and that we would not see that happen again, but here we are a decade later, and once again with impunity a government has allowed this kind of terrible tragedy to ensue and this kind of genocide to take place in western Sudan.

The world needs to understand this, the world needs to know about what is going on, and the world needs to speak out. Those of us who have that responsibility as lawmakers, as policymakers in the Congress, in the Executive Branch, in world bodies such as the United Nations, in capitals around the world, need to be speaking out about this issue, and this is an opportunity for us to do that.

As the gentleman from Illinois suggested, later this week we will be going to Sudan, to the Darfur region, in order to try to see firsthand the relief efforts that are taking place there. We will also see the efforts to try to stop the ongoing attacks against the people in Darfur by the renegade groups that continue to cause the great death and destruction of property, the loss of lives, the loss of communities, the increase in the misplaced people, and displaced people around the region. All of this can only stop if we provide the kind of assistance that is needed in that region and if the world calls on the Sudan government to provide protection for the people living in that region so that these kind of unwarranted attacks do not take place.

There has been just an enormous amount of brutality that has taken place over there, rapes, murders, killing, people that have lost their homes, lost their livelihoods, people that are starving to death. We in this world, in this Congress, need to take note of that; and we need to call an end to that.

□ 1100

So I am really pleased that the chairman of this committee has accepted the amendment which has the \$95 million, which will be the first money that will be made available because this legislation is likely to be the first enacted into law.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I asked for this time to simply express my deep appreciation to the chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations, my chairman, for his leadership on this issue. The responsiveness of both the gentleman from Arizona (Mr. KOLBE) and the gentleman from Virginia (Mr. WOLF), as well as the gentleman from Illinois (Mr. JACKSON), is very important and the reflection of the reality that from just once in a while the House gets its act together and recognizes that human problems are very real.

There is no partisan divide on an issue like this, but rather a concern about the picture, the reality of starving children and whole families being wiped out senselessly. We are going to respond as a country, and it is very important that we come together like this. I appreciate the gentleman's leadership.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comments, and I want to say I appreciate his leadership in this by allowing the money to be added to the defense bill because I think it is of such vital importance. I think many of us are haunted by the fact that decades ago we stood aside when genocide took place in Cambodia. Before that, of course, we had the Holocaust in Europe. And just a decade ago we had the genocide in Rwanda, and now we are seeing this again in Darfur in Sudan. We are convinced and I think committed to making sure that we do everything in our power to make sure this genocide does not continue. And that is why we are here today with this resolution. And I am very grateful to the gentleman from Virginia (Mr. WOLF), who has already made his visit there and called the attention of the world to what is happening over there. We hope with our visit later this week that we will be able to do the same.

Once again, I want to thank the gentleman from Illinois (Mr. JACKSON) for bringing up this motion, and I do hope the House will consider it and adopt it.

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

Let me take this time also to thank the subcommittee chairman for the Subcommittee on Foreign Operations of the Committee on Appropriations, the gentleman from Arizona (Mr. KOLBE), for his extraordinary leadership on this question. The gentleman knows that I have been critical of the committee in the past for its historic support of Africa and related issues; but the subcommittee, recognizing a very serious crisis under the chairman's leadership, has really stepped forward. The gentleman is taking a delegation, which I am anticipating this coming Thursday, to Darfur, Sudan. We wish him Godspeed, and we wish the delegation a safe trip. I thank the chairman for his leadership.

Mr. Speaker, I yield 3½ minutes to the gentleman from Illinois (Mr. RUSH).

Mr. RUSH. Mr. Speaker, I want to thank my colleague from Illinois (Mr. JACKSON) for not only yielding time to me this morning but also for his outstanding leadership that he has displayed on a number of issues that come before this Congress and certainly on this issue which we are addressing today. I want to also acknowledge and express my appreciation to the gentleman from California (Mr. LEWIS) and the gentleman from Arizona (Mr. KOLBE) and the gentleman from Virginia (Mr. WOLF) for their outstanding leadership on this important matter.

Mr. Speaker, I rise for two reasons today. One, I rise in support of this motion to instruct the Defense appropriations to support the highest level of funding for the humanitarian crisis in the Sudan. Secondly, Mr. Speaker, I rise to talk this morning just for a moment on shame.

Mr. Speaker, what is going on in the Sudan right now is a tragedy. It is unconscionable, and it is a shame. Mr. Speaker, what we have today in genocide is a shame. It is a shame, Mr. Speaker, when we get on this floor and speak in the highest of our voices, cry out from this place about terrorism; and yet, Mr. Speaker, we cannot and do not commit or do not connect terrorism with genocide.

Mr. Speaker, terrorism is genocide and genocide is terrorism. It is a shame, Mr. Speaker, that nearly 30,000 Sudanese have lost their lives and more are dying on a day-to-day basis and there is no immediate action taken on our part. It is a shame.

Mr. Speaker, the international community cannot do this all by themselves. They need our help, the help of this Congress, the help of this administration, to stop these killings.

Mr. Speaker, 10 years ago this Congress sat idly by while hundreds of thousands of Rwandans were killed and slaughtered in Rwanda. That was a shame. Sadly, it seems that history is repeating itself. And if we sit by and allow the same kind of genocide to take place in the Sudan as took place in Rwanda, that would be a shame. I cannot, Mr. Speaker, in good conscience as a Member of this Congress

sit on the sidelines and not raise my voice and raise the voices of the people in my district to deal with and to discuss this tragedy. We have a moral obligation to come together, to send a message to Sudan and to the rest of the world that genocide and terrorism go hand in hand, that genocide is terrorism and that terrorism is genocide.

Mr. Speaker, we cannot allow the Sudanese killings, we cannot allow the blatant killing of innocent lives in the Sudan to continue. We must act now. We must act now. Mr. Speaker, to do anything less would be a shame, a disgrace, a shame, and a shame.

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

Mr. JACKSON of Illinois. Mr. Speaker, I yield myself such time as I may consume. We have no further speakers, and I am prepared to close.

Mr. Speaker, I want to recognize the tireless work of the chairman of the Subcommittee on Commerce, Justice, State, Judiciary and Related Agencies of the Committee on Appropriation, the gentleman from Virginia (Mr. WOLF), who has just returned from the Sudan. I wanted to thank the gentleman from Arizona (Mr. KOLBE), the chairman of the Subcommittee on Foreign Operations, Export Financing and Related Program, and the ranking member, the gentlewoman from New York (Mrs. LOWEY), for their outstanding work on this issue. I want to thank the gentleman from New Jersey (Mr. PAYNE), who has been a tireless fighter for justice in Sudan.

I want to thank the Subcommittee on Defense chairman, the gentleman from California (Mr. LEWIS), and the ranking member, the gentleman from Pennsylvania (Mr. MURTHA); and I want to thank the Committee on Appropriations chairman, the gentleman from Florida (Mr. YOUNG), and the gentleman from Wisconsin (Mr. OBEY), the ranking member, for all of their support and efforts.

Mr. Speaker, I ask for an "aye" vote on the motion to instruct.

Mrs. LOWEY. Mr. Speaker, I rise in support of this motion to instruct.

By now we have all seen the pictures and heard the stories that flow daily out of Darfur and Chad. Innocent men brutally murdered. Women and girls raped and mutilated. Families put on forced marches away from their villages, left with no food or shelter.

We have heard the statistics. According to the World Health Organization, 10,000 people will die this month in Darfur if nothing is done. We are looking at the possibility of hundreds of thousands of deaths, from disease, starvation, violence and, ultimately from the inaction of the global community.

"Never Again" is a phrase we have all heard before. We have all said it before. It is one of the most powerful expressions of the natural human inclination to stop suffering, to end the death and destruction that stems from senseless hatred and indifference to human life. Never again will we let 6 million Jews perish under the noses of the civilized world. Never again will we let Rwandans be rounded up and indiscriminately killed because of their

tribal affiliation. Never again will we allow ethnic cleansing in the Balkans.

My colleagues, there is problem with the phrase "never again." It is usually said after the violence is over—as a rallying cry against history repeating itself. We have seen, time and time again, that history does repeat itself, and it is simply not enough to say that we will take care of it next time. We need to end the genocide in Darfur now.

What will that take? It will take more than the tentative involvement of the United States and the international community. It will take the pressure we have not yet seen to get the Sudanese Government to stop denying a problem exists, acknowledge the role it has played, and take concrete actions to stop the brutality and save the lives of the people of Darfur. It will take more than 300 African Union peacekeepers to end the Janjaweed militia's genocide campaign.

The funding included in the Defense bill for relief in Darfur and Chad, combined with the money we will soon consider in the Foreign Operations bill, is a good start. But it is just a start. Money will help feed people if they can access that food. Money will help shelter people if they are not being driven out of the squatter camps. Money will help protect children from violence and exploitation only if relief workers can safely access refugee camps.

We should be proud of what we are doing today, but not too proud. If we are serious about "never again," the United States must lead the way, using all bilateral and multilateral diplomatic tools at our disposal, to stop the Darfur genocide in its tracks.

I urge my colleagues to support this motion.

Mr. VAN HOLLEN. Mr. Speaker, 10 years ago, as bloated corpses floated down Rwanda's rivers, the international community debated whether the atrocities being committed in Rwanda fit the definition of "genocide." By the time the world stopped debating, it was too late. Millions of men, women and children had been killed. The failure of the world to act in Rwanda remains a stain on our collective conscience.

We must learn from the tragic mistakes of the past. Today, 1,000 miles north of Rwanda, in the Darfur region of Sudan, more than 30,000 people have already been killed by the Sudanese military's aerial bombardments and the atrocities being committed by their ruthless proxies, the Janjaweed militia. Gang rapes, the branding of raped women, amputations, and summary killings are widespread. More than a million people have been driven from their homes as villages have been burned and crops destroyed. The Sudanese Government has deliberately blocked the delivery of food, medicine and other humanitarian assistance. More than 160,000 Darfurians have become refugees in neighboring Chad. Conditions are ripe for the spread of fatal diseases such as measles, cholera, dysentery, meningitis and malaria. The U.S. Agency for International Development estimates that 350,000 people are likely to die in the coming months and that the death toll could reach more than a million unless the violence stops and the Sudanese Government immediately grants international aid groups better access to Darfur.

Here in Washington and at the United Nations headquarters in New York, many officials are again debating whether this unfolding tragedy constitutes genocide, ethnic cleansing or something else. This time let us not debate

until it is too late to stop this human catastrophe. Let us not wait until thousands more children are killed before we summon the will to stop this horror. America and the international community have a moral duty to act. The United States and the 130 other signatories to the Genocide Convention also have a legal obligation to "undertake to prevent and punish" the crime of genocide.

The Convention defines genocide as actions undertaken "with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such." The actions include "deliberately inflicting on members of the group conditions of life calculated to bring about its physical destruction in whole or in part." By all accounts, including the reports of U.N. fact finders, it is the African peoples in the Darfur region who have been targeted for destruction by the Khartoum-backed Arab death squads.

In the middle of an unfolding crisis like that in Darfur, there will always be debate over whether what is happening constitutes genocide. But it is important to remember that the Genocide Convention does not require absolute proof of genocidal intentions before the international community is empowered to intervene. The Convention would offer no protection to innocent victims if we had to wait until there were tens of thousands more corpses before we act. A key part of the Genocide Convention is prevention, not just punishment after the fact.

The United States has already done more than any other nation to call attention to and respond to this tragedy. But our efforts to date have not brought an end to the growing crisis. We must take additional measures now.

The May 25 Security Council statement expressing "grave concern" about the situation in Darfur does not provide any authority for international action. The United States should immediately call for an emergency meeting of the U.N. Security Council and introduce and call for a vote on a resolution that demands that the Government of Sudan take the following steps: First, allow international relief groups and human rights groups free and secure access to the Darfur region, including access to the camps where thousands are huddled in wretched conditions; second, the Government of Sudan must immediately terminate its support for the Janjaweed and dispatch its forces to disarm them; third, the Sudanese Government must allow the more than one million displaced persons to return home. The resolution must include stiff sanctions if the Sudanese Government refuses to meet these conditions and it must authorize the deployment of peacekeeping forces to Darfur to protect civilians and individuals from CARE and other humanitarian organizations seeking to provide humanitarian assistance.

It is critical that U.N. Secretary General Kofi Annan exhibit strong leadership on Darfur. Mukesh Kapila, until recently the top U.N. official in Sudan has been outspoken in sounding the alarm. But Kofi—I was pleased to join with Congressman WOLF and other members of Congress on June 4 in urging Secretary General Annan to go to Sudan to address the crisis there. I am encouraged that he will finally be going next week. However, this visit must be more than an expression of concern. Secretary General Annan must make it clear that if the Sudanese Government does not cooperate fully in stopping the killings and destruction, he will push for immediate international

sanctions. He must let the Sudanese Government know that the welcome progress made in reaching an accommodation with the South will not prevent the world from taking action to stop the horror in Darfur. The U.N. ignored warnings of mass murder a decade ago in Rwanda; it must not stand by again.

We should not allow other members of the U.N. Security Council to engage in endless negotiations and delay a vote on the resolution. In this case, every day that goes by without action means more lives lost. Let's vote on the resolution. If the rest of the world refuses to authorize collective action, shame on them. Failure to pass such a resolution would not represent a failure of American leadership; it would be a terrible blot on the world's conscience.

Whether or not the United Nations acts, the United States should take steps on its own. We should make it clear that if the Sudanese Government does not meet the demands in the proposed resolution, the United States will impose travel restrictions on Sudanese officials and move to freeze their assets. Even apart from U.N. action, we can immediately urge other nations to join us in taking these and other measures.

I commend Secretary of State Colin Powell for his decision to travel to Sudan next week and visit the Darfur region. It is critical that the Secretary's visit do more than simply call attention to the tragedy unfolding there. He must make it clear that the failure of Khartoum to fully cooperate in ending the destruction and killings will result in a concerted American effort to punish the Sudanese Government and harness international support to intervene in Darfur.

We must not look back on Darfur 10 years from now and decry the fact that the world failed to act to stop the crime of genocide. Rwanda and other genocides should have taught us that those who knowingly fail to confront such evil are themselves complicit through inaction. We are all God's children. These are crimes against humanity. Let us respond to this unfolding human disaster with the urgency that it demands.

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

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

The SPEAKER pro tempore (Mr. OSE). Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Illinois (Mr. JACKSON).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. LEWIS of California, YOUNG of Florida, HOBSON, BONILLA, NETHERCUTT, CUNNINGHAM, FRELINGHUYSEN, TIAHRT, WICKER, MURTHA, DICKS, SABO, VISCLOSKEY, MORAN of Virginia, and OBEY.

There was no objection.

#### GENERAL LEAVE

Mr. BONILLA. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the further consideration of H.R. 4766, and that I may include tabular material on the same.

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

There was no objection.

#### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 710 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4766.

□ 1110

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes, with Mr. BASS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Monday, July 12, 2004, all time for general debate had expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

The amendment printed in House Report 108-591 may be offered only by a Member designated in the report and, pursuant to the order of the House of today, may be offered anytime in the reading of the bill, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place of the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 4766

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2005, and for other purposes, namely:

#### TITLE I

#### AGRICULTURAL PROGRAMS

#### PRODUCTION, PROCESSING, AND MARKETING OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, \$5,185,000: *Provided,*

That not to exceed \$11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HYDE:

At the end of the bill (before the short title), insert the following:

SEC. 759. Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(1) in subsection (b)(1), by inserting “Doug Bereuter and” before “John Ogonowski”; and

(2) in the heading, by inserting “**DOUG BEREUTER AND**” before “**JOHN Ogonowski**”.

MODIFICATION TO AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I ask unanimous consent that the amendment made in order by the rule be modified in the form at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. HYDE:

At the end of the bill (before the short title), insert the following:

SEC. 759. Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(1) in subsection (b)(1), by inserting “and Doug Bereuter” after “John Ogonowski”; and

(2) in the heading, by inserting “**AND DOUG BEREUTER AND**” after “**JOHN Ogonowski**”.

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 710, the gentleman from Illinois (Mr. HYDE) and the gentlewoman from Ohio (Ms. KAPTUR) each will control 10 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

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

Mr. Chairman, I rise in support of the amendment to the Agricultural Trade Development and Assistance Act of 1954.

Mr. Chairman, this is to honor our retiring colleague, the gentleman from Nebraska (Mr. BEREUTER), by adding his name to the formal title to the Farmer-to-Farmer title. The gentleman's tireless efforts to implement the John Ogonowski Farmer-to-Farmer Program have been a driving force in making this a successful program. As the gentleman from Nebraska (Mr. BEREUTER) retires from Congress after 26 years of service, and 21 years on the Committee on International Relations, I ask that we express our admiration in

a bipartisan manner by recognizing his strong support for this outstanding program.

Bob Lagormarsino and Jerry Solomon and I accompanied the gentleman on the memorable trip to El Salvador and Guatemala in the 1980s which inspired his work in this crucial area. He saw the positive impact that a small group of farmers from his home State of Nebraska had on the local Salvadoran farmers and wanted to find a way to expand this limited program into a much larger project.

Upon returning to the United States, the gentleman from Nebraska (Mr. BEREUTER) sought a way to ensure this program could reach a broader population in need. He led the effort to fund the Farmer-to-Farmer Aid Program, which was a small part of the Foreign Assistance Act. His efforts came to fruition in the 1985 farm bill, in which Congress allocated funds from the Food For Peace program towards the Farmer-to-Farmer program.

The gentleman's faith in the power of American volunteerism led to the implementation of this very successful program which promotes sustainable development by helping the most impoverished people in foreign countries learn how to help themselves. The goal of the Farmer-to-Farmer program is to "enhance the potential for increases in food processing, production and marketing, which in turn stimulates private enterprise and democratic institutions."

□ 1115

This program has directly benefited approximately 1 million farmer families and provided hands-on training to over 80,000 people in over 80 countries.

Through the Farmer-to-Farmer program, U.S. leadership is demonstrated throughout the world by ordinary Americans who volunteer their time and share their talents and technical expertise.

I hope that my colleagues will join me in supporting this amendment to recognize our distinguished colleague DOUG BEREUTER's significant contribution to American foreign policy by adding his name to the title of this most important program.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I thank the gentleman from Illinois (Chairman HYDE) for the time.

Mr. Chairman, I rise in support of this amendment to honor our colleague, the gentleman from Nebraska (Mr. BEREUTER).

When the Founding Fathers envisioned a new Nation based on self-government, they wrote many rules into our Constitution. Many things were formally laid out, but many assumptions were left unsaid. One of the assumptions were that among the representatives chosen would be people who were consensus and coalition builders, people whose highest alle-

giance was not to the political party but to country. It is on the backs of such leaders that self-government depends.

DOUG BEREUTER is an embodiment of the kind of leader our Founding Fathers assumed that would move our country forward.

I have worked with the gentleman from Nebraska (Mr. BEREUTER), as I called him as a staff member and as a Member, for 21 years. I call him a friend, but I admire him more.

Forty years ago, Republican Senator Arthur Vandenberg joined with Democratic President Harry Truman to start the Marshall Plan. Many Members of Congress objected to a spending program overseas, but Senator Vandenberg said, "Partnership should end at the water's edge."

In his service on the Committee on International Relations and the Permanent Select Committee on Intelligence, no Member of Congress embraced that ideal more than DOUG BEREUTER.

I worked closely with him on food assistance programs for North Korean children. Despite a formal state of war between our two countries, DOUG BEREUTER was our leader, championing a humanitarian vision where, as Ronald Reagan said, "A hungry child knows no politics."

DOUG pioneered leadership for the P.L. 480 program and for the Farmer-to-Farmer programs. These programs fed the hungry and represented the highest ideals of the American people.

We honor DOUG BEREUTER today. I want to also mention his work with the intelligence community to boost foreign language instruction by the U.S. government. No action will boost the long-term defenses of the U.S. more than the Bereuter foreign language initiative.

We wish the gentleman from Nebraska (Mr. BEREUTER) well as the new head of the Asia Foundation and urge the adoption of the amendment as a way to honor a real American and someone totally committed to the humanitarian vision of the United States overseas.

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

Mr. Chairman, we would like to rise in support of the Hyde amendment renaming the Farmer-to-Farmer program so that that program includes the name of our dear colleague, the gentleman from Nebraska (Mr. BEREUTER), and I want to thank the chairman for offering this important amendment to our bill this year.

We rise to accept the amendment and again thank and compliment the gentleman from Illinois (Chairman HYDE) for his cooperation in not only championing this amendment but working to be sure that Mr. BEREUTER's contributions are recognized, along with those of John Ogonowski, the pilot of American Airlines flight 11 that tragically crashed into the World Trade Tower on 9/11, for whom the program

was named 3 years ago. Mr. Ogonowski had worked so diligently with farmers and others in Massachusetts, and so to have his name and Mr. BEREUTER's name associated in perpetuity on this program I think really elevates it to a level that more fully expresses the real goodness of our country. We share the appreciation of the work that the gentleman from Nebraska (Mr. BEREUTER) has done to support and expand the Farmer-to-Farmer program.

I know that the best way to combat terrorism and misunderstanding is to have programs like Farmer-to-Farmer that link our producers to those of other nations, forming lifelong friendships and understandings. If we look at so many of the societies in which we currently are confronting difficulty, whether it is Pakistan or Afghanistan, other -stan countries that had been part of the former Soviet Union, whether we talk about Africa and the starving people of so many of those nations, this Farmer-to-Farmer program is extraordinarily important. It puts the best face of America forward.

So in taking this time today, again, I want to compliment the gentleman from Illinois (Mr. HYDE). Let me also thank the gentleman from Nebraska (Mr. BEREUTER) for his enormous contributions to agriculture while a Member of this House but also the future work he will be doing with the Asia Foundation. The needs of the Pacific and the islands of the Pacific and so many of the issues that he will confront in that new capacity will be enlightened by the accomplishment he demonstrated here.

We are very pleased to support this amendment and thank the gentleman from Illinois (Chairman HYDE) for his leadership on this, along with so many other issues important to our Nation.

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

Mr. HYDE. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from Missouri (Mrs. EMERSON).

Mrs. EMERSON. Mr. Chairman, I rise in support of this amendment, too. I can think of no better person for whom this program should be named.

I have known DOUG BEREUTER for many, many years, really starting back when he first began his service in the Congress, and I know of him really as a very great and special person, a man who has always put principle above popularity, and that is a very rare characteristic among very few people.

I had the good fortune of traveling with DOUG recently on a NATO/British-American parliamentary group meeting, and I was struck then, as I have been struck so many times, in listening to him speak, about the incredible knowledge and wisdom that he has through the years that he has spent on the Committee on International Relations and the fact that in every single instance he, too, put principle first, and his wisdom is something that we will sorely miss in this Congress.

I want to congratulate him on his new endeavors but also tell him that he has set a very high standard for a Member of Congress, and I hope that we can all aspire to reach the same level that he has.

Mr. GOODLATTE. Mr. Chairman, will the gentlewoman yield?

Mrs. EMERSON. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I thank the gentlewoman for yielding and also rise in strong support of this amendment.

I want to thank the gentleman from Illinois (Chairman HYDE) for offering it, and I want to congratulate the gentleman from Nebraska (Mr. BEREUTER) for 26 years of service to the Congress and for his leadership on this program.

I think it is very, very appropriate that we change the name of the program to add his distinguished name for hereafter, and I urge my colleagues to support this amendment.

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentlewoman's courtesy in permitting me to speak on this; and I, too, rise in support of the amendment. I think it exemplifies the type of leadership we have had on our committee. I appreciate the chairman of the Committee on International Relations bringing it forward.

DOUG BEREUTER, I mentioned earlier on the floor during a special order this morning, what a difference he has made for me and all who serve with him. This identifies DOUG as being a legislator, with his fingerprints on a wide variety of legislation.

I am pleased that we have had items brought forward that enshrine his name on legislation and on programs. I hope that we will be mindful of the many other contributions that he has made that few know about unless they had the pleasure of serving with him and watching him in action. I think it is a testimony to his insight, his patience and his hard work that he has been able to inspire this confidence on both sides of the aisle.

I am pleased that we have this as an additional expression of our support as he moves forward into a new career.

Ms. KAPTUR. Mr. Chairman, we strongly support this amendment, and I yield back our remaining time.

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

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from Illinois (Mr. HYDE).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

EXECUTIVE OPERATIONS  
CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by

the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), \$10,810,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, \$14,526,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, \$8,246,000.

HOMELAND SECURITY STAFF

For necessary expenses of the Homeland Security Staff, \$508,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, \$15,608,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service, and Rural Development mission areas for information technology, systems, and services, \$120,957,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915-16 and 40 U.S.C. 1421-28: *Provided*, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

AMENDMENT OFFERED BY MR. BONILLA

Mr. BONILLA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BONILLA:

In title I, under the heading "COMMON COMPUTING ENVIRONMENT", insert after the dollar amount the following: "(decreased by \$120,957,000)".

In title I, under the heading "FARM SERVICE AGENCY, SALARIES AND EXPENSES", insert after the dollar amount the following "(increased by \$52,873,606)".

In title II, under the heading "NATURAL RESOURCES CONSERVATION SERVICE, CONSERVATION OPERATIONS", insert after the first dollar amount the following: "increased by \$40,458,661".

In title III, under the heading "RURAL DEVELOPMENT, SALARIES AND EXPENSES", insert after the first dollar amount the following: increased by \$27,624,733".

Mr. BONILLA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BONILLA. Mr. Chairman, my amendment is a simple amendment that would transfer money from the Common Computing Environment, an amount that totals \$120,957,000, and would put that into a lot of services that are very vital to communities, especially rural communities out in the heartland.

It would put \$52,873,606 into the Farm Service Agency salaries and expenses. It would also put \$40,458,661 into the Natural Resources Conservation Service and \$27,624,733 into Rural Development salaries and expenses.

Now, to explain a little further, this amendment would provide funds to a lot of county-based agencies that de-

liver critical farm programs, economic development in rural areas and the delivery of conservation technical assistance.

The Farm Service Agency delivers farm credit programs to all farmers and ranchers across America.

The Natural Resources Conservation Service delivers conservation technical assistance to producers all across the country.

The Rural Development is very critical to many Members who have these smaller towns and communities in their congressional areas, providing economic opportunity and housing opportunities to Americans from border to border and from coast to coast.

This is a good amendment, and again, it gets money in the people's hands that truly need it out there. At this time, I would encourage all Members to support this amendment.

Ms. KAPTUR. Mr. Chairman, I rise in reluctant opposition to the amendment offered by our good chairman.

This essentially is an effort to transfer funds from the Executive Office of the Secretary and the Common Computing Environment to different funds inside of the U.S. Department of Agriculture in operational agencies. I think it is important to point out to the membership, first of all, this is a lot of money, and it is well over \$100 million.

This current fiscal year we are spending about \$118 million on the Common Computing Environment. Over the years we have increased these accounts, and this year, in fact, within the budget itself there is \$2,372,000 in appropriated funds being proposed over last year.

The Chairman's amendment would take those dollars and farm them out to the Farm Service Agency, the NRCS, the Natural Resources Conservation Service, and Rural Development as line items I guess in those accounts, although it is a little unclear to me how we would track this.

1130

But the point is, this is an account that has been rising within the executive office of the Secretary herself. I think it is important for us to keep a clear eye on how these funds are being expended.

In addition to that, there are several amendments that Members are offering today that have been cleared and filed in proper time that would take their funds from this particular account. And so the net effect of adoption of this amendment would be to force the Members who wish to offer amendments to find alternative offsets, and also to kind of lose the focus that we currently have on common computing environment in a separate account in the Secretary's office by diverting it to these many places in the agency.

So I assume that the gentleman is doing this for good reasons. But the point is I think we would have a lessening of clarity on where these funds are actually being expended by the

agencies. In past years, we have had trouble with this account in really following how the administrations are spending these dollars. As we thought they were doing a little better job, we gave them additional funds.

But I really do not see the burning need for this amendment right now. There are increases in this account; and, therefore, I think in view of the negative effect it will also have on other amendments being offered here today, I would rise in opposition to the amendment.

Mr. LATHAM. Mr. Chairman, I move to strike the last word, and I rise in support of this amendment.

Anyone who deals on the local level with the NRCS understands how the staffing shortages, the need for more funds at the local level are so absolutely critical to be able to handle the programs that are so important to farmers today. This is where the rubber meets the road. This is where people who actually do the work are in contact with the farmers themselves, who do all the work out in the fields. This is extremely important that we do have those funds available to make sure that we are adequately staffed.

Also, when we look at rural development, economic development, it is a critical issue for us to make sure that we have the resources available out in the country to be able to help small businesses, to be able to help our rural communities grow and prosper. So I think this amendment is very, very important; and I certainly rise in support.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. BEREUTER. Mr. Chairman, I wanted to comment briefly at least on the previous amendment offered by the distinguished gentleman from Illinois (Mr. HYDE). I was unaware it was up at this time. I am very grateful to the chairman, Mr. HYDE, to the gentleman from Texas (Mr. BONILLA), and to the ranking minority member, the gentlewoman from Ohio (Ms. KAPTUR). I happened to see the gentlewoman from Missouri commenting with my name, and that is the only reason that I noticed what was being considered on the floor.

In any case, I thank them and apparently other Members, for their kind comments. Mr. Chairman, just a word of history because it involves the gentleman from Illinois (Mr. HYDE). I was on a four-member CODEL to El Salvador and Guatemala with the former distinguished Member from California Mr. Lagormarsino, the gentleman from New York, the late Jerry Solomon, and the distinguished gentleman from Illinois (Mr. HYDE).

War-torn El Salvador at the time was in the middle of a land reform program. Unfortunately; it was not working, and one element that was a part of the program was called the "Land For the

Tiller Program." I came back convinced that if I could take 40 farmers from my district in to the area during the middle of the winter for about 6 weeks and they could turn around some of those efforts and make them successful, because there was for example, very little knowledge of poultry or swine husbandry.

To my surprise, the Farmer-to-Farmer program had been authorized some years earlier, but never funded. So with a long effort, working with Peter McPherson, the former administrator of USAID, I convinced them, finally, that they did not have to pay volunteers, and the program could be started. So with a relatively small amount of money, initially just one-tenth of 1 percent of the CCC program, those volunteers' transportation was paid; they had a sponsoring organization in the foreign country that either made it successful or less than successful, depending on the local effort.

Mr. Chairman, I was recently over at USAID about a month ago, and they have just sent their 10,000th volunteer on the Farmer-to-Farmer program. These are active or retired farmers—and I am also including the farm wife, because in many cases she is the person that goes overseas. These volunteers also are people who are at our land grant institutions as professors or retired professors. They have worked now on every continent.

Then, when the Soviet Union disintegrated, the Reagan administration sent a Cabinet team to Russia, to see if assistance could be offered to Russia and the other CIS countries. They discovered the Farmer-to-Farmer program, and it was accelerated dramatically.

So we have had many Americans who have now gone on volunteer missions in four different continents. They have come through my office from time to time, and for them, in many cases, they told me it was the best experience of their lifetime. America is a wealthy country, but the area where we have our greatest riches probably is in talented people who are willing to volunteer their time.

So I thank the gentleman from Illinois (Mr. HYDE) for his amendment and trace the reason for it back to our visit there. It was also the time when I first became interested in something called FINCA, which was a microenterprise experiment in the Andean countries. And I later brought them to the Hill so the other Members could be exposed to it.

But many people, Mr. Gilman, Mr. SMITH of New Jersey, and also Members of the Committee on Appropriations also know about the microenterprise program; and they have been very good to it. Mr. Chairman, the Farmer-to-Farmer is a program that I think will be quite successful in the years to come because it relies on American volunteerism.

Mr. BACA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the current amendment before us. I

commend the gentleman from Texas for trying to take all of the money from Common Computer Environment, but what he is doing is he is taking and stripping the amount of money, and we are talking about \$120 some million, and distributing it into three accounts.

Mr. Chairman, this precludes an amendment that I would have been able to have brought up today that deals with civil rights. Civil rights is important to a lot of us as we look at what is going on in our country. We have an opportunity to put in additional funding for the Hispanic-serving institutes, we have opportunities for monies to go for tribal expansion grants, and then we have an opportunity to provide money for socially disadvantaged farmers and ranchers. The Bonilla amendment would preclude the ability for me or others to submit their amendments to a bill that is very much needed in terms of providing service.

When we look at civil rights, we look at Martin Luther King, who fought for many individuals in terms of the civil rights movement and opportunities for people, minorities and disadvantaged, to file their complaints. We have numerous complaints throughout the Nation.

Within the Hispanic community, we currently have 16 percent of the total population of the United States, including Puerto Rico with 16 percent, which makes up about 42 million people; yet we would be denying them an opportunity when it comes to civil rights, especially as we look at Hispanic-serving institutes right now where we have approximately 350 colleges and universities and continue to grow in the enrollment of colleges and universities of individuals who want to get into the universities.

When we look at the National Congress of American Indians supporting the legislation, there are 250 tribal governments that are saying, look, we want an equal opportunity in terms of justice, equality, and civil rights. We have an opportunity to make sure that rural communities and others obtain the kind of funding necessary and that there is someone to serve them when there are complaints. There are more and more people filing civil rights complaints.

If we take this money totally out, we would not be able to provide the kind of services that are needed. And while I do appreciate the support of the chairman 2 years ago, when he did support legislation that did approve additional funding, as we look at the growth and expansion of the population, we need additional funding. Currently, Hispanic-serving colleges and universities are underfunded by about 75 percent. We are continuing to grow. We need the funding there, Mr. Chairman.

I hope the gentleman from Texas will reconsider and allow the additional amendments, at least some of these dollars, in a bipartisan way. Allowing

other individuals to submit their amendments would say we truly represent the American Dream. Allowing us to put in an amendment would put service back to our constituents, back to people who very much need it.

Mr. LAHOOD. Mr. Chairman, I move to strike the requisite number of words in favor of the amendment.

This is a very good amendment. I am surprised anybody would come to the floor and be against this amendment. This is an amendment that provides the money to take care of the farmers and ranchers and people that do the hard work. This is the amendment that people have been clamoring for for a long time, more money on the ground for the up-front office workers that do the work, that work with the farmers, that provide the service to people, that help them fill out their forms and do the work that needs to be done.

We hear year in and year out from our farmers that we do not have enough staff, there are not enough people there, there are long lines, the forms cannot get filled out, we do not have enough people to advise us. I cannot think of any reason to be against this amendment.

These are the service workers that help our farmers and ranchers to do the work required by us and required by the USDA to fill all the forms that need to be filled out, to make sure all the reports are done. We require a lot of paperwork, USDA requires a lot of paperwork; and our farmers and ranchers deserve to have the kind of professional staff that this amendment provides for.

So I say to those people who represent farmers and ranchers all around the country, if you want your farmers and ranchers to have the expert professional people to help them do the things, to do the work, to fill out the forms that need to be done, you ought to be supporting this amendment.

Every year our farmers come to us and say, there just is not enough staffing. We need more people. In some instances, we have allowed for part-time people to come in. We have allowed for temporary people to come in. This, though, is the kind of opportunity that provides the money.

I compliment the chairman, and I would surely hope that the ranking member would reconsider her position on this, given the fact that reallocating of money to help the people that are out there doing the hard work of growing the fruits and vegetables, and doing the hard work providing the food and fiber for our country are going to have the professional staff.

So I compliment the chairman for doing this, and I say to all Members who may be listening to this debate on this amendment, this is leadership on the part of the chairman of this subcommittee to say to our farmers and ranchers, the money is going to be there for the professional staff to do all the things that need to be done that we require in Congress and USDA requires,

and that we hear year in and year out from our farmers, particularly from the producers out in the area, certainly in Illinois and the 20 counties I represent, I hear from them every year that we do not have enough staff in our offices to do the things you are requiring us to do.

So great leadership on the part of the chairman here to reallocate the money that needs to be used so that we can hire the people and they can help our farmers and ranchers. I ask all Members who hear from their farmers and ranchers each year to support this amendment. It is a good amendment, and I appreciate the leadership of the chairman.

Ms. KAPTUR. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Is there objection to the gentlewoman from Ohio striking the requisite number of words for a second time?

Mr. BONILLA. Mr. Chairman, I reserve the right to object, and ask for a clarification as to the nature of why the gentlewoman needs this unanimous consent?

The CHAIRMAN. A Member can only strike the last word once on a given paragraph.

Does the gentleman continue to object.

Mr. BONILLA. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

□ 1145

Ms. KAPTUR. Mr. Chairman, I did want to respond to the gentleman from Illinois (Mr. LAHOOD), a respected member of our subcommittee, to say that one of our problems in this bill is that, because it is under what we spent last year, many accounts have been scraped. We have been trying to find dollars to do several things in the bill. The Common Computing Environment has a lot of money. This year we are proposing \$120 million, an amount over last year. But there are other underfunded programs in the bill extraordinarily important to farmers.

For example, in the important area of bioenergy, the administration wants to cut the development of renewable fuels. We have a new title in the farm bill to create a new market in this country for fuels. One of the amendments that will be offered would take a few dollars out of this common computing account and just let that account be level with this year's expenditures which is \$23 million. It's not a lot of money in terms of the full bill. But nonetheless to try to really help our farmers bring up a new industry, it amounts to real dollars. This is money not going to a government agency. It is going directly to farmers to bring up a new source of power in our Nation, new sources of power based in agriculture.

One of the other amendments, and other Members will speak to this, has

to do with the civil rights portions of this bill which are underfunded. This account has over \$120 million in it.

The third area in which we would hope to take a few dollars out of these accounts are the Farmers Market Promotion Program, a program that was authorized in the new farm bill but has zero dollars now. Farmers out there all around this country are trying to sell their product directly to consumers. We have had so many requests from Members to assist with Farmers' Market Development. We have been unable to meet those requests. For the first time, with this amendment, we would provide funds in a newly authorized program in the farm bill.

So, yes, we have to make choices; and we are trying to help all titles of the farm bill as best we can. These dollars, by being diverted to agencies that already have billions of dollars, well, I really would question our ability to monitor those expenditures. And, yes, farmers are going into these farm service agencies and they are not being served, but we have had these accounts piled up over \$100 million for computers for years and years.

One of the points I would have, since we have this computing account in the Secretary's office, we can have better oversight so we can see whether or not they are putting these computers in the farm service agencies. But the truth is we do not have enough money in any account to do everything that needs to be done. I respect what the gentleman is saying, but we have to try to do more with less in every single one of the accounts that we are supposed to fund.

I would urge my colleagues to think about this vote because it harms other programs in the bill that are extraordinarily important and are serving our farmers directly. We still maintain hundreds, tens of thousands of dollars, millions of dollars in this account to help with the computing environment. I did want to respond to that.

Mr. LAHOOD. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentlewoman from Illinois.

Mr. LAHOOD. Mr. Chairman, as the ranking member, the gentlewoman knows our farmers and ranchers and the producers come to us every year with the common complaint, we don't have enough people in these local offices to help us. We have to set priorities.

Ms. KAPTUR. I would reclaim my time and say to the gentleman that the overall bill does not have enough money. We have to try to put dollars in all the accounts as best we can. I agree with the gentleman there is not enough money in the overall allocation, but that does not mean we have to rob all accounts just to serve one purpose. We have to use these dollars broadly and do the best we can with an inadequate allocation.

Mr. THOMPSON of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I join the ranking member on the committee in opposition to the amendment basically because the gentleman from California (Mr. BACA), the gentleman from Michigan (Mr. KILDEE) and myself would not be allowed if the amendment passes to introduce our amendment which basically would do three things:

First of all, it would increase the civil rights enforcement moneys for the Office of the Secretary. The U.S. Department of Agriculture has clearly been called the last plantation. Because of that, Mr. Chairman, many of the discriminations for black farmers and other individuals coming out of USDA, we could address it with more money.

In addition to this, the 2501 program would be increased so that socially disadvantaged farmers could take advantage of USDA programs. If this amendment is passed, we would not be able to offer the increase in the program.

But, thirdly, Mr. Chairman, the tribal extension grants for Hispanic-serving institutions, we could not increase that money. I know that the chairman does not want to hurt those institutions, but this is an opportunity, if this amendment is allowed to be offered and somehow we can reach some agreement, that we could help those Hispanic-serving institutions, also.

Reluctantly I rise in opposition to the amendment, because another amendment that we think would be as important to a tremendous number of people could not be offered.

Mr. KINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Bonilla amendment and believe that the chairman of the committee is moving in the right direction. The Common Computing Environment program I think does render very valuable technical assistance, but I understand the pressures that we are under to try to get money out on the local level to the farmers.

One of the things that has always disturbed me as a Member of Congress is when we allocate money for anything, military, education, health care, whatever, it is astounding the amount of the dollars that stay in Washington, D.C. As I drive around this beautiful city, I do not see too many farmers. I see a lot of monuments and some lakes and some parks, but I do not see many corn fields or cow pastures or hog pens. Yet if we support the Bonilla amendment, we are pushing the dollars out of town towards those agencies, the Farm Service Agency, the Natural Resources Conservation Service and the Rural Development Agency, towards the farmer, towards the local people.

It is interesting, as somebody who represents rural southeast Georgia with 29 different counties in it, as I go around visiting my farmers and those in the agriculture community and the agriculture family, they speak highly of these agencies and the work that

they do. The rural development folks, they do all kinds of housing opportunities in my area and some other much-needed projects that we think are very important for economic development in the smaller towns. The Natural Resources Conservation Service is very important for erosion control and best cultivation practices and good technical assistance to the farmers. Of course, the Farm Service Agency delivers the farm credit program to farmers all over the country.

But what I like best about these folks is they are Federal Government, USDA employees, 100 percent on the USDA salary, but they answer 100 percent to the farmers back home in Bacon County and in Appling County and in Coffee County, the folks who I am trying to serve and represent in Washington. That is the same people that these agencies are serving.

As the gentleman from Illinois (Mr. LAHOOD) said earlier today, these are the people that our farmers ask for assistance from; and they really do not ask for more money in the USDA bureaucracy as much as getting it back home to rural Texas, rural Illinois, rural Iowa, rural Georgia and so forth.

I stand in strong support of the Bonilla amendment and hope that our colleagues give it a majority.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Common Computing Environment system. There are a lot of folks making a lot of great speeches today, and I agree with all of them. I agree with the gentleman from California (Mr. BACA). I agree with the gentleman from Mississippi (Mr. THOMPSON) and the concerns and the needs there. I agree with the gentleman from Illinois (Mr. LAHOOD) and his statement. I agreed with the chairman and what he is saying.

But what I am afraid of is that we are about to do something that is going to do more damage to all of our farmers and all of our needs and the efficiency of the delivery of these programs by once again using the Common Computer Environmental systems as a cash cow.

USDA began modernization and streamlining with the USDA Reauthorization Act of 1994 signed by the President, October 13, 1994. Since then we have made some progress. USDA field agencies still rely, though, on outdated information technology. Basically, what we were saying in 1994 to USDA, start cooperating and working together. Have FSA, NRCS and Rural Development start looking at one-stop shopping, start looking at putting their computer systems together, start doing those things that would allow them to operate efficiently and save money for our appropriators and get the job done better.

We have got a ways to go. But if we deny them the technology to do it, we will never get there.

I want to give the Members a little story about how using modern information technology can benefit not only producers in the delivery of programs and services but can save the taxpayers millions of dollars of waste in eliminating waste, fraud and abuse in the delivery of Federal assistance.

In 2000, the Committee on Agriculture included a provision in the crop insurance reform bill it was considering. The bill instructed the Secretary of Agriculture to develop and implement a coordinated plan for the Risk Management Agency and the Farm Service Agency to reconcile all relevant information received by RMA and FSA from a producer who obtains crop insurance. The agencies were to reconcile such producer-derived information on at least an annual basis to identify and address any discrepancies.

We encouraged the Secretary to use an outside entity that had expertise in information technologies known as data mining and data warehousing and other available information technologies to administer the program. It took over a year to implement the provisions, with USDA kicking and screaming all the way. In fact, only RMA ultimately entered into the agreement with Tarleton and Planning Systems Incorporated to apply data mining and data warehousing to its data in an attempt to detect fraudulent practices in the multiperil crop insurance program. FSA refused to share its producer data.

We talk about cutting waste, fraud and abuse from Federal programs all the time. In 4 short years and an approximately \$20 million investment by this body, RMA estimates it has saved American taxpayers \$250 million in claims not filed by detecting schemes to file bogus insurance claims losses. Technology can do the job if we allow it to do it. What more could we accomplish if we required all of USDA to use modern technology and by sharing information to ensure that the programs it administers and services it delivers is done in an effective and efficient manner?

If we are serious about eliminating waste, fraud and abuse from government programs, I suggest we fully fund USDA's Common Computing Environment.

I recognize and I saw all of the amendments that my colleagues were bringing today, each one of which is designed to get into this particular, they believe, cash cow, for doing some very good and important things. But I think we become considerably shortsighted if we do not recognize that if we are truly to deliver the services to our producers that the conservation, with technical assistance, if we are truly to do those things that we all want to do, the best place to start is by making sure that the USDA Reorganization Act of 1994 is fully implemented by demanding USDA do it, but at the same time not shortchange them on the technology they will need in order to do it. That is my concern today.

I guess basically I am rising in opposition to all of the amendments until someone can show me that taking money from the computers is a better investment. I would much rather continue to recognize we have a budget problem, not an appropriations problem. I recognize what the chairman is attempting to do with this amendment, but I believe it is not in the best long-term interest of USDA and the people we serve, the producers and consumers of America.

Mr. TOWNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Numerous reports and commissions have documented the civil rights problems at USDA. For those who might not be aware of this history, let me give the Members a brief overview.

In 1965, the U.S. Commission on Civil Rights found discrimination in USDA program delivery and in USDA treatment of minority employees.

In 1970, a USDA employees focus group report concluded the agency was insensitive to the issues regarding equal opportunity and civil rights.

In 1982, the Civil Rights Commission found that USDA's Farmers Home Administration had failed to place adequate emphasis on dealing with the crisis facing black farmers and saw indications that the agency may be involved in the very kind of racial discrimination that it should be seeking to correct.

In 1990, the Committee on Government Operations of the United States House of Representatives found that Farmers Home Administration practices were one of the key causes of the drastic decline in black farmer ownership.

In 1997 and 1998, CRAT, a special team within the USDA, found systemic discrimination in employment and farm assistance programs.

□ 1200

In 1998 the Congress passed a measure which helped African American farmers pursue legal claims against the USDA. In 1999 a Federal court entered a consent decree which allowed many black farmers to recover damages for the years of discrimination they faced at the hands of the USDA.

Let me say to the Members, given this sad and sorry history, I must oppose this amendment on that note, to say that we need to have technical assistance, but we need to look at what we are doing. And just to say we are going to do something that really is not going to accomplish anything is not the way to go. So on that note I must oppose the amendment.

Mr. WU. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in reluctant opposition to the chairman's amendment and in support of the Common Computing Environment and the associated systems.

The gentleman from Texas (Mr. STENHOLM) cited many of the benefits of the Common Computing Environment not only to the Department of Agriculture but to the many farmers and ranchers that the Department of Agriculture seeks to serve.

I want to bring to the attention of the House another very important function of the Common Computing Environment efforts, and that is a new technology or at least a new application of a technology which has been with us for about 30 or 40 years, and that is satellite imaging in support of forest and farmland use.

There is a very important effort under way to categorize farmland and to image farmland all across the United States. It serves many important purposes. One of them is to help us figure out the categories of different farmland and the erosion of that farmland, and it helps farmers in the end by protecting their most basic asset, the land. It also helps our forests because it helps us assess forest health. It helps us assess the buildup of unwanted or unnecessary fuel stocks in our forests to avert forest fires, and it also helps assess infestations by insects and other pests so that we can better assess the health of our forest stock.

So I just want to point out that, as these amendments come up, ranging from the chairman's amendment, which makes a fairly substantial cut, to other amendments which make smaller cuts in the Common Computing Environment budget, I, for one, will have to choose very carefully between those amendments which serve very crucial public purposes such as eliminating decades' old discrimination by various Federal agencies and programs and other, perhaps less compelling, causes to cut into the Common Computing Environment budget.

And, again, I do want to point out that in addition to the many important purposes that the gentleman from Texas (Mr. STENHOLM) pointed out that we in Oregon, we who have a very thorough land use planning system, we depend on data in order to maintain our categories of farm and forest land, of urban reserve, of urban land and potential urban land, and there is nothing quite as important as having some of the satellite imagery which would also be unfortunately adversely affected by the chairman's amendment. So I do rise in reluctant opposition to the chairman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BONILLA).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to this paragraph?

If not, the Clerk will read.

The Clerk read as follows:

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, \$5,811,000: *Provided*, That the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center: *Pro-*

*vided further*, That no funds made available by this appropriation may be obligated for FAIR Act or Circular A-76 activities until the Secretary has submitted to the Committees on Appropriations of both Houses of Congress a report on the Department's contracting out policies, including agency budgets for contracting out.

WORKING CAPITAL FUND

For the acquisition of disaster recovery and continuity of operations technology of the National Finance Center's data, \$12,850,000, to remain available until expended.

OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

For necessary salaries and expenses of the Office of the Assistant Secretary for Civil Rights, \$803,000.

POINT OF ORDER

Mr. TOM DAVIS of Virginia. Mr. Chairman, I make a point of order against the second provision under the heading "Office of the Chief Financial Officer," beginning with the colon on page 3, line 25, throughout on page 4, line 6. This provision violates clause 2(b) of House rule XXI.

PARLIAMENTARY INQUIRY

Ms. KAPTUR. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentlewoman may inquire.

Ms. KAPTUR. Mr. Chairman, did we not read past that provision?

The CHAIRMAN. That is correct.

Is there objection to returning to that point in the reading to entertain a point of order against the cited provision?

Ms. KAPTUR. Mr. Chairman, we raise objection to that.

The CHAIRMAN. Objection is heard.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I move to strike the last word.

This is the second time this has happened. Right off the floor I was assured that this would come up after a vote on the gentlewoman from Ohio's (Ms. KAPTUR) amendment. I stood here seeking recognition as I came on to the floor as the Clerk was reading other sections. I was not recognized. This is the second time I have been let down by the Committee on Appropriations when they knew I had a point of order and tried to give me time periods.

In fact, I, in talking to the staff this morning, said maybe I should just stay on the floor. No. The last time this occurred, the minority was generous enough to allow us to go back and raise that provision. I would ask for the same courtesy here, or I will stand up today and object to every single unanimous consent.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, the gentleman should be assured that there was absolutely no intent on the majority's part to interfere with the gentleman's issue that we expected him to raise today. So I just hope the gentleman understands that clearly, and the majority is not objecting to our returning to this portion of the bill. The objection was raised by the minority.

Mr. TOM DAVIS of Virginia. Mr. Chairman, reclaiming my time, I just want to say that I was off the floor. I walked on the floor, was seeking recognition. The Clerk continued to read as I got up here. I continued to request recognition.

Mr. Chairman, I ask unanimous consent that we be able to return to this section.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

Mr. WU. Mr. Chairman, I reserve the right to object.

PARLIAMENTARY INQUIRY

Ms. KAPTUR. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Oregon yield for the parliamentary inquiry?

Mr. WU. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentlewoman from Ohio may inquire.

Ms. KAPTUR. Mr. Chairman, could the Chair please explain what is occurring here? We raised objection to the gentleman, who was not on the floor when we read through his section, and we raised objection to that. Why is the gentleman being allowed to proceed?

Mr. TOM DAVIS of Virginia. Mr. Chairman, the gentlewoman is incorrect. It was my time. I was on the floor.

The CHAIRMAN. The gentleman from Oregon (Mr. WU) controls the time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I just asked in comity if she would allow me to make the point of order that we are entitled to do under the rules.

Mr. WU. Mr. Chairman, I am yielding to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, we raised objection to the gentleman's desire to continue with this. He is raising it out of order.

Mr. TOM DAVIS of Virginia. It is in order at any point to raise it, and I will continue to raise it.

The CHAIRMAN. The gentleman from Virginia has again asked for unanimous consent to take his point of order out of order.

Ms. KAPTUR. We object to that, Mr. Chairman. He missed his opportunity.

The CHAIRMAN. Objection is heard.

Mr. LAHOOD. Mr. Chairman, I move to strike the last word.

I am going to yield to the gentleman from Virginia, but I would like to know why the gentlewoman from Ohio would object. Let him make his point; then if they have the votes, knock it out. He was on the floor. The gentleman was on the floor. He could not get to the microphone because he thought there was going to be a vote on the gentleman from Texas's (Mr. BONILLA) amendment. That is the point here. If she does not like what he is going to say, stand up, but give him the right to say it, not to object to it. That is a lousy way to treat a Member.

If somebody were doing that to you, you would have motions to adjourn and

motions to do this and that. The gentleman was on the floor. He wants to make a point of order. Let him make his point. What is the problem with doing that?

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. LAHOOD. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, because he is proceeding out of order. We have dozens of amendments, as the gentleman well knows.

Mr. LAHOOD. Mr. Chairman, he was on the floor.

Ms. KAPTUR. Mr. Chairman, if the gentleman would continue to yield, he missed his opportunity as the bill was being read.

Mr. LAHOOD. Mr. Chairman, reclaiming my time, I am going to say this: I think the gentleman does have a right. He was on the floor. He could not get to the microphone because he thought a vote would be called for on the gentleman from Texas's (Mr. BONILLA) amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. LAHOOD. I yield to the gentleman from Virginia to make his point.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I think it is interesting, as we heard from the other side last week about tactics on this side that were overbearing and the like, to see that given the opportunity in this case to reciprocate and show some openness that they have declined to do so. Nothing is surprising. But all I can say is that I will object to their unanimous consent request and sit here.

Mr. LAHOOD. Mr. Chairman, reclaiming my time, I wonder if the gentlewoman from Ohio would reconsider her objection.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. LAHOOD. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, not at this time.

Mr. LAHOOD. Mr. Chairman, I could not understand the gentlewoman's response. I wonder if the gentlewoman would consider giving the opportunity to the gentleman from Virginia to speak on the part of the bill that he wants to speak on.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. LAHOOD. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, the gentleman from Illinois (Mr. LAHOOD) knows the rules of the House very well. The gentleman missed his opportunity as the bill was being read.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. LAHOOD. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Chairman, let me ask the distinguished chairman, will he, in light of what has transpired here, and I know that he was not up to this previously, work

with me to amend this provision and make it appropriate in the conference or to "X" it out altogether?

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. LAHOOD. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I would be happy to work with the gentleman on the issue that he is trying to raise here today.

Mr. TOM DAVIS of Virginia. Mr. Chairman, as the gentleman knows, we are willing to work with some reporting requirements that our committee be included as part of the reporting as well as the appropriations because we have jurisdiction. But we will work to get it out altogether now because of their inability to compromise.

AMENDMENT NO. 9 OFFERED BY MR. BACA

Mr. BACA. Mr. Chairman, I offer an amendment.

The Chairman. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. BACA:

In title I, under the heading "COMMON COMPUTING ENVIRONMENT", insert after the dollar amount the following: "(reduced by \$3,500,000)".

In title I, under the heading "OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS", insert after the dollar amount the following: "(increased by \$250,000)".

In title I, under the headings "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—T4research and education activities", insert after the first dollar amount, and after the dollar amount relating to Hispanic-serving Institutions, the following: "(increased by \$1,500,000)".

In title I, under the headings "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—EXTENSION ACTIVITIES", insert after the first dollar amount, and after the dollar amount relating to Indian reservation agents, the following: "(increased by \$1,000,000)".

In title I, under the headings "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS", insert after the dollar amount the following: "(increased by \$750,000)".

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. A point of order is reserved.

Mr. BACA. Mr. Chairman, I rise in favor of this amendment by the gentleman from Mississippi (Mr. THOMPSON), the gentleman from Michigan (Mr. KILDEE), and myself to increase the funding for minority programs in the USDA.

What we are asking for, basically, is \$3.5 million in increase. The purpose for the funding would be \$250,000 for the Office of Assistant Secretary of Civil Rights, \$1 million for tribal expansion grants, \$750,000 for grants of socially disadvantaged farmers and ranchers, and \$1.5 million for Hispanic-serving institutes.

The amount is important because it provides funding to help civil rights,

and I state again, civil rights programs, and other significant funding to help minorities in the field of agriculture. The U.S. Department of Agriculture has institutional problems that must be resolved, and this is the way to resolve the problems that we have. The problems within the USDA are so severe, the civil rights complaints have cost the Federal Government nearly \$1 million in settlements and awards. Supporting the civil rights process and properly funding minority initiatives are necessary to permanently end a history of discrimination. I state a history of discrimination. We must rebuild the trust in minority communities, and the USDA can do that.

Mr. Chairman, I yield to the gentleman from Texas (Mr. RODRIGUEZ).

□ 1215

Mr. RODRIGUEZ. Mr. Chairman, let me take this opportunity, first of all, to congratulate the gentleman from California (Mr. BACA), the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from Michigan (Mr. KILDEE) on this particular amendment.

Mr. Speaker, I would like to thank my colleagues for this effort, because there is no doubt that, despite the amendment before us by the gentleman from Texas (Mr. BONILLA), we still need to make sure that those resources go to those communities, minority communities, throughout this country, to make sure that discrimination does not exist.

Although we have made great strides to end discrimination in this country, it still persists in our produce organizations and the United States Department of Agriculture. The USDA has a history of discrimination in these programs, and the USDA has not provided enough funding for minority initiatives that would level the playing field for minority products.

So even if we do what we have been assigned based on the amendment that was passed offered by the gentleman from Texas (Mr. BONILLA), we have got to make sure that those resources reach those populations that are in need; that despite the fact when we did have that staff there and now we are trying to increase the staff, that still did not take place.

Civil rights complaints from minority farmers have cost the USDA nearly \$1 billion in the form of settlements and awards and have the potential to increase many times that amount. The Baca-Thomas-Kildee amendment is a modest and needed step in reducing these costs and eliminating discrimination against minorities.

With all the progress that our country has made, it is my hope that the Congress continues to move in the right direction and support funding for programs and farmers and ranchers throughout this country, including black farmers and Hispanic farmers.

Mr. Chairman, I urge my colleagues to support this amendment in order to do the right thing in this country.

Mr. BACA. Mr. Chairman, reclaiming my time, this is just a modest step in the right direction to deal with civil rights. As we look at the support that we have right now, we have support from the national Congress of American Indians that represents 250 tribal governments; we have the support of the National Hispanic Legislation Agenda; we have the support of the Hispanic Association of Colleges and Universities and Rural Coalitions that represent somewhere around 350 colleges and universities.

This is an important step in making sure that we deal with civil rights and provide the funding for many individuals that have been discriminated against in the past. Our population continues to grow. As I stated earlier, we have 16 percent of the total population being Hispanic right now, representing 42 million right now in the United States, including Puerto Rico. We need to make sure that adequate funding is there to provide civil rights and protection for individuals and minorities or others who have filed a complaint, to make sure farmers and others have an opportunity to progress and harvest their farms in a timely manner. Without the civil rights complaint, it becomes very difficult for individuals to be heard and their voices. We need to make sure those voices are heard on an equal plane.

This funding will provide an opportunity for many individuals to demonstrate their concerns when they have a complaint, and we need to make sure that adequate funds are there through civil rights, through the Department of Agriculture, through the USDA, to make sure that the complaints are heard.

Mr. Chairman, I hope my colleague from Texas will support this legislation, because I know he believes in civil rights, and civil rights is important for all of us to look at funding.

The CHAIRMAN. The Clerk designated Amendment No. 9. The gentleman actually offered an unnumbered amendment, which the Clerk will now report.

The Clerk read as follows:

Amendment offered by Mr. BACA:

In title I, under the heading "OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS", insert after the dollar amount the following: "(increased by \$250,000)".

In title I, under the headings "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES", insert after the first dollar amount, and after the dollar amount relating to Hispanic-serving Institutions, the following: "(increased by \$1,500,000)".

In title I, under the headings "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—EXTENSION ACTIVITIES", insert after the first dollar amount, and after the dollar amount relating to Indian reservation agents, the following: "(increased by \$1,000,000)".

In title I, under the headings "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS", insert after the dollar amount the following: "(increased by \$750,000)".

In title III, under the heading "RURAL DEVELOPMENT—SALARIES AND EXPENSES", insert after the dollar amount the following: "(reduced by \$3,500,000)".

POINT OF ORDER

Mr. BONILLA. Mr. Chairman, speaking on my point of order, the amendment offered by the gentleman from California proposes to amend portions of the bill not yet read. The amendment may not be considered en bloc under clause 2(f) of rule XXI because the amendment proposes to increase the level of outlays in the bill.

I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from California (Mr. BACA) wish to be heard on the point of order?

Mr. BACA. Mr. Chairman, I believe that we did offer the motion when it was asked for during the proper period of time, so we are in compliance with the rules of the House.

The CHAIRMAN. The Chair is prepared to rule.

To be considered en bloc pursuant to clause 2(f) of rule XXI, an amendment must not propose to increase levels of budget authority or outlays in the bill. Because the amendment offered by the gentleman from California proposes a net increase in the level of outlays in the bill, as argued by the chairman of the subcommittee on appropriations, it may not avail itself of clause 2(f) to address portions of the bill not yet read.

Consequently, the amendment is not in order.

If there are no further amendments, the Clerk will read.

The Clerk read as follows:

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, \$19,452,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration, \$669,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings and facilities, and for related costs, \$165,883,000, to remain available until expended: *Provided*, That not to exceed 5 percent of amounts which are made available for space rental and related costs for the Department of Agriculture in this Act may be transferred between such appropriations to cover the costs of new or replacement space 15 days after notice thereof is transmitted to the Appropriations Committees of both Houses of Congress.

AMENDMENT OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

Mr. BONILLA. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman reserves a point of order.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Ms. KAPTUR:

In title I, under the heading "AGRICULTURE BUILDING AND FACILITIES AND RENTAL PAYMENTS—(INCLUDING TRANSFERS OF FUNDS)", insert after the dollar amount the following: "(reduced by \$8,000,000)".

In title III, under the heading "RENEWABLE ENERGY PROGRAM", insert after the dollar amount the following: "(increased by \$8,000,000)".

Ms. KAPTUR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) has reserved a point of order. The gentleman may now state his point of order.

POINT OF ORDER

Mr. BONILLA. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BONILLA. Mr. Chairman, the amendment offered by the gentlewoman from Oregon proposes to amend portions of the bill not yet read. The amendment may not be considered en bloc under clause 2(f) of rule XXI because the amendment proposes to increase the level of outlays in the bill.

I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Texas address the amendment offered by the gentlewoman from Ohio in his point of order?

Mr. BONILLA. It is the amendment offered by the gentlewoman from Ohio. I correct myself.

The CHAIRMAN. Does the gentlewoman wish to be heard on the point of order?

Ms. KAPTUR. Yes, Mr. Chairman.

Mr. Chairman, I do not quite understand the point of order. Our amendment essentially is to bring to a level of \$23 million the accounts dealing with biofuels, renewable energy in the bill, which equals this year's level of \$23 million. We offset that with funds from the Agriculture buildings and facilities and rental payments account. My amendment does not touch any part of what the gentleman just read.

So, I am from Ohio, and I am offering this amendment. This is not an amendment from Oregon.

The CHAIRMAN. Does the gentleman from Texas wish to be heard further?

Mr. BONILLA. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Chairman, the purpose of this amendment is to move America into the future. In the new farm bill, title IX provides for the first

time in American history an energy title. In the past fiscal year, we provided \$23 million in that account to help move America forward, rooted deeply in the rural countryside. The bill before us today actually cuts that account. This amendment merely restores \$8 million to bring it up to equal what we are spending in this current fiscal year of \$23 million in the renewable fuels account, title IX of the bill.

Members have to decide, are they for the future, or do they want to continue to live in the past?

The funds that we use to make this account equal to what it is this year come from the Agriculture buildings and facilities and rental payments account. There is an \$8 million offset within the bill.

I think it is important for members on every committee, regardless of where we serve in this House, to help move America forward to energy independence. How we convert this country is each of our responsibilities. The United States currently imports two-thirds of the petroleum we consume. By 2025 it is estimated that we will consume 75 percent of imported fuels in this country. We are at the dawn of a new fuels age.

This chart that I am showing you here indicates that the largest share of the fuels we import are from the Middle East. It is no surprise to anybody here where we are at war right now. This is not going to change unless each of us changes. In the most recent farm bill that was passed, we made an effort to do that.

To cut the renewable fuels accounts at the beginning of this 21st century makes absolutely no sense at all. All our amendment does is say we made a good start last year. It was a small start, because only about 1 percent of the fuels we consume in this country are renewable fuels, like ethanol and biodiesel. Our amendment says we have made one small step forward for humankind; let us take another small step with this bill.

According to GAO, the United States has spent over \$130 billion over the last three decades in government subsidies to the oil industry. What we are talking about here is a very small amount of money in this bill, \$23 million with this amendment, that would help the U.S. Department of Agriculture help America pull forward and to try to resolve our chief strategic vulnerability, which is our absolutely total dependence on imported petroleum.

Recent studies cited by the Renewable Fuels Association found, for example, that increasing ethanol production to just 5 billion gallons annually would create 214,000 jobs, \$5.3 billion in new private sector investment in renewable fuel production facilities and increase household income by \$51.7 billion, because we would not be draining off the dollars we spend on fuels to go to producers in other countries.

While the energy bill would establish a renewable fuel standard that would

lead us to a doubling of ethanol usage, we still need to support the development of infrastructure and ethanol and biodiesel plant construction and distribution systems. We are at the dawn of a new fuels age. It is just a little keyhole as we look toward the future. Yet this is one of the most important steps we can take in trying to help America when she needs us most.

So every single Member here has to ask themselves as they consider our small amendment, just to put \$23 million in this account to keep it equal with last year, are we going to live in the past, or are we going to move forward? Are we going to ask agricultural America to pull forward with the Nation? Or are we going to continue to live with our heads and our pockets literally in the sands of the Middle East and every other undemocratic place in the world?

American farmers want to move forward. Is this Congress going to help them, or are we going to continue to live in the troubled past?

I ask for support on this amendment. Essentially again what it does, it takes \$8 million from the buildings accounts, moves it into title IX, to keep it at \$23 million, which is what we are spending in this current fiscal year.

Mr. LATHAM. Mr. Chairman, I rise in support of the amendment. I think it is a good offset.

□ 1230

It is absolutely critical that we fund renewable energy as much as possible. I am very pleased that we will be able to do this, increase that account. Ethanol is so important as far as our dependency on foreign oil. We have tremendous opportunities in the Midwest, in Iowa, throughout the country to lessen our dependency on foreign oil with such things as soy diesel, biomass, wind, energy, all of those things that are renewable sources of energy and are going to be so important for our future for energy independence in this country.

It is an economic issue. Through rural America, we have an opportunity in rural America to do what we do best, and that is take solar energy through photosynthesis, be able to convert that into corn, soybeans, whatever kind of crops, and then convert that into renewable sources of energy.

We need the dollars for research, it is absolutely critical, and I rise in strong support of this amendment.

Ms. HERSETH. Mr. Chairman, I move to strike the requisite number of words.

I am pleased to support this amendment with the gentlewoman from Ohio (Ms. KAPTUR), as well as my colleague from Iowa and others of this body, which will restore \$8 million in funding to the Department of Agriculture's Renewable Energy and Energy Efficiency program. The Renewable Energy and Energy Efficiency program was created under the 2002 farm bill and has had great success.

The program provides that grant funds can be used to pay up to 25 percent of the costs for eligible renewable energy projects. These projects include those that derive energy from wind, solar, biomass, or geothermal thermal sources, or hydrogen derived from these sources. Awards are made on a competitive basis for the purchase of renewable energy systems and to make energy improvements.

Last year, USDA ordered a total of 113 grants to program applicants in 24 States. These grants totaled \$21.2 million nationwide, including more than \$62,000 for renewable energy projects in the State of South Dakota. These grants supported a broad array of renewable energy projects, including ethanol plants, wind power projects, solar projects, anaerobic digesters, direct combustion programs, and fuel pellet systems.

Our amendment would bring funding to the full \$23 million level authorized under the 2002 farm bill, the same level as enacted in fiscal year 2004. This program is a win-win for farmers, ranchers, and consumers; and I feel it is important not to cut its funding levels.

This amendment is supported by a broad array of agricultural commodity and energy groups from across my State, and I urge my colleagues to increase funding for this important program.

Mr. WU. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to recognize the strong leadership of the ranking member, the gentlewoman from Ohio (Ms. KAPTUR), and the new and strong leadership of our newest member, the gentlewoman from South Dakota (Ms. HERSETH), in bringing this important amendment before the U.S. House of Representatives.

This amendment would not only assist us in achieving energy independence sooner than we otherwise would, but let us look at some of the specifics in this amendment which I think are very, very important, not just to the United States of America as a whole, but also to our particular region of the country, the Pacific Northwest, which is particularly reliant on renewable sources of energy such as hydropower, wind power, and other renewable energy sources which have less impact on the environment than does our current reliance on oil and coal.

Last year, in the past, this is what this effort has achieved: it assisted 35 wind power projects. It supported \$7 million to support 30 anaerobic digesters; \$1 million to support six solar projects; almost \$4 million to support 16 ethanol plants and anaerobic digester plants; and also supported direct combustion and fuel pellet systems. These are important projects locally, nationally, and affect the geopolitics of the world.

The section 9006 program leverages a tremendous amount of private sector investment, since the program provides a maximum of 25 percent funding. This

3-to-1 leverage ratio is a good buy for the American taxpayer. This fosters rural economic development and generates clean and efficient energy.

The amendment is supported by the Alternative Fuels Renewable Energies Council, the American Bioenergy Association, the American Corn Growers Association, the American Council for an Energy Efficient Economy, the American Wind Energy Association, the Chesapeake Climate Action Network, the Energy Law and Policy Center, the Geothermal Energy Association, the National Association of State Energy Officials, the National Farmers Union, the Renewable Energy Action Project, the Solar Energy Industries Association, and the Soybean Producers of America, all strong supporters of this important amendment. The Spokane County, and that, Mr. Chairman, is in my corner of the country, the Spokane County Conservation District, the Union of Concerned Scientists, and the Western Organization of Resource Councils, all of these organizations support this amendment offered by the gentlewoman from South Dakota (Ms. HERSETH) and the gentlewoman from Ohio (Ms. KAPTUR), the ranking member, because it makes sense. It leads to clean energy; it leads to energy independence. This is what the best of agricultural policy should do for America and the world.

Mr. Chairman, I yield to the gentlewoman from Ohio (Ms. KAPTUR), the ranking member, if she has any further comments.

Ms. KAPTUR. Mr. Chairman, I want to thank the gentleman from Oregon (Mr. WU) so very much for his excellent, excellent summary of what this program has done. I want to thank him also for mentioning all of the organizations that support our efforts here.

I want people to have this one photo in their mind. If we look at total Trichart showing petroleum consumption in the United States, the growing share of imports that are a part of that is apparent. This is just a staggering set of statistics to keep in mind as we witness our nation become more and more and more dependent on imported petroleum. Here, this chart presents the one picture to keep in our minds.

The other one is this: we are at the dawn of the new fuels age. Less than 1 percent, less than 1 percent of what we currently produce in this country do we make ourselves from agriculturally based fuels. The potential literally is unlimited. This bill takes us another small step to open this window to begin to fuel ourselves and put those dollars in our pockets.

So I thank the gentleman for yielding to me. I ask the membership for their support on this Kaptur-Herseth amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio (Ms. KAPTUR).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. HOOLEY OF OREGON

Ms. HOOLEY of Oregon. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOOLEY of Oregon:

Page 5, line 15, insert after the dollar amount "(decreased by \$10,000,000)".

Page 18, line 9, insert after the first dollar amount "(increased by \$5,000,000)".

Mr. BONILLA. Mr. Chairman, I ask unanimous consent that debate on this amendment and any amendments thereto be limited to 10 minutes to be equally divided and controlled by the proponent and myself, the opponent.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. TOM DAVIS of Virginia. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Ms. HOOLEY of Oregon. Mr. Chairman, my amendment would increase funding for the Animal and Plant Health Inspection Service by \$5 million for the purpose of combating sudden oak death.

Sudden oak death is a relatively new disease, first discovered in California in 1995. Since that time it has spread to nurseries throughout the west coast and actually has also been discovered in New York. Caused by a fungus-like organism that invades susceptible trees through the bark, killing portions of the tree, sudden oak death is dangerous to both the nursery and Christmas tree industries, and to our wild forests.

I want to commend the committee for including some additional funding in this bill for research of sudden oak death. Because of the newness and lack of knowledge we have about this disease, additional research is essential, and I am strongly supportive of these efforts.

In addition to research, however, we must include additional funding to investigate and eradicate sudden oak death, and the bill we have in front of us today falls short of that necessary funding. Last year, APHIS allocated \$15 million toward efforts to fight sudden oak death and is launching a national investigation to determine where sudden oak death is located and how it is spreading. Additional funding is necessary to complete the job.

In Oregon, the nursery industry is the number one sector of agriculture, totaling over \$700 million produced annually. The Oregon Department of Agriculture has acted aggressively in an attempt to identify and eradicate this disease.

Sudden oak death, however, is a national problem, not one unique just to Oregon and, as a result, demands a national solution.

The nursery industry nationally is a \$14 billion industry. Failure to stop the spread of this disease could have devastating effects on the American economy. Canada currently has a quarantine on California nurseries and is considering placing one on Oregon and

Washington. In addition, Korea and Mexico are considering a quarantine that would affect the export of Christmas trees. Even within the United States, States are beginning to place quarantines on other States because of sudden oak death.

Sudden oak death has real economic consequences, and we must take additional steps to fight it. This amendment is merely a step in the longer battle against this disease. This amendment is fully offset, reducing funding from the USDA Buildings and Facilities Account. Even with this reduction, they will receive at least as much money as they did last year. This amendment will help stop sudden oak death and will save American agriculture millions of dollars. I urge my colleagues to support the Hooley-Wu amendment.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent that debate on this amendment and any amendments thereto be limited to 10 minutes, to be equally divided and controlled by the proponent and myself, the opponent.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. WEINER. Mr. Chairman, reserving the right to object, has this been cleared with our leadership here, Mr. Chairman?

Mr. BONILLA. I would suggest to the gentleman that he consult with the ranking member.

PARLIAMENTARY INQUIRY

Ms. KAPTUR. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentlewoman will state it.

Ms. KAPTUR. Mr. Chairman, we did not hear the gentleman's request.

Mr. BONILLA. The unanimous consent request was that debate on this amendment and any amendments thereto be limited to 10 minutes, to be equally divided and controlled by the proponent and myself, the opponent.

Ms. KAPTUR. Mr. Chairman, is that just on this amendment?

Mr. BONILLA. And any amendments thereto.

Ms. KAPTUR. Just amendments to this amendment?

Mr. BONILLA. And any second degree amendments.

Ms. KAPTUR. We would agree to that.

Mr. WEINER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. WU. Mr. Chairman, reserving the right to object, are we agreeing to time limitations on all subsequent amendments? Are we agreeing to a 10-minute limit on this amendment only?

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. WU. I yield to the gentleman from Texas.

Mr. BONILLA. The unanimous consent request simply applies to this amendment.

Mr. WU. Mr. Chairman, is there any intention of the chairman or of anyone that the chairman knows of to offer a secondary amendment?

Mr. BONILLA. No.

The CHAIRMAN. The gentleman's unanimous consent request is that time be limited to 10 minutes equally divided by each side on this amendment and any amendment to this amendment.

Is there objection to the request of the gentleman from Texas?

Mr. WU. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. BLUMENAUER. Mr. Chairman, reserving the right to object, I would like to understand, there are a number of us who would like to speak to this. I would like to know on the time allocation, if we were to approve the gentleman's request, when the time allocation would begin and how much time would be available to speak to the amendment.

□ 1245

The CHAIRMAN. The unanimous consent would go from this minute forward. It is a unanimous consent request that there be 10 minutes from this point forward on this amendment and any amendment thereto.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. BLUMENAUER. Further reserving the right to object, I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, would it be acceptable if we were to move to 15 minutes equally divided?

Mr. BLUMENAUER. We have three people who have been waiting here, patiently watching. I know some people are cranky, and I am going to object unless there is at least 10 minutes that is allocated for the three of us. We are willing to work with you to cut it down, but that is my objection.

Mr. BONILLA. Mr. Chairman, I would be happy to revise the unanimous consent request to say 15 minutes from this point on.

The CHAIRMAN. The unanimous consent request is that this amendment be limited to 15 minutes equally divided.

Mr. BLUMENAUER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The gentleman withdraws his objection. Is there further objection?

Mr. WU. Mr. Chairman, reserving the right to object.

Ms. KAPTUR. Mr. Chairman, we just want to get clarification. We have several speakers on this side, and if we were to be allotted 15 minutes on this side, not divided with the other side, that would allow for all of our people to speak.

The CHAIRMAN. The gentleman from Oregon controls the time under his reservation.

Mr. BONILLA. Mr. Chairman, I withdraw my unanimous consent request.

The CHAIRMAN. The unanimous consent request is withdrawn.

Mr. BONILLA. Mr. Chairman, before I state my objection to the amendment, I would advise Members that if amendments are being brought by the minority Members, that they consult with the ranking member and with the leadership, and once agreements are made about unanimous consents in the future, so that there does not have to be confusion on the floor in response to the unanimous consent. So the request would simply be made in good faith for a little more team work and organization so that we do not have delays like we just experienced that wind up defeating what we are trying to do.

But back to the subject at hand. I am rising in opposition to this amendment that is currently under consideration. We are aware of the sudden oak death causing severe problems, and I share the concern of the authors of this amendment.

In May, USDA transferred \$15.5 million in emergency funds to the Animal and Plant Health Inspection Service to help halt the spread of sudden oak death to noninfested areas of the United States. The APHIS contingency fund, which is an appropriated account, provided an additional \$2.5 million for sudden oak death this year. The bill before us contains almost \$2 million for sudden oak death eradication in fiscal year 2005, the same amount as provided in fiscal year 2004.

The emergency authorities that allowed for the additional funding of \$18 million in 2004 are also in effect for 2005. Some of that \$18 million will be carried over into 2005. So I really think that we are prepared, if the problem is extensive, for anything that may occur in the future, and we can certainly adjust and work with the authorizers and with authors of this amendment to adjust that if necessary.

And, again, I am opposed to the amendment and want to state that clearly.

Mr. WU. Mr. Chairman, I move to strike the last word.

There is an emerging threat to the nursery stock and Christmas tree industries, and I want to recognize my colleague, the gentlewoman from Oregon (Ms. HOOLEY), and the gentleman from Oregon (Mr. BLUMENAUER), and I am pleased of the work with the gentlewoman from Oregon (Ms. HOOLEY) in offering this amendment.

Phytophthora ramorum is the causal agent of sudden oak death. This pathogen causes disease on a wide, wide range of plant species, including many crops important to the nursery industry such as rhododendron and camellia and potentially affects Oregon's Christmas tree industry also.

Together, nursery crops and Christmas trees are crucial not only to jobs in Oregon but they also constitute over \$1 billion in Oregon exports. Oregon, by the way, is the Nation's largest grower of Christmas trees.

Sudden oak death has already resulted in one county-wide quarantine

on nursery products in a county which I represent, Columbia County, Oregon. This disease is threatening Oregon's nursery industry and its Christmas tree growers.

To respond to this threat, Oregon has begun an aggressive joint State and Federal inspection program that will gather and test plants from almost 1,400 nurseries and Christmas tree growers. Each nursery will submit a minimum of 40 plant tissue samples for laboratory analysis.

The ability of the Animal and Plant Health Inspection Service, known as APHIS, to process these samples in a timely manner is absolutely essential to the Oregon agricultural economy, and I want to ensure that APHIS has the necessary resources to do so.

This bill contains \$1.98 million for emerging plant pests. Some of that money will be applied to sudden oak death eradication. I am pleased that this bill does provide some funding for sudden oak death eradication. However, I do not believe that \$1.98 million will provide APHIS with enough resources to deal with the serious threat facing the State of Oregon and the Nation as a whole.

In 2004 alone, USDA had to allocate over \$17 million in emergency and contingency funds for sudden oak death eradication. We are facing the same threat in fiscal year 2005, and we should not, should not as a matter of sound policy, rely solely on emergency funds to meet our needs.

Mr. Chairman, the Hooley-Wu amendment transfers \$5 million to APHIS from the Agriculture buildings and facilities account for the purpose of sudden oak death eradication. These additional funds will ensure that important collaborative efforts between the States and APHIS continue in a timely manner and in an effective way.

I would like to thank my colleagues, the gentlewoman from Oregon (Ms. HOOLEY), the gentleman from Texas (Mr. BONILLA), the gentlewoman from Ohio (Ms. KAPTUR), the Committee on Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, staff members and all affiliated staff for their assistance with this issue.

I believe that, by working together, we can minimize the economic impact of sudden oak death in Oregon and around the United States.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the requisite number of words.

I will not take the full 5 minutes, in the spirit of trying to move this forward, but I am concerned about the sense of urgency of the problem dealing with sudden oak death. I appreciate my colleagues, the gentlewoman from Oregon (Ms. HOOLEY) and the gentleman from Oregon (Mr. WU), highlighting the problem as it relates to our State.

The nursery industry is an important part of our agricultural base. Just 1 percent of Oregon farm land devoted to

the nursery industry produces 20 percent of total crop value.

This is not just an Oregon problem. We are involved with massive amounts of transfer of plant material around the country, and if we are not able to move quickly to deal with sudden oak death, we risk not just crippling the nursery business in Oregon but it is going to have consequences for people throughout the country as this disease makes its way through the system.

I hope that we would in fact approve this amendment. It is a modest amount of money to make a difference to a \$14 billion national industry and prevent much more serious steps that will need to be taken in the future.

So, with due respect to the chair of the subcommittee, I would hope that my colleagues would approve the amendment to exercise the foresight to avoid a problem in our State, in our region, in the West to avoid becoming truly a national disaster.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Wu-Hooley amendment. These two individuals from Oregon are doing a big service for not only their State but my State and many States around the country, because it is absolutely important that we control the spread of sudden oak death and that we learn to treat plants effectively that are being affected by this disease.

While sudden oak death's funding through APHIS is set at last year's levels in this bill, this fast-spreading disease has not remained at last year's levels.

In the last year alone, sudden oak death was found for the first time in a nursery in southern California, and there is evidence that it has spread to the Northeast and also the Southeast part of the United States, and that ignores the fact that we have already invested \$5 million to find out what is the cause and how do we treat it.

Nurseries in California are struggling with quarantines that have been put in place against them and their nursery products in Canada and also in our own country in Kentucky, and quarantines of nurseries in Washington State and Oregon State are also under scrutiny.

I have been advocating on behalf of funding to fight this disease since it first appeared in my district in Marin County in 1995. Sudden oak death continues in spite of my efforts and in spite of the \$5 million that the Federal Government has invested in finding out the cause and what we can be doing about it. Sudden oak death continues to slowly but surely spread, and more and more communities around the country have come to understand that this disease is devastating, and it absolutely must be addressed.

And I remind you that sudden oak death's funding to date has not made a dent in the problem. In fact, the problem spreads.

Mr. Chairman, I ask that my colleagues join me in supporting this

amendment before sudden oak affects the entire country. Please do not wait until this disease spreads to your own community before your beautiful trees, beautiful oak trees in Marin County or rhododendron plants around the country, before these trees and these plants turn brown, before they die, before they have to be taken away, before you recognize that this is a real problem and we must put the proper funding behind it. Vote yes on the Hooley-Wu amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. HOOLEY of Oregon. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT OFFERED BY MR. WEINER

Mr. WEINER. Mr. Chairman, I offer an amendment.

Mr. BONILLA. Mr. Chairman, as the amendment is being brought forward, I would like to reserve a point of order. We have not seen this amendment yet.

The CHAIRMAN. The point of order is reserved.

The Clerk read as follows:

Amendment offered by Mr. WEINER:

Page 5, line 15, insert "(decreased by \$19,667,000)" after the dollar amount.

Page 18, line 9, insert "(increased by \$19,667,000)" after the 1st dollar amount.

□ 1300

Mr. WEINER. Mr. Chairman, I wanted to thank the chairman and ranking member of the subcommittee for their work on this bill.

In this bill we are investing in the neighborhood of about \$47 million to wipe out the boll weevil. It poses a threat to an important U.S. commodity. It poses a threat to a way of life to many people. In fact, at the same time we are dramatically reducing the funds necessary to wipe out the Asian long horn beetle, my friend here. The Asian long horn beetle has devastated trees in New York, Illinois and New Jersey and is showing a path that could spread to over half the trees in the United States.

There is a way that we can stop this. An eradication program was begun by APHIS 3 years ago funded by this Congress that has finally started to crest the expansion of this pest. Unfortunately, in the chairman's mark we underfund by a magnitude of about \$20 million what APHIS says will be necessary to eradicate the threat.

The problem that we face here in this House is we run the risk of wasting a rather substantial investment of money that we have paid in the last 2

fiscal years to wipe out this insect. What this bug has done since 1996 has devastated trees throughout New York, and I know the old story about the tree growing in Brooklyn. In fact, there are thousands and thousands of trees that have been impacted already and without a steady investment of funds will continue to.

What we propose to do here is not to take the optimum amount of funding. According to the State of New York, it would take about \$72 million a year for the next 5 years in order to wipe out this pest, but take the minimum amount that APHIS says they require, which is \$30 million over the next several years, to eradicate this threat so it does not move any further.

Right now, Ground Zero for this problem is in the New York-New Jersey area; but we have seen it spring up in the center of the country in Illinois. We have also seen how difficult it is to get a handle on it. To be very honest with you, the only way they have found to get rid of this pest once it is in a tree is to chop down the tree and scrap it and to shred that tree to bits. We cannot risk over 47 percent of the trees in this country which, according to the Department of Agriculture, are susceptible to this threat. Now is the time to cut it off at the tentacles or whatever it has. Now is the time for us to continue our battle against this.

The last thing we should be doing, Mr. Chairman, is allowing the good work of the committee in the past which has invested money to wipe this out and then say, essentially, we will stop on a dime and revert to a place where we will try to hold this in check until we have more money. We have started on this path. The only responsible thing to do is to continue on this program which will require about \$30 million a year.

My amendment provides an additional \$19.6 million which would prevent this pest from spreading any further.

Mr. Chairman, I would like to respond to the point of order.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) still insist on his point of order?

Mr. BONILLA. I do, Mr. Chairman.

Mr. Chairman, the amendment offered by the gentleman from New York (Mr. WEINER) proposes to amend portions of the bill not yet read. The amendment may not be considered en bloc under clause 2(f) of rule XXI because the amendment proposes to increase the level of outlays in the bill.

I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from New York (Mr. WEINER) wish to be heard on the point of order?

Mr. WEINER. Yes, Mr. Chairman.

Mr. Chairman, am I right that there are two parts to the point of order? One, that we have not yet reached page 5 which my amendment strikes; and the second part is that it increases outlays; is that correct?

The CHAIRMAN. The Chair is prepared to rule on the point of order offered by the gentleman from Texas (Mr. BONILLA).

Mr. WEINER. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The gentleman is recognized.

Mr. WEINER. Mr. Chairman, I am asking is the point of order, does it make two separate points? One being we have not reached the page and the other being that it does outlays? Just so I understand what I am responding to.

The CHAIRMAN. The point of order is that the amendment reaches ahead to a portion of the bill not yet read, and that a possible defense of that point of order is not available unless the amendment is both budget authority and outlay neutral.

Mr. WEINER. Mr. Chairman, if I could be heard on the point of order. We are at the chapter of the bill. We are at page 5. We are at the relevant paragraph of the bill. That is a matter of fact. And as far as the outlays, this has previously been scored for another amendment, and I am making a 6 percent reduction, and we are waiting for word from CBO, which hopefully will be coming momentarily which will clarify the other point.

The CHAIRMAN. Does the gentleman wish to be heard further on his point of order?

Mr. WEINER. I think I have just about maximized my statement.

The CHAIRMAN. The Chair is prepared to rule.

Does the gentlewoman from Ohio (Ms. KAPTUR) wish to be heard on the point of order?

Ms. KAPTUR. I wish to be heard on the point of order.

I wonder if the majority could share the CBO scoring with us. We do not have a report back, or at least it has not been referred to us in general.

Mr. BONILLA. Mr. Chairman, we are prepared to hear the ruling on the point of order.

The CHAIRMAN. The Chair is prepared to rule on the point of order.

Ms. KAPTUR. Do I take it there is no CBO scoring that the majority is able to provide us with?

The CHAIRMAN. The Chair will rule on this point of order.

Mr. WEINER. May I be heard on the point of order?

If the ruling of the Chair is that we have not yet reached that point, will I be free to offer it again when the time is more propitious?

Ms. KAPTUR. Mr. Chairman, I did not get an answer to my question. Mr. Chairman, I asked the majority whether they have the information on the CBO scoring. The minority does not have that report. If this is going to be a factor in the judgment of the Chair, we would appreciate the information.

The CHAIRMAN. The Chair is attempting to answer the gentleman from New York's (Mr. WEINER) question.

The first instruction is in order at this time in the reading. The second instruction touches a portion of the bill not yet read.

Mr. WEINER. Mr. Chairman, so if you are required under the rule to have an offset, then obviously they are going to be at two different sections of the bill. How can you possibly offer them two places at once?

The CHAIRMAN. In order to avail itself of clause 2(f) of rule XXI, the offset must be budget authority neutral and outlay neutral, and the proponent of the amendment has the burden of proof that it is outlay neutral.

Mr. WEINER. If I can further be heard, so the point in the bill we are at is not in issue? It is only whether it is budget and outlay neutral?

The CHAIRMAN. That is correct. The Chair is prepared to rule.

Mr. WEINER. Does the gentlewoman from Ohio (Ms. KAPTUR) want to be heard on this?

Ms. KAPTUR. Yes, Mr. Chairman. I was trying to get a clarification from the Chair. If the majority has objections based on CBO numbers, where are those numbers? They have not been provided to the minority. So we do not understand the nature of the objection.

The CHAIRMAN. The Chair is prepared to rule. The Chair would like to cite page 822 of the House Rules and Manual. It says as follows: "The burden is on the proponent of an amendment to show that the amendment does not increase levels of budget authority or outlays within the meaning of clause 2(f)."

To be considered en bloc pursuant to clause 2(f) of rule XXI, an amendment must not propose to increase the levels of budget authority or outlays in the bill. Because the amendment offered by the gentleman from New York (Mr. WEINER) proposes a net increase in the levels of outlays in the bill as argued by the chairman of the subcommittee on appropriations, it may not avail itself of clause 2(f) to address portions of the bill not yet read.

The point of order is sustained, and the amendment is not in order.

Mr. KUCINICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would ask the gentleman from Texas (Mr. BONILLA) to enter into a colloquy.

On January 7, 2004, the National Academies of Sciences released a report, "Biological Confinement of Genetically Engineered Organisms." The study focused on biological methods for confining transgenic crop plants, grasses, trees, fish, shell fish, and insects. The study provides an evaluation of current scientific understanding of various methods, advantages of each method, reasons why methods fail, possibilities for minimization and mitigation of those failures, feasibility of large scale screening for failures, and ecological consequences of wide-spread use of these biological confinement methods.

On February 23, 2004, the Union of Concerned Scientists released a pilot

study, "Gone to Seed: Transgenic Contaminants in the Traditional Seed Supply," which found genetically injured DNA is contaminating traditional seeds of three major U.S. crops: corn, soy beans, and canola. Seed contamination if left unchecked could disrupt agricultural trade, unfairly burden the organic industry, and allow hazardous materials into the food supply. These results show that confinement of existing transgenic crops has failed and make the National Academies of Sciences report critical.

In response, 15 Members of Congress, including me, sent a letter to the Secretary of Agriculture, Ann Veneman, on April 2, 2004, seeking a response by the USDA to the UCS pilot study. The letter raised several concerns, including the potential elimination of traditional, nongenetically engineered seeds, the threat to organic farming, and the potential contamination of food by pharmaceutical and industrial crops.

On June 23, 2004, the Under Secretary of Research, Education and Economics, Joseph Jen, in a letter agreed with the conclusion of the UCS report that contamination has occurred and even went further to say that it was not unexpected. Moreover, he further stated that "testing larger sample sizes in other crops would likely yield much the same results: transgene DNA occurs in seed lots of 'nontransgenic' varieties at a frequency within accepted commercial tolerances." Essentially, the USDA admits that contamination is occurring.

In light of the USDA agreement that contamination is ongoing, I would like to work with the chairman and ranking member to take action necessary to minimize the contamination of nongenetically engineered seeds, protect organic farm production, and prevent contamination of the food supply by pharmaceutical and industrial crops.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I would state that I appreciate the gentleman's statement and would work with him to both support the development of the biotech industry and protect the environment and food supply.

Mr. KUCINICH. I thank the gentleman very much.

AMENDMENT OFFERED BY MR. WEINER

Mr. WEINER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEINER:

Page 5, line 15, insert "(decreased by \$19,667,000)" after the dollar amount.

Page 18, line 9, insert "(increased by \$18,000,000)" after the 1st dollar amount.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment. We have not seen this amendment.

The CHAIRMAN. A point of order is reserved.

The gentleman from New York (Mr. WEINER) is recognized for 5 minutes.

Mr. WEINER. Mr. Chairman, in the interest of time, I have already made my remarks; I want to try to facilitate as quickly as possible the amendment.

The justification is the same. The number has been changed to reflect what the CBO said would be necessary to take into account the change in the rate of outlays to accommodate the Budget Authority change that we are trying to make.

□ 1315

If the chairman would like for me to yield to him on my time, I would, in the interest of time, if he has any questions about the amendment. If not, in that case, let me just summarize again.

The number that we chose to increase by would provide what APHIS says is the necessary full funding to eradicate this pest, which is something that has ravaged New York City, ravaged Queens and Brooklyn, also has been spotted most troubling in Illinois and in New Jersey. We would be dramatically walking away from our commitment to wiping out this pest if we were to reduce to the chairman's mark.

We have to decide what we want to do. Do we want to take this cause that we have decided is necessary to be eradicated, we funded tens of millions of the dollars to eradicate it by a date certain? If we were to adopt the number in the chairman's mark, we would essentially be saying a lot of that money would be wasted because we would allow that pest to further infect trees not only in New York and New Jersey and Connecticut but apparently all throughout the Midwest.

I ask for a favorable consideration.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order?

Mr. BONILLA. Mr. Chairman, I do have a point of order.

Mr. Chairman, the amendment offered by the gentleman from New York proposes to amend portions of the bill not yet read. The amendment may not be considered en bloc under clause 2(f) of rule XXI because the amendment proposes to increase the level of outlays in the bill.

I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from New York wish to be heard on the point of order?

Mr. WEINER. Mr. Chairman, I have a fax here from the CBO scoring section that confirms that my amendment's outlays do not exceed the budget authority. As to the point of order, I still am not clear on. We are at page 5 where my amendment chooses to decrease funding.

The CHAIRMAN. The Chair will examine the CBO estimate.

Mr. BONILLA. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. Does anyone else wish to be heard on this amendment?

Ms. KAPTUR. Mr. Chairman, I rise in support of the amendment.

I rise in support of the gentleman from New York's (Mr. WEINER) amend-

ment regarding these APHIS accounts. He is particularly focused on the Asian long-horned beetle which is devastating there in New York City and Chicago. We have many other invasive species. The chart I am holding here gives some representation of the exponential increase in this particular account which combats these destructive invasive species. We call it APHIS. That stands for Animal Plant Health Inspection Service.

If we look at the beginning of the 1990s to the present, the number of invasive species coming into this country is phenomenal, largely due to uninspected and nonfumigated material, much of it live, that ends up causing billions of dollars worth of biological damage across this country. Our forest systems are threatened. City trees are threatened. Our nursery industry is threatened. The maple sugar industry is threatened. If we look in every corner of this country, we have got an invasive species problem.

What we have been doing, and I support the gentleman's amendment, is to try to assist the States to remediate even when there are no known biological predators for the given problem.

This is a multibillion dollar problem we are trying to take care of with old technology in the sense that we are only taking taxpayer money to try to solve this problem, rather than place the burden on those commercial importers and others through our trade agreements who are causing the problem in the first place. We cannot let all the trees in New York City be wasted nor Emerald Ash borer in Ohio and Michigan that are killing all of our ash trees.

We have a serious national problem. It is absorbing more and more of the money inside of our agriculture bill.

I think the gentleman's amendment is very worthy. It is really a trade-off between a few windows in an account in buildings and facilities versus live material throughout in the country and major, major ecosystems that are threatened with absolute extinction.

So there is no question we have to support the gentleman's amendment. But, long term, we have asked the U.S. Department of Agriculture time and again concerning these trade agreements to find us answers that deal with environmental remediation, that places the burden on those who are responsible for the damage in the first place. Every single year when they appear before our committee, they have no answer.

This Secretary went to Qatar. I said to her, Madam Secretary, deal with these environmental problems that are causing devastation across our country. It never came out in any kind of a trade discussion that occurred by this administration.

So, at the least, we have to support this gentleman's amendment. But let us recognize the magnitude of this problem that is being placed on the taxpayers of every single one of our

States and especially burdensome to, for example, the citizens of Florida, the citizens of Ohio and Michigan, the citizens of New York and Illinois. We can go across this country. But until we get environmental standards built into these trade agreements, we are going to continue to gouge the taxpayers of this country.

It is the wrong solution. But it is the only one we have. So I want to support the gentleman's amendment. It is just too bad that the only place we have to go is the taxpayers rather than finding solution as we do in any other tort case that you would have before the courts of this country i.e., those enterprises that caused the problems in the first place should assume the burden of remediation I think the Asian longhorned beetle came from China.

Mrs. MALONEY. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from New York.

Mrs. MALONEY. Mr. Chairman, I also would like to underscore the importance of this amendment. The beetle has struck two parks in the district that I represent. Once they infest the trees, they have to all be chopped down. They have been found three blocks from Central Park in New York, and we are trying mightily to keep it out of Central Park and from moving to the upstate forested area of New York State and moving to other States.

We have to stop the beetle and spend as much money as it takes. Because once they infest a tree, the only alternative is to chop the tree down and all the trees in the surrounding area. It is a tremendous crisis of the environment in our neighborhood, and I strongly support the ranking member's statements and the gentleman's amendment.

Ms. KAPTUR. Mr. Chairman, I thank the gentlewoman for her comments and would call for a vote on the amendment.

Mr. BONILLA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to make it clear that I oppose this amendment. This is a very important issue that the gentleman from New York raises. We have increased the funding in APHIS to address situations like this around the country. This was at the request of the gentleman from New York and also the other gentleman from New York (Mr. HINCHEY), who sits on the subcommittee.

We realize that there may be an additional need for more money down the road, and if that need does arise, it could come from the CCC fund under emergency designation. So this is not like we are ignoring this issue. We simply feel like we, for the time being, have put sufficient funds into this account and would address it later if needed.

So, again, I rise in opposition to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WEINER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WEINER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. WEINER) will be postponed.

Are there any further amendments to this paragraph?

If not, the Clerk will read.

The Clerk read as follows:

HAZARDOUS MATERIALS MANAGEMENT  
(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), \$15,730,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION  
(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, \$22,939,000, to provide for necessary expenses for management support services to offices of the Department and for general administration, security, repairs, and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

OFFICE OF THE ASSISTANT SECRETARY FOR  
CONGRESSIONAL RELATIONS  
(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, \$3,852,000: *Provided*, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: *Provided further*, That no funds made available by this appropriation may be obligated after 30 days from the date of enactment of this Act, unless the Secretary has notified the Committees on Appropriations of both Houses of Congress on the allocation of these funds by USDA agency: *Provided further*, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, \$9,378,000: *Provided*, That not to exceed \$2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the Inspector General Act of 1978, \$78,392,000, including such sums as may

be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, and including not to exceed \$125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

AMENDMENT NO. 13 OFFERED BY MR.

BLUMENAUER

Mr. BLUMENAUER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. BLUMENAUER:

Page 8, line 6, after the first dollar amount insert the following: "(reduced by \$1,200,000) (increased by \$1,200,000)".

Mr. BONILLA. Mr. Chairman, I ask unanimous consent that debate on this amendment and any amendments thereto be limited to 20 minutes to be equally divided and controlled by the proponent and myself, the opponent.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Oregon (Mr. BLUMENAUER) is recognized for 10 minutes.

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

I am happy to expedite this issue. I rise to offer this amendment in collaboration with my colleague, the gentleman from Colorado (Mr. TANCREDO), to provide an additional \$1.2 million to improve the enforcement of Federal animal fighting laws. This is a perennial problem that the Federal Government has a critical role to solve.

Last year, the House passed an amendment to increase funding by \$800,000, and I am appreciative for the approval by the body of that legislation and appreciate the growing support to combat these dangerous activities that threaten the health and well-being of both humans and animals and threaten the prosperity of our agricultural industry.

We have had earlier this year over 130 representatives and 47 members of the other body requesting this \$1.2 million increase for animal fighting enforcement in letters to the Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies. This broad bipartisan support reflects our constituents' concern for meaningful enforcement of the Federal animal law, but, despite this broad bipartisan support, there are no additional funds designated within the account specifically for this task.

This amendment would provide \$1.2 million for the Office of Inspector General, the chief law enforcement arm of the USDA, to focus on animal fighting cases, working closely with State and local enforcement personnel to complement their efforts.

This funding does not take money away from any other programs. It simply removes funds from the Office of Inspector General, places them back into the same account to designate the \$1.2 million for enforcement of animal fighting laws.

Now, while the Inspector General did receive an increase in funding this year, it was to compensate for salary and cost increases and was not specifically providing funding for the enforcement of animal fighting.

Even though dog fighting is banned in 50 States and cockfighting is banned in 48, the Federal Government, as I mentioned earlier, must be involved because participants in animal fights often come together from several States at a time and animals are routinely moved across State lines.

Make no mistake, this is not some innocent pastime. Dogfighting and cockfighting are barbaric activities in which animals are given drugs to make them hyperaggressive, drugs to clot their blood more quickly so they can keep fighting longer. They are forced by their handlers to keep fighting even after they have suffered grievous injuries such as pierced lungs and gouged eyes. Dogfights and cockfights do not only involve deplorable animal abuse but they are inevitably, without question, involved with illegal gambling, often drug traffic and violence to people.

It is well-documented that animal fighters often bring their children to these spectacles, sending a terrible message to them about animal cruelty and violence and subjecting them to the aforementioned illegal activities.

Some dogfighters even steal pets to use as bait for training their dogs. Some abandon the fighting animals, leaving them to roam neighborhoods and wreak havoc. Any dog bred and trained to fight poses a public safety risk, and there have been numerous tragic examples, many involving children.

Animal fighting also poses a severe threat to the stability of our Nation's agricultural economy. This is something we brought to the floor in the past and I feel has not been given the attention that it needs.

Secretary of Agriculture Veneman indicated in a letter from January that cockfighting has been implicated in the introduction and spread of exotic Newcastle Disease in California in years 2002 and 2003 which cost United States taxpayers nearly \$200 million to eradicate and cost the United States poultry industry many millions more in lost export markets.

□ 1330

"We believe," the Secretary says, "that tougher penalties and prosecution will help deter illegal movement of birds as well as the inhumane practice of cockfighting itself."

It has also been implicated in the deaths of at least two children in Asia this year who were exposed through

cockfighting activities to bird flu. This is why the National Chicken Council, which represents 95 percent of U.S. poultry producers and processors, has stated that they are "concerned that the nationwide traffic in game birds creates a continuing hazard for the dissemination of animal diseases."

Surely, Mr. Chairman, spending this \$1.2 million to crack down on illegal animal fighting is a wise investment to prevent the spread of costly future diseases. Animal fighting is no longer simply an animal welfare issue, although it certainly is that. It is an epidemic that costs taxpayers millions of dollars. It threatens our food supply and destroys the hard work of American farmers, promoting illegal gambling and drug activities and putting the public at risk.

I strongly urge my colleagues to vote in support of this amendment.

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

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment.

Mr. Chairman, I am opposed to the amendment for several reasons. First, the additional \$400,000, a 50 percent increase above the fiscal year 2004 level, would go to the Inspector General for dog fighting and cockfighting enforcement and result in offsetting cuts in critical OIG activities such as BSE investigations and fighting food stamp fraud. Does the gentleman really wish to cut these programs? These are very important functions.

Second, the Department has told us that animal fighting enforcement is difficult to implement because it is just a misdemeanor offense under the Federal Animal Welfare Act. Adding more money to the budget will not solve this problem. There is, however, proposed legislation in both the House and the Senate to make animal fighting a felony offense. If that legislation is enacted, then it may be appropriate to consider additional funds in the future. OIG is strongly opposed to this amendment.

Third, we cannot justify a 50 percent increase in this program when we have cut overall discretionary spending on ag programs by \$67 million from last year's levels. This bill already is very supportive of programs to ensure the humane care and treatment of animals. The bill already includes, for example, \$800,000 for animal fighting enforcement in the Office of Inspector General's budget. Further, we provided \$315,000 for animal welfare and a \$225,000 increase for regulatory enforcement in the APHIS program and have fully funded \$5 million for enforcement of the Humane Methods of Slaughter Act and the Food Safety and Inspection Service.

If the sponsors of this amendment were serious about this, programs like the ones I just mentioned are the ones that should be cut to pay for this amendment; but then that would force

them to prioritize, like we all have to do. We have put a lot of work into this bill, and we feel like we have addressed all the issues being addressed here today. I would strongly support continuing along that road and rejecting this amendment.

I oppose this amendment and want to make that very clear.

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

Mr. BLUMENAUER. Mr. Chairman, may I inquire as to the remainder of my time.

The CHAIRMAN. The gentleman from Oregon has 4 minutes remaining.

Mr. BLUMENAUER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentleman very much for yielding me this time, and I rise in strong support of the Blumenauer-Tancredo amendment.

Mr. Chairman, I recognize that the limited additional funds being proposed here for the Inspector General to focus on animal fighting certainly reflects what is happening in our country. Last year, we supported the amendments to provide \$800,000 for the Inspector General to focus on animal fighting cases. This is a modest expansion to that.

One of the items I wanted to point out is that when the Inspector General gets funds and they are able to work on a problem, if there is criminal wrongdoing there is a financial recovery to the government of the United States. An absolute relationship between the funds we give to the Inspector General and the ability for general accounts, Treasury accounts, to have increased criminal payments because of the litigation that is done through the Inspector General's office.

So even though there is a little more money being provided in the amendment, believe me, it will be recovered and returned to the Treasury because of the fantastic job that the Inspector General does. In fact, we will probably end up with more money in the general treasury as a result of this amendment.

With all that is going on with animal diseases, I think it is fair to say the Department should be more vigilant with respect to animal welfare issues. And I want to commend the gentleman from Oregon (Mr. BLUMENAUER) and the gentleman from Colorado (Mr. TANCREDO) for bringing this forward. It is a shame that funds are not requested within the administration's request; but they, like us, are trying to deal with unrealistically small allocations that our committee has been given.

We will certainly support this amendment and hope to increase the Inspector General's accounts even more as we move toward conference. So the gentleman has my support and I commend him very much.

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

Mr. BLUMENAUER. Mr. Chairman, the remaining time is?

The CHAIRMAN. Two minutes.

Mr. BLUMENAUER. Mr. Chairman, I yield myself the balance of my time, and let me conclude by saying that I appreciate the expressions of interest and concern on the part of my friend, the distinguished Chair of the subcommittee. The point is, after having worked on this issue now for over 3 years in this Congress, I find that this is extraordinarily elusive. And the reason it is elusive, and the reason that animal fighting continues in this country to be a problem, is because Congress does not step forward to stop it.

The gentleman mentioned the problem, that it is a misdemeanor. So people do not want to deal with enforcement. That was a tactical decision that was made by the people who apologize for this interest. There are, make no mistake about it, lobbyists here for illegal game-fighting birds, for example, who ply their trade here behind closed doors in Congress, and who have successfully fought to keep the criminal provisions as low as they can so that they can use the excuse, when the issue comes forward, well, we really cannot enforce it because the penalty provisions are not strong enough.

It is time for us to say enough to illegal animal fighting for dogs and game birds. My distinguished friend from Ohio points out that there are opportunities to recover money if we were aggressive about it and to stop using the excuse that because we, Congress, refuse to increase the penalties, well, then, we are not going to mess with it. I would strongly suggest that we stop hiding behind this smoke screen and stop serving as an apologist for a despicable industry.

I look forward to working with my friend to increase the penalties. But in the meantime, approve this amendment and send a signal that we want what we have to be enforced.

Mr. TANCREDO. Mr. Chairman, I rise in support of the Blumenauer-Tancredo amendment. I am proud, once again, to join forces with my colleague from Oregon on this important issue. This amendment would provide \$1,200,000 to the Office of Inspector General, the chief law enforcement arm of USDA, to focus on animal fighting cases, working closely with state and local law enforcement personnel to complement their efforts.

Last year we were successful in offering an amendment that secured \$800,000 for the Office of Inspector General to combat animal fighting. This year, we are taking the funds that are already going to the Office of Inspector General and ensuring that \$1.2 million goes into enforcing the law.

This is a small investment to avoid further very costly disease outbreaks spread by illegal cockfighters. According to a letter that Agriculture Secretary Ann Veneman sent on May 24th to the Appropriations Committee, "fighting birds have been implicated in the introduction and spread of exotic Newcastle disease in California in 2002–2003, which cost U.S. taxpayers nearly \$200 million to eradicate, and cost to the U.S. poultry industry many millions more in lost export markets." Secretary Veneman also notes that illegal cockfighting poses risks of spreading other diseases such

as avian influenza, which has the potential to directly harm people.

It's not a lot of money. It will help send a signal to those engaged in illegal dogfighting and cockfighting activities across state lines that there is some threat of federal prosecution. Given the USDA's history of non-enforcement in this area, we think it's important for Congress to take the opportunity to send a signal that we want their continued attention on this.

With your help last year, we were able to help the United States Department of Agriculture enforce the law. This year, we continue to ask you to help us give the USDA the tools they need to accomplish this goal.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. BLUMENAUER).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to this paragraph?

If not, the Clerk will read.

The Clerk read as follows:

#### OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, \$35,486,000.

#### OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION, AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education, and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, \$592,000.

#### ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, \$76,575,000.

#### NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture, as authorized by 7 U.S.C. 1621–1627 and 2204g, and other laws, \$128,661,000, of which up to \$22,520,000 shall be available until expended for the Census of Agriculture.

#### AGRICULTURAL RESEARCH SERVICE

##### SALARIES AND EXPENSES

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed \$100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, \$1,057,029,000: *Provided*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available

pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed \$375,000, except for headhouses or greenhouses which shall each be limited to \$1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed \$750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or \$375,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law: *Provided further*, That all rights and title of the United States in the 1.0664-acre parcel of land including improvements, as recorded at Book 1320, Page 253, records of Larimer County, State of Colorado, shall be conveyed to the Board of Governors of the Colorado State University for the benefit of Colorado State University.

None of the funds appropriated under this heading shall be available to carry out research related to the production, processing, or marketing of tobacco or tobacco products.

#### BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, \$202,000,000, to remain available until expended.

#### COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

##### RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, \$628,607,000, as follows: to carry out the provisions of the Hatch Act of 1887 (7 U.S.C. 361a–i), \$180,648,000; for grants for cooperative forestry research (16 U.S.C. 582a through a–7), \$22,384,000; for payments to the 1890 land-grant colleges, including Tuskegee University and West Virginia State College (7 U.S.C. 3222), \$37,000,000, of which \$1,507,496 shall be made available only for the purpose of ensuring that each institution shall receive no less than \$1,000,000; for special grants for agricultural research (7 U.S.C. 450i(c)), \$88,194,000; for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)), \$15,756,000; for competitive research grants (7 U.S.C. 450i(b)), \$180,000,000; for the support of animal health and disease programs (7 U.S.C. 3195), \$5,098,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), \$1,196,000; for grants for research pursuant to the Critical Agricultural Materials Act (7 U.S.C. 178 et seq.), \$1,111,000, to remain available until expended; for the 1994 research grants program for 1994 institutions pursuant to section 536 of Public Law 103–382 (7 U.S.C. 301 note), \$1,087,000, to remain available until expended; for rangeland research grants (7 U.S.C. 3333), \$1,000,000; for higher education graduate fellowship grants (7 U.S.C.

3152(b)(6)), \$4,500,000, to remain available until expended (7 U.S.C. 2209b); for higher education challenge grants (7 U.S.C. 3152(b)(1)), \$5,500,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), \$998,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), \$5,645,000; for non-competitive grants for the purpose of carrying out all provisions of 7 U.S.C. 3242 (section 759 of Public Law 106-78) to individual eligible institutions or consortia of eligible institutions in Alaska and in Hawaii, with funds awarded equally to each of the States of Alaska and Hawaii, \$2,997,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152(j)), \$1,000,000; for aquaculture grants (7 U.S.C. 3322), \$4,000,000; for sustainable agriculture research and education (7 U.S.C. 5811), \$12,722,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee University and West Virginia State College, \$12,411,000, to remain available until expended (7 U.S.C. 2209b); for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103-382, \$2,250,000; for resident instruction grants for insular areas under section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363), \$500,000; and for necessary expenses of Research and Education Activities, \$42,610,000.

None of the funds appropriated under this heading shall be available to carry out research related to the production, processing, or marketing of tobacco or tobacco products: *Provided*, That this paragraph shall not apply to research on the medical, biotechnological, food, and industrial uses of tobacco.

#### NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law 103-382 (7 U.S.C. 301 note), \$12,000,000.

#### EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa, \$440,349,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93-471, for retirement and employees' compensation costs for extension agents, \$277,242,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), \$3,273,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, \$58,909,000; payments for the pest management program under section 3(d) of the Act, \$10,759,000; payments for the farm safety program under section 3(d) of the Act, \$4,600,000; payments to upgrade research, extension, and teaching facilities at the 1890 land-grant colleges, including Tuskegee University and West Virginia State College, as authorized by section 1447 of Public Law 95-113 (7 U.S.C. 3222b), \$16,912,000, to remain available until expended; payments for youth-at-risk programs under section 3(d) of the Smith-Lever Act, \$3,481,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, \$499,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.), \$4,093,000; payments for Indian reservation agents under section 3(d) of the Smith-Lever Act, \$1,996,000; payments for sustainable agriculture programs under section 3(d) of the Act, \$4,000,000; payments for

cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326 and 328) and Tuskegee University and West Virginia State College, \$33,133,000, of which \$1,724,884 shall be made available only for the purpose of ensuring that each institution shall receive no less than \$1,000,000; and for necessary expenses of Extension Activities, \$16,452,000.

#### INTEGRATED ACTIVITIES

For the integrated research, education, and extension grants programs, including necessary administrative expenses, \$66,255,000, as follows: for competitive grants programs authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), \$43,242,000, including \$12,971,000 for the water quality program, \$14,967,000 for the food safety program, \$4,531,000 for the regional pest management centers program, \$4,889,000 for the Food Quality Protection Act risk mitigation program for major food crop systems, \$1,497,000 for the crops affected by Food Quality Protection Act implementation, \$2,498,000 for the methyl bromide transition program, and \$1,889,000 for the organic transition program; for a competitive international science and education grants program authorized under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b), to remain available until expended, \$1,000,000; for grants programs authorized under section 2(c)(1)(B) of Public Law 89-106, as amended, \$2,500,000, to remain available until September 30, 2006 for the critical issues program, and \$1,513,000 for the regional rural development centers program; and \$18,000,000 for the homeland security program authorized under section 1484 of the National Agricultural Research, Extension, and Teaching Act of 1977, to remain available until September 30, 2006.

#### OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), \$5,935,000, to remain available until expended.

#### OFFICE OF THE UNDER SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and the Grain Inspection, Packers and Stockyards Administration; \$721,000.

#### ANIMAL AND PLANT HEALTH INSPECTION SERVICE

##### SALARIES AND EXPENSES

##### (INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, \$808,823,000, of which \$4,119,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions; of which \$47,000,000 shall be used for the boll weevil eradication program for cost share purposes or for debt retirement for active eradication zones: *Provided*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further*, That this appropriation shall be available for the oper-

ation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with sections 10411 and 10417 of the Animal Health Protection Act (7 U.S.C. 8310 and 8316) and sections 431 and 442 of the Plant Protection Act (7 U.S.C. 7751 and 7772), and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 2005, the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

#### BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, \$4,996,000, to remain available until expended.

#### AGRICULTURAL MARKETING SERVICE

##### MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, \$75,892,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

##### LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$64,459,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

FUNDS FOR STRENGTHENING MARKETS,  
INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than \$15,800,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), \$1,347,000.

GRAIN INSPECTION, PACKERS AND  
STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, \$37,540,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

LIMITATION ON INSPECTION AND WEIGHING  
SERVICES EXPENSES

Not to exceed \$42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

OFFICE OF THE UNDER SECRETARY FOR FOOD  
SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, \$595,000.

FOOD SAFETY AND INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed \$50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), \$824,746,000, of which no less than \$746,010,000 shall be available for Federal food safety inspection; and in addition, \$1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1327 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 138f): *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM  
AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, \$631,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, \$1,007,597,000: *Provided*, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further*, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101-5106), \$4,000,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, \$100,000, to remain available until expended: *Provided*, That such program is carried out by the Secretary in the same manner as the dairy indemnity program described in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387, 114 Stat. 1549A-12).

AGRICULTURAL CREDIT INSURANCE FUND  
PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, Indian tribe land acquisition loans (25 U.S.C. 488), and boll weevil loans (7 U.S.C. 1989), to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, \$1,600,000,000, of which \$1,400,000,000 shall be for guaranteed loans and \$200,000,000 shall be for direct loans; operating loans, \$2,116,253,000, of which \$1,200,000,000 shall be for unsubsidized guaranteed loans, \$266,253,000 shall be for subsidized guaranteed loans and \$650,000,000 shall be for direct loans; Indian tribe land acquisition loans, \$2,000,000; and for boll weevil eradication program loans, \$100,000,000: *Provided*, That the Secretary shall deem the pink bollworm to be a boll weevil for the purpose of boll weevil eradication program loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, \$18,120,000, of which \$7,420,000 shall be for guaranteed loans, and \$10,700,000 shall be for direct loans; operating loans, \$139,783,000, of which \$38,760,000 shall be for unsubsidized guaranteed loans, \$35,438,000 shall be for subsidized guaranteed loans, and \$65,585,000 shall be for direct loans; and Indian tribe land acquisition loans, \$105,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$297,445,000, of which \$289,445,000 shall be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

Funds appropriated by this Act to the Agricultural Credit Insurance Program Ac-

count for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs: *Provided*, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

RISK MANAGEMENT AGENCY

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by section 226A of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933), \$72,044,000: *Provided*, That not to exceed \$1,000 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516), such sums as may be necessary, to remain available until expended.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For the current fiscal year, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a-11): *Provided*, That of the funds available to the Commodity Credit Corporation under section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) for the conduct of its business with the Foreign Agriculture Service, up to \$5,000,000 may be transferred to and used by the Foreign Agriculture Service for information resource management activities of the Foreign Agricultural Service that are related, either directly or indirectly, to Commodity Credit Corporation business.

HAZARDOUS WASTE MANAGEMENT

(LIMITATION ON EXPENSES)

For the current fiscal year, the Commodity Credit Corporation shall not expend more than \$5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607(g)), and section 6001 of the Resource Conservation and Recovery Act (42 U.S.C. 6961).

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR  
NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, \$731,000.

NATURAL RESOURCES CONSERVATION  
SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such

special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed \$100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, \$813,673,000, of which not less than \$9,250,000 is for snow survey and water forecasting, and not less than \$11,722,000 is for operation and establishment of the plant materials centers, and of which not less than \$23,500,000 shall be for the grazing lands conservation initiative: *Provided*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed \$250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further*, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

#### WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1009), \$11,083,000: *Provided*, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

#### WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1005 and 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, \$86,487,000, to remain available until expended; of which up to \$10,000,000 may be available for the watersheds authorized under the Flood Control Act (33 U.S.C. 701 and 16 U.S.C. 1006a): *Provided*, That not to exceed \$40,000,000 of this appropriation shall be available for technical assistance: *Provided further*, That not to exceed \$1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to

other suitable habitats as may be necessary to expedite project construction: *Provided further*, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

#### WATERSHED REHABILITATION PROGRAM

For necessary expenses to carry out rehabilitation of structural measures, in accordance with section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), and in accordance with the provisions of laws relating to the activities of the Department, \$30,091,000, to remain available until expended: *Provided*, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

#### RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of sections 31 and 32 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011; 76 Stat. 607); the Act of April 27, 1935 (16 U.S.C. 590a–f); and subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), \$51,641,000, to remain available until expended: *Provided*, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)): *Provided further*, That the Secretary shall enter into a cooperative or contribution agreement with a national association regarding a Resource Conservation and Development program and such agreement shall contain the same matching, contribution requirements, and funding level, set forth in a similar cooperative or contribution agreement with a national association in fiscal year 2002: *Provided further*, That not to exceed \$3,504,300 shall be available for national headquarters activities.

### TITLE III

#### RURAL DEVELOPMENT PROGRAMS

##### OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, \$632,000.

##### RURAL COMMUNITY ADVANCEMENT PROGRAM

###### (INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, 1926d, and 1932, except for sections 381E–H and 381N of the Consolidated Farm and Rural Development Act, \$667,408,000, to remain available until expended, of which \$39,539,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which \$552,689,000 shall be for the rural utilities programs described in sections 381E(d)(2), 306C(a)(2), and 306D of such Act, of which not to exceed \$500,000 shall be available for the rural utilities program described in section 306(a)(2)(B) of such Act, and of which not to exceed \$1,000,000 shall be available for the rural utilities program described in section 306E of such Act; and of which \$75,180,000 shall be for the rural business and cooperative development programs described in sections

381E(d)(3) and 310B(f) of such Act: *Provided*, That of the total amount appropriated in this account, \$24,000,000 shall be for loans and grants to benefit Federally Recognized Native American Tribes, including grants for drinking water and waste disposal systems pursuant to section 306C of such Act, of which \$4,000,000 shall be available for community facilities grants to tribal colleges, as authorized by section 306(a)(19) of the Consolidated Farm and Rural Development Act, and of which \$250,000 shall be available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: *Provided further*, That of the amount appropriated for rural community programs, \$6,200,000 shall be available for a Rural Community Development Initiative: *Provided further*, That such funds shall be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American Tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas: *Provided further*, That of the amount appropriated for the Rural Community Development Initiative, not less than \$200,000 shall be in the form of predevelopment planning grants, not to exceed \$50,000 each, with the balance for low-interest revolving loans to be used for capital and other related expenses, and made available to nonprofit based community development organizations: *Provided further*, That such organizations should demonstrate experience in the administration of revolving loan programs and providing technical assistance to cooperatives: *Provided further*, That such funds shall be made available to qualified private, nonprofit and public intermediary organizations proposing to carry out a program of financial and technical assistance: *Provided further*, That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided: *Provided further*, That of the amount appropriated for the rural business and cooperative development programs, not to exceed \$500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development; \$2,000,000 shall be for grants to the Delta Regional Authority (7 U.S.C. 1921 et seq.): *Provided further*, That of the amount appropriated for rural utilities programs, not to exceed \$25,000,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C of such Act; not to exceed \$17,500,000 shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act, of which \$5,513,000 shall be for Rural Community Assistance Programs; and not to exceed \$14,000,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That of the total amount appropriated, not to exceed \$22,166,000 shall be available through June 30, 2005, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones; of which \$1,081,000 shall be for the rural community programs described in section 381E(d)(1) of such Act, of which \$12,582,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act, and of which \$8,503,000 shall be for the rural business and cooperative development programs described in section

381E(d)(3) of such Act: *Provided further*, That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the "Rural Utilities Service, High Energy Costs Grants Account".

#### RURAL DEVELOPMENT

##### SALARIES AND EXPENSES

###### (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; \$143,625,000: *Provided*, That notwithstanding any other provision of law, funds appropriated under this section may be used for advertising and promotional activities that support the Rural Development mission area: *Provided further*, That not more than \$10,000 may be expended to provide modest nonmonetary awards to non-USDA employees: *Provided further*, That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this appropriation.

#### RURAL HOUSING SERVICE

##### RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

###### (INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: \$4,409,297,000 for loans to section 502 borrowers, as determined by the Secretary, of which \$1,100,000,000 shall be for direct loans, and of which \$3,309,297,000 shall be for unsubsidized guaranteed loans; \$35,000,000 for section 504 housing repair loans; \$116,063,000 for section 515 rental housing; \$100,000,000 for section 538 guaranteed multi-family housing loans; \$5,045,000 for section 524 site loans; \$11,501,000 for credit sales of acquired property, of which up to \$1,501,000 may be for multi-family credit sales; and \$10,000,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, \$160,988,000, of which \$127,380,000 shall be for direct loans, and of which \$33,608,000, to remain available until expended, shall be for unsubsidized guaranteed loans; section 504 housing repair loans, \$10,171,000; repair and rehabilitation of section 515 rental housing, \$54,654,000; section 538 multi-family housing guaranteed loans, \$3,490,000; multi-family credit sales of acquired property, \$727,000: *Provided*, That of the total amount appropriated in this paragraph, \$7,100,000 shall be available through June 30, 2005, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$448,889,000, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

#### RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments

for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, \$592,000,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided*, That of this amount, not more than \$5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed \$20,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That agreements entered into or renewed during the current fiscal year shall be funded for a four-year period: *Provided further*, That any unexpended balances remaining at the end of such four-year agreements may be transferred and used for the purposes of any debt reduction; maintenance, repair, or rehabilitation of any existing projects; preservation; and rental assistance activities authorized under title V of the Act.

#### MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), \$34,000,000 to remain available until expended: *Provided*, That of the total amount appropriated, \$1,000,000 shall be available through June 30, 2005, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

#### RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and 1490m, \$42,500,000, to remain available until expended: *Provided*, That of the total amount appropriated, \$1,800,000 shall be available through June 30, 2005, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

#### FARM LABOR PROGRAM ACCOUNT

For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, \$36,765,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts.

#### RURAL BUSINESS-COOPERATIVE SERVICE

##### RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

###### (INCLUDING TRANSFER OF FUNDS)

For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), \$34,213,000.

For the cost of direct loans, \$15,868,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which \$1,724,000 shall be available through June 30, 2005, for Federally Recognized Native American Tribes and of which \$3,449,000 shall be available through June 30, 2005, for the Delta Regional Authority (7 U.S.C. 1921 et seq.): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That of the total amount appropriated, \$2,447,000 shall be available through June 30, 2005, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Ag-

riculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, \$4,321,000 shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

#### RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

###### (INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, \$25,003,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, \$4,698,000, to remain available until expended.

Of the funds derived from interest on the cushion of credit payments in the current fiscal year, as authorized by section 313 of the Rural Electrification Act of 1936, \$4,698,000 shall not be obligated and \$4,698,000 are rescinded.

□ 1345

Mr. LAHOOD. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MILLER of Florida) having assumed the chair, Mr. BASS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes, had come to no resolution thereon.

#### LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 4766, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

Mr. LAHOOD. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 4766 in the Committee of the Whole pursuant to House Resolution 710 the bill be considered as read and open for amendment at any point and no further amendment to the bill may be offered except:

Pro forma amendments offered at any point in the reading by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Amendments 4, 5, 6, 8, and 12;

Amendments 7, 10, and 13, each of which shall be debatable for 20 minutes;

An amendment by the gentlewoman from Ohio (Ms. KAPTUR) regarding Farmers Market Promotion Program, which shall be debatable for 20 minutes;

An amendment by the gentlewoman from Ohio (Ms. KAPTUR) regarding

outsourcing, which shall be debatable for 20 minutes;

An amendment offered by the gentleman from California (Mr. BACA) regarding Office of Assistant Secretary For Civil Rights;

An amendment by the gentleman from Washington (Mr. BAIRD) regarding livestock compensation;

An amendment by the gentleman from Ohio (Mr. BROWN) regarding fluoroquinolone;

An amendment by the gentleman from New York (Mr. HINCHEY) regarding FDA, which shall be debatable for 20 minutes;

An amendment by the gentlewoman from New York (Mrs. MALONEY) regarding contraceptives, which shall be debatable for 40 minutes;

An amendment by the gentleman from Wisconsin (Mr. OBEY) regarding information technology systems;

An amendment by the gentleman from Wisconsin (Mr. OBEY) regarding circular A-76;

An amendment by the gentleman from Arizona (Mr. FLAKE) regarding tobacco, which shall be debatable for 40 minutes;

An amendment by the gentleman from Vermont (Mr. SANDERS) regarding agriculture tourism, which shall be debatable for 14 minutes; and

An amendment by the gentleman from Colorado (Mr. TANCREDO) regarding food stamps, which shall be debatable for 20 minutes.

Each such amendment may be offered only by the Member designated in this request, or a designee, or the Member who caused it to be printed in the RECORD, or a designee, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Except as otherwise specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent. An amendment shall be considered to fit the description stated in this request if it addresses in whole or in part the object described.

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

Mr. GOODLATTE. Mr. Speaker, I reserve the right to object.

#### PARLIAMENTARY INQUIRY

Mr. GOODLATTE. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GOODLATTE. Am I correct that this unanimous consent request would not impair the right of any Member to raise a point of order against authorizing language in the bill?

The SPEAKER pro tempore. As the Chair understands the proposed order; points of order against amendments are not waived, and points of order against provisions of the bill left unprotected by House Resolution 710 still could be made.

Mr. GOODLATTE. With that understanding, Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

#### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 710 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4766.

□ 1350

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes, with Mr. BASS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today the bill had been read through page 44, line 11.

Pursuant to the order of the House of today, the bill is considered as read and open for amendment at any point.

The text of the remainder of H.R. 4766 is as follows:

#### RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), \$23,500,000, of which \$2,500,000 shall be for cooperative agreements for the appropriate technology transfer for rural areas program: *Provided*, That not to exceed \$1,500,000 shall be for cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers and whose governing board and/or membership is comprised of at least 75 percent minority; and of which not to exceed \$15,500,000, to remain available until expended, shall be for value-added agricultural product market development grants, as authorized by section 6401 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1621 note).

#### RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITY GRANTS

For grants in connection with second and third rounds of empowerment zones and enterprise communities, \$11,419,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities, as authorized by the Taxpayer Relief Act of 1997 and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277): *Provided*, That of the funds appropriated, \$1,000,000 shall be made available to third round empowerment zones, as authorized by the Community Renewal Tax Relief Act (Public Law 106-554).

#### RENEWABLE ENERGY PROGRAM

For the cost of a program of direct loans, loan guarantees, and grants, under the same

terms and conditions as authorized by section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106), \$15,000,000 for direct and guaranteed renewable energy loans and grants: *Provided*, That the cost of direct loans and loan guarantees, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

#### RURAL UTILITIES SERVICE

#### RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT (INCLUDING TRANSFER OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans, \$120,000,000; municipal rate rural electric loans, \$100,000,000; loans made pursuant to section 306 of that Act, rural electric, \$2,100,000,000; Treasury rate direct electric loans, \$1,000,000,000; guaranteed underwriting loans pursuant to section 313A, \$1,000,000,000; 5 percent rural telecommunications loans, \$145,000,000; cost of money rural telecommunications loans, \$250,000,000; and for loans made pursuant to section 306 of that Act, rural telecommunications loans, \$125,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by sections 305 and 306 of the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of rural electric loans, \$5,058,000, and the cost of telecommunications loans, \$100,000: *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$38,323,000 which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

#### RURAL TELEPHONE BANK PROGRAM ACCOUNT

#### (INCLUDING TRANSFER OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs. During fiscal year 2005 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be \$175,000,000.

For administrative expenses, including audits, necessary to carry out the loan programs, \$3,152,000, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

#### DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For the principal amount of direct distance learning and telemedicine loans, \$50,000,000; and for the principal amount of direct broadband telecommunication loans, \$464,038,000.

For the cost of direct loans and grants for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq., \$25,710,000, to remain available until expended, of which \$710,000 shall be for direct loans: *Provided*, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

For the cost of broadband loans, as authorized by 7 U.S.C. 901 et seq., \$9,884,000: *Provided*, That the interest rate for such loans shall be the cost of borrowing to the Department of the Treasury for obligations of comparable maturity: *Provided further*, That the

cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, \$9,000,000, to remain available until expended, for a grant program to finance broadband transmission in rural areas eligible for Distance Learning and Telemedicine Program benefits authorized by 7 U.S.C. 950aaa.

#### TITLE IV

##### DOMESTIC FOOD PROGRAMS

###### OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION, AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition, and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, \$595,000.

##### FOOD AND NUTRITION SERVICE

###### CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; \$11,380,557,000, to remain available through September 30, 2006, of which \$6,227,595,000 is hereby appropriated and \$5,152,962,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That up to \$5,235,000 shall be available for independent verification of school food service claims.

###### SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), \$4,907,250,000, to remain available through September 30, 2006: *Provided*, That of the total amount available, the Secretary shall obligate not less than \$15,000,000 for a breastfeeding support initiative in addition to the activities specified in section 17(h)(3)(A): *Provided further*, That notwithstanding section 17(h)(10)(A) of such Act, \$14,000,000 shall be available for the purposes specified in section 17(h)(10)(B): *Provided further*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further*, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: *Provided further*, That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act.

##### FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), \$33,635,798,000, of which \$3,000,000,000 to remain available through September 30, 2006, shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That of the funds made available under this heading and not already appropriated to the Food Distribution Program on Indian Reservations (FDPIR) established under section

4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)), not to exceed \$4,000,000 shall be used to purchase bison meat for the FDPIR from Native American bison producers: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further*, That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act: *Provided further*, That notwithstanding section 5(d) of the Food Stamp Act of 1977, any additional payment received under chapter 5 of title 37, United States Code, by a member of the United States Armed Forces deployed to a designated combat zone shall be excluded from household income for the duration of the member's deployment if the additional pay is the result of deployment to or while serving in a combat zone, and it was not received immediately prior to serving in the combat zone.

##### COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out disaster assistance and the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note); the Emergency Food Assistance Act of 1983; and special assistance for the nuclear affected islands, as authorized by section 103(f)(2) of the Compact of Free Association Amendments Act of 2003 (Public Law 108-188); and the Farmers' Market Nutrition Program, as authorized by section 17(m) of the Child Nutrition Act of 1966, \$178,797,000, to remain available through September 30, 2006: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

##### NUTRITION PROGRAMS ADMINISTRATION

For necessary administrative expenses of the domestic nutrition assistance programs funded under this Act, \$133,742,000, of which \$5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of law: *Provided*, That none of the funds made available under this heading may be used to pay the salaries and expenses of employees of the Food and Nutrition Service to review, evaluate, or approve State Plans under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) that provide for vendors to operate stores that cater only to WIC participants if these type stores did not operate in that State prior to fiscal year 2005.

#### TITLE V

##### FOREIGN ASSISTANCE AND RELATED PROGRAMS

##### FOREIGN AGRICULTURAL SERVICE

###### SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed \$158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), \$137,722,000: *Provided*, That the Service may utilize advances of funds, or reimburse this

appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development.

##### PUBLIC LAW 480 TITLE I PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of agreements under the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit arrangements under said Acts, \$86,420,000, to remain available until expended: *Provided*, That the Secretary of Agriculture may implement a commodity monetization program under existing provisions of the Food for Progress Act of 1985 to provide no less than \$5,000,000 in local-currency funding support for rural electrification development overseas.

In addition, for administrative expenses to carry out the credit program of title I, Public Law 83-480, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 83-480 are utilized, \$2,371,000, of which \$1,102,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which \$1,269,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

##### PUBLIC LAW 480 TITLE I OCEAN FREIGHT

###### DIFFERENTIAL GRANTS

(INCLUDING TRANSFER OF FUNDS)

For ocean freight differential costs for the shipment of agricultural commodities under title I of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of 1985, \$22,723,000, to remain available until expended: *Provided*, That funds made available for the cost of agreements under title I of the Agricultural Trade Development and Assistance Act of 1954 and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

##### PUBLIC LAW 480 TITLE II GRANTS

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, \$1,180,002,000, to remain available until expended.

##### COMMODITY CREDIT CORPORATION EXPORT

###### LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, \$4,473,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which \$3,440,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which \$1,033,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

##### McGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM GRANTS

For necessary expenses to carry out the provisions of section 3107 of the Farm Security and Rural Investment Act of 2002 (7

U.S.C. 1736o-1), \$75,000,000, to remain available until expended: *Provided*, That the Commodity Credit Corporation is authorized to provide the services, facilities, and authorities for the purpose of implementing such section, subject to reimbursement from amounts provided herein.

#### TITLE VI

### RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES FOOD AND DRUG ADMINISTRATION SALARIES AND EXPENSES (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed \$25,000; and notwithstanding section 521 of Public Law 107-188; \$1,788,849,000: *Provided*, That of the amount provided under this heading, \$284,394,000 shall be derived from prescription drug user fees authorized by 21 U.S.C. 379h, and shall be credited to this account and remain available until expended: *Provided further*, That this amount shall not include any fees pursuant to 21 U.S.C. 379h(a)(2) and (a)(3) assessed for fiscal year 2006 but collected in fiscal year 2005; \$33,938,000 shall be derived from medical device user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended; and \$8,000,000 shall be derived from animal drug user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended: *Provided further*, That fees derived from prescription drug, medical device, and animal drug assessments received during fiscal year 2005, including any such fees assessed prior to the current fiscal year but credited during the current year, shall be subject to the fiscal year 2005 limitation: *Provided further*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the total amount appropriated: (1) \$446,655,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) \$499,255,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) \$172,414,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) \$98,610,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) \$232,578,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) \$40,530,000 shall be for the National Center for Toxicological Research; (7) \$52,722,000 shall be for Rent and Related activities, other than the amounts paid to the General Services Administration for rent; (8) \$129,815,000 shall be for payments to the General Services Administration for rent; and (9) \$116,270,000 shall be for other activities, including the Office of the Commissioner; the Office of Management and Systems; the Office of External Relations; the Office of Policy and Planning; and central services for these offices: *Provided further*, That funds

may be transferred from one specified activity to another with the prior approval of the Committees on Appropriations of both Houses of Congress.

In addition, mammography user fees authorized by 42 U.S.C. 263b may be credited to this account, to remain available until expended.

In addition, export certification user fees authorized by 21 U.S.C. 381 may be credited to this account, to remain available until expended.

#### INDEPENDENT AGENCIES

##### COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles, and the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, \$93,327,000, including not to exceed \$3,000 for official reception and representation expenses.

##### FARM CREDIT ADMINISTRATION

##### LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$42,900,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided*, That this limitation shall not apply to expenses associated with receiverships.

#### TITLE VII—GENERAL PROVISIONS

##### (INCLUDING RESCISSIONS OF FUNDS)

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the current fiscal year under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 388 passenger motor vehicles, of which 388 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 703. Funds appropriated by this Act shall be available for employment pursuant to the second sentence of section 706(a) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2225) and 5 U.S.C. 3109.

SEC. 704. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, information technology infrastructure, fruit fly program, emerging plant pests, boll weevil program, up to \$12,000,000 in the low pathogen avian influenza program for indemnities, up to \$33,197,000 in animal health monitoring and surveillance for the animal identification system, up to \$3,000,000 in the emergency management systems program for the vaccine bank, and up to 25 percent of the screwworm program; Food Safety and Inspection Service, field automation and information management project; Cooperative State Research, Education, and Extension Service, funds for competitive research grants (7 U.S.C. 450i(b)), funds for the Research, Education, and Economics Information System (REEIS), and funds for the Native American Institutions Endowment Fund; Farm Service Agency, salaries and expenses funds made available to county committees; Foreign Agricultural Service, middle-income country training program, and up to \$2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to docu-

mentation by the Foreign Agricultural Service.

SEC. 705. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 706. Not to exceed \$50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of August 28, 1954 (7 U.S.C. 1766b).

SEC. 707. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 708. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 709. None of the funds in this Act shall be available to pay indirect costs charged against competitive agricultural research, education, or extension grant awards issued by the Cooperative State Research, Education, and Extension Service that exceed 25 percent of total Federal funds provided under each award: *Provided*, That notwithstanding section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310), funds provided by this Act for grants awarded competitively by the Cooperative State Research, Education, and Extension Service shall be available to pay full allowable indirect costs for each grant awarded under section 9 of the Small Business Act (15 U.S.C. 638).

SEC. 710. Notwithstanding any other provision of this Act, all loan levels provided in this Act shall be considered estimates, not limitations.

SEC. 711. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in the current fiscal year shall remain available until expended to cover obligations made in the current fiscal year for the following accounts: the Rural Development Loan Fund program account, the Rural Telephone Bank program account, the Rural Electrification and Telecommunication Loans program account, and the Rural Housing Insurance Fund program account.

SEC. 712. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 713. Of the funds made available by this Act, not more than \$1,800,000 shall be

used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 714. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

SEC. 715. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 716. None of the funds appropriated or otherwise made available to the Department of Agriculture shall be used to transmit or otherwise make available to any non-Department of Agriculture employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 717. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer.

SEC. 718. (a) Notwithstanding any other provision of law, none of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees.

(b) Notwithstanding any other provision of law, none of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress.

(c) The Secretary of Agriculture, the Secretary of Health and Human Services, or the

Chairman of the Commodity Futures Trading Commission shall notify the Committees on Appropriations of both Houses of Congress before implementing a program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

SEC. 719. With the exception of funds needed to administer and conduct oversight of grants awarded and obligations incurred in prior fiscal years, none of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out the provisions of section 401 of Public Law 105-185, the Initiative for Future Agriculture and Food Systems (7 U.S.C. 7621). Funds under section 401 for fiscal year 2005 are hereby cancelled.

SEC. 720. None of the funds appropriated by this or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2006 appropriations Act.

SEC. 721. None of the funds made available by this or any other Act may be used to close or relocate a state Rural Development office unless or until cost effectiveness and enhancement of program delivery have been determined.

SEC. 722. In addition to amounts otherwise appropriated or made available by this Act, \$2,500,000 is appropriated for the purpose of providing Bill Emerson and Mickey Leland Hunger Fellowships, through the Congressional Hunger Center.

SEC. 723. Notwithstanding section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f), any balances available to carry out title III of such Act as of the date of enactment of this Act, and any recoveries and reimbursements that become available to carry out title III of such Act, may be used to carry out title II of such Act.

SEC. 724. Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)(B)) is amended by striking "\$26,998,000" and inserting "\$27,498,000".

SEC. 725. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to collect from the lender at the time of issuance a guarantee fee of less than 2 percent of the principal obligation of guaranteed single-family housing loans administered by the Rural Housing Service.

SEC. 726. Notwithstanding any other provision of law, the Secretary shall consider the City of Salinas, California; the City of Watsonville, California; the City of Hollister, California; the Town of Ulster, New York; County of Cleburne, Alabama; the City of Coachella, California; the City of Casa Grande, Arizona; the City of Creedmoor, North Carolina; the City of Eureka, California; the City of Clarksdale, Mississippi; the City of Vicksburg, Mississippi; the City of Wewahitchka, Florida; the Town of Horseshoe Beach, Florida; and the City of Carbondale, Illinois, as meeting the eligibility requirements for loan and grant pro-

grams in the Rural Development mission area.

SEC. 727. Notwithstanding any other provision of law, the Natural Resources Conservation Service shall provide financial and technical assistance to the DuPage County, Illinois, Kress Creek Water Quality Enhancement Project, from funds available for the Watershed and Flood Prevention Operations program, not to exceed \$1,360,000 and Rockhouse Creek Watershed, Leslie County, Kentucky, not to exceed \$1,000,000.

SEC. 728. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this or any other appropriation Act.

SEC. 729. Notwithstanding any other provision of law, of the funds made available in this Act for competitive research grants (7 U.S.C. 450i(b)), the Secretary may use up to 20 percent of the amount provided to carry out a competitive grants program under the same terms and conditions as those provided in section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621).

SEC. 730. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)).

SEC. 731. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out subtitle I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd through dd-7).

SEC. 732. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out section 6405 of Public Law 107-171 (7 U.S.C. 2655).

SEC. 733. The Agricultural Marketing Service and the Grain Inspection, Packers and Stockyards Administration, that have statutory authority to purchase interest bearing investments outside of the Treasury, are not required to establish obligations and outlays for those investments, provided those investments are insured by the Federal Deposit Insurance Corporation or are collateralized at the Federal Reserve with securities approved by the Federal Reserve, operating under the guidelines of the United States Department of the Treasury.

SEC. 734. Of the funds made available under section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Secretary may use up to \$10,000,000 for costs associated with the distribution of commodities.

SEC. 735. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to enroll in excess of 175,000 acres in the calendar year 2005 wetlands reserve program as authorized by 16 U.S.C. 3837.

SEC. 736. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel who carry out an environmental quality incentives program authorized by chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) in excess of \$1,010,000,000.

SEC. 737. The Secretary of Agriculture is authorized to permit employees of the United States Department of Agriculture to carry and use firearms for personal protection while conducting field work in remote locations in the performance of their official duties.

SEC. 738. None of the funds appropriated or otherwise made available by this or any

other Act shall be used to pay the salaries and expenses of personnel to expend the \$23,000,000 made available by section 9006(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106(f)).

SEC. 739. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a Broadband Program as authorized by 601(j)(A) of 7 U.S.C. 950bb(j)(1)(A). \$40,000,000 of the funds available under such section are hereby cancelled.

SEC. 740. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a Value-added grant program as authorized by 231(b)(4) of 7 U.S.C. 1621 note. \$80,000,000 of the funds available under such section are hereby cancelled.

SEC. 741. Notwithstanding subsections (c) and (e)(2) of section 313A of the Rural Electrification Act (7 U.S.C. 940c(c) and (e)(2)) in implementing section 313A of that Act, the Secretary shall, with the consent of the lender, structure the schedule for payment of the annual fee, not to exceed an average of 30 basis points per year for the term of the loan, to ensure that sufficient funds are available to pay the subsidy costs for note guarantees under that section.

SEC. 742. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a Conservation Security Program authorized by 16 U.S.C. 3838, et seq., in excess of \$194,411,000.

SEC. 743. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a wildlife habitat incentives program authorized under section 2502 of Public Law 107-171, the Farm Security and Rural Investment Act of 2002, in excess of \$60,000,000.

SEC. 744. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 2503 of Public Law 107-171, the Farm Security and Rural Investment Act of 2002, in excess of \$112,044,000.

SEC. 745. The Secretary of Agriculture shall use \$1,000,000 of the funds of the Commodity Credit Corporation, to remain available until expended, to compensate commercial citrus and lime growers in the State of Florida for tree replacement and for lost production with respect to trees removed to control citrus canker, and with respect to certified citrus nursery stocks within the citrus canker quarantine areas, as determined by the Secretary. For a grower to receive assistance for a tree under this section, the tree must have been removed after September 30, 2001.

SEC. 746. None of the funds appropriated or otherwise made available by this, or any other Act, may be used to pay the salaries and expenses of personnel to carry out Subtitle H (the Rural Business Investment Program) of the Consolidated Farm and Rural Development Act, as amended by the Farm Security and Rural Investment Act of 2002 (Public Law 107-171).

SEC. 747. None of the funds appropriated or otherwise made available in this Act shall be expended to violate Public Law 105-264.

SEC. 748. None of the funds made available by this Act may be used to issue a final rule in furtherance of, or otherwise implement, the proposed rule on cost-sharing for animal and plant health emergency programs of the Animal and Plant Health Inspection Service published on July 8, 2003 (Docket No. 02-062-1; 68 Fed. Reg. 40541).

SEC. 749. None of the funds made available in this Act may be used to study, complete

a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary of Agriculture, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs.

SEC. 750. Notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under sections 426-426c of title 7, United States Code, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal and Plant Health Inspection Service, Wildlife Services; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years.

SEC. 751. Of the unobligated balances in the Local Television Loan Guarantee Program account, \$88,000,000, are hereby rescinded.

SEC. 752. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 9010 of Public Law 107-171, the Farm Security and Rural Investment Act of 2002, in excess of \$100,000,000.

SEC. 753. The matter under the heading "Rural Community Advancement Program" in division A—Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Programs Appropriations, 2004, title III—Rural Development Programs, in Public Law 108-199 is amended by striking "\$1,750,000 shall be for grants to the Delta Regional Authority (7 U.S.C. 1921 et seq.); and not less than \$2,000,000 shall be available for grants in accordance with section 310B(f) of the Consolidated Farm and Rural Development Act" and inserting "and not less than \$2,000,000 shall be available for grants in accordance with section 310B(f) of the Consolidated Farm and Rural Development Act: *Provided further*, That of the total amount appropriated in this account, \$1,750,000 shall be for grants to the Delta Regional Authority (7 U.S.C. 1921 et seq.) for any Rural Community Advancement Program purpose".

SEC. 754. Of the unobligated balances available in the Rural Housing Assistance Grant Program account, \$1,000,000 is hereby rescinded.

SEC. 755. Of the unobligated balances available in the Rural Housing Insurance Fund Program account, \$3,000,000 is hereby rescinded.

SEC. 756. Funds made available under section 1240I and section 1241(a) of the Food Security Act of 1985 in fiscal years 2002, 2003, 2004, and 2005 shall remain available until expended to cover obligations made in fiscal years 2002, 2003, 2004, and 2005, respectively: *Provided*, That unobligated funds that are available at the end of each fiscal year are returned to the Treasury.

SEC. 757. None of the funds appropriated or otherwise made available by this Act for the Food and Drug Administration may be used under section 801 of the Federal Food, Drug, and Cosmetic Act to prevent an individual not in the business of importing a prescription drug within the meaning of section 801(g) of such Act, wholesalers, or pharmacists from importing a prescription drug which complies with sections 501, 502, and 505.

SEC. 758. Section 502(h)(6)(C) of the Housing Act of 1949 (42 U.S.C. 1472(h)(6)(C)) is amend-

ed by adding, " , plus the guarantee fee as authorized by subsection (h)(7)" after the phrase, "whichever is less", in each of paragraphs (i) and (ii).

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005".

The CHAIRMAN. No further amendment to the bill may be offered except pro forma amendments offered at any point in the reading by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate; amendments 4, 5, 6, 8, and 12; amendments 7, 10, and 13, each of which shall be debatable for 20 minutes; an amendment by the gentlewoman from Ohio (Ms. KAPTUR) regarding Farmers Market Promotion Program, which will be debatable for 20 minutes; an amendment by the gentleman from Ohio (Ms. KAPTUR) regarding outsourcing, which shall be debatable for 20 minutes; an amendment by the gentleman from California (Mr. BACA) regarding Office of Assistant Secretary of Civil Rights; an amendment by the gentleman from Washington (Mr. BAIRD) regarding livestock compensation; an amendment by the gentleman from Ohio (Mr. BROWN) regarding fluoroquinolone; an amendment by the gentleman from New York (Mr. HINCHEY) regarding FDA, which shall be debatable for 20 minutes; an amendment by the gentlewoman from New York (Mrs. MALONEY) regarding contraceptives, which shall be debatable for 40 minutes; an amendment by the gentleman from Wisconsin (Mr. OBEY) regarding information technology systems; an amendment by the gentleman from Wisconsin (Mr. OBEY) regarding circular A-76; an amendment by the gentleman from Arizona (Mr. FLAKE) regarding tobacco, which will be debatable for 40 minutes; an amendment by the gentleman from Vermont (Mr. SANDERS) regarding agriculture tourism, which shall be debatable for 14 minutes; and an amendment by the gentleman from Colorado (Mr. TANCREDO) regarding food stamps, which shall be debatable for 20 minutes.

Each such amendment may be offered only by the Member designated in the request, or a designee, or the Member who caused it to be printed in the RECORD, or a designee, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

Except as otherwise specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent. An amendment shall be considered to fit the description stated in the request if it addresses in whole or in part the object described.

#### POINT OF ORDER

Mr. TOM DAVIS of Virginia. Mr. Chairman, I raise a point of order against section 717. This provision violates clause 2(b) of House rule XXI. It

proposes to change existing law and therefore constitutes legislation on an appropriation bill in violation of House rules.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. OBEY. Mr. Chairman, I wish to be heard on the point of order.

Mr. Chairman, my understanding of the situation before us is that the gentleman from Virginia is objecting to section 717 of the bill beginning on page 66 which attempts to discipline the agency because the Committee on Appropriations has learned that USDA had transferred millions of dollars for agency funds to the Chief Information Officer of the Department for some of his favorite initiatives, contrary to the written advice of the USDA general counsel.

My understanding further is that these actions are in direct and total defiance of the Congress on this issue. They directly violate specific bill language in the fiscal 2004 bill which prohibited such transfers without the prior approval of both of the appropriation committees in the Senate and the House.

Mr. Chairman, if the gentleman insists on pursuing his point of order, the only practical effect will be that the Congress has declined to take any disciplinary action whatsoever against the agency after the agency has determined that it is acceptable to expend taxpayers' money in defiance of the law. I regret very much that the gentleman seeks to eliminate this language. If he does, there is not much that I can do about it, but I think it is a shame indeed when the Congress of the United States will not insist that an agency expends money only in compliance with the law.

The CHAIRMAN. Does anyone else wish to be heard on the point of order?

The Chair is prepared to rule.

The Chair finds that this provision includes language that explicitly supersedes existing law and requires a new determination by, and places new duties on, the Chief Information Officer.

The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained and the provision is stricken from the bill.

POINT OF ORDER

Mr. GOODLATTE. Mr. Chairman, I make a point of order against section 751 of title VII in that it violates House rule XXI, clause 2 by changing existing law and inserting legislative language in an appropriation bill.

The CHAIRMAN. The gentleman from Virginia is recognized to speak on the point of order.

Mr. GOODLATTE. Mr. Chairman, section 751 of the bill rescinds \$88 million from the Local Television Loan Guarantee Program account. This rescission terminates this program and is an attempt to authorize legislation in an appropriations bill in violation of clause 2 of rule XXI. I urge that the

point of order be sustained and the section be stricken from the bill.

The CHAIRMAN. Does anyone else wish to be heard on the point of order?

The Chair is prepared to rule.

The provision identified in the point of order by the gentleman from Virginia rescinds budget authority provided in a law other than an appropriation act. As such, the provision constitutes legislation on an appropriation bill in violation of clause 2 of rule XXI. The point of order is sustained, and the provision is stricken from the bill.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment by the gentlewoman from Oregon (Ms. HOOLEY) and amendment by the gentleman from New York (Mr. WEINER).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MS. HOOLEY OF OREGON

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 160, not voting 13, as follows:

[Roll No. 363]

AYES—260

Abercrombie	Cardoza	Filner
Ackerman	Case	Foley
Alexander	Chandler	Ford
Allen	Clay	Fossella
Andrews	Clyburn	Frank (MA)
Baca	Conyers	Frost
Baird	Cooper	Galleghy
Baldwin	Costello	Gerlach
Bartlett (MD)	Cramer	Gonzalez
Bass	Crowley	Gordon
Becerra	Cummings	Green (TX)
Bell	Cunningham	Green (WI)
Bereuter	Davis (AL)	Grijalva
Berkley	Davis (CA)	Gutierrez
Berman	Davis (FL)	Harman
Berry	Davis (IL)	Harris
Bilirakis	Davis (TN)	Hastings (FL)
Bishop (GA)	DeFazio	Hastings (WA)
Bishop (NY)	DeGette	Hefley
Blackburn	Delahunt	Herseth
Blumenauer	DeLauro	Hill
Boehlert	Dicks	Hinchey
Bono	Dingell	Hinojosa
Boswell	Doggett	Hoefel
Boucher	Doyle	Holden
Boyd	Dreier	Holt
Bradley (NH)	Edwards	Honda
Brady (PA)	Ehlers	Hooley (OR)
Brown (OH)	Emanuel	Hoyer
Burns	Engel	Inslie
Calvert	Engel	Israel
Capps	Eshoo	Issa
Capuano	Etheridge	Jackson (IL)
Cardin	Farr	Jefferson
	Fattah	John

Johnson (CT)	Miller, Gary	Serrano
Johnson, E. B.	Miller, George	Shays
Jones (OH)	Mollohan	Sherman
Kanjorski	Moore	Shimkus
Kaptur	Moran (VA)	Shuster
Kelly	Murtha	Simmons
Kennedy (RI)	Nadler	Skelton
Kildee	Napolitano	Slaughter
Kilpatrick	Neal (MA)	Smith (NJ)
Kind	Nethercutt	Smith (WA)
King (NY)	Oberstar	Snyder
Kleczka	Obey	Solis
Kucinich	Oliver	Souder
LaHood	Ortiz	Spratt
Lampson	Ose	Stark
Langevin	Otter	Stearns
Lantos	Owens	Stenholm
Larsen (WA)	Pallone	Strickland
Larson (CT)	Pascrell	Stupak
LaTourette	Pastor	Sullivan
Leach	Payne	Sweeney
Levin	Pelosi	Tancredo
Lewis (GA)	Peterson (MN)	Tanner
Lipinski	Platts	Tauscher
LoBiondo	Pombo	Taylor (MS)
Lofgren	Pomeroy	Thomas
Lowey	Price (NC)	Thompson (CA)
Lucas (KY)	Putnam	Thompson (MS)
Lynch	Quinn	Tierney
Maloney	Radanovich	Towns
Manzullo	Rahall	Turner (OH)
Markey	Ramstad	Turner (TX)
Marshall	Rangel	Udall (CO)
Matheson	Reyes	Udall (NM)
Matsui	Rodriguez	Upton
McCarthy (MO)	Rogers (MI)	Van Hollen
McCarthy (NY)	Ross	Velázquez
McCollum	Rothman	Vislosky
McDermott	Roybal-Allard	Walden (OR)
McGovern	Royce	Wamp
McHugh	Ruppersberger	Waters
McIntyre	Ryan (OH)	Watson
McKeon	Sabo	Watt
McNulty	Sánchez, Linda T.	Waxman
Meehan	Sanchez, Loretta	Weiner
Meek (FL)	Sanders	Weldon (PA)
Meeke (NY)	Sandlin	Wexler
Menendez	Schakowsky	Whitfield
Mica	Schiff	Woolsey
Michaud	Scott (GA)	Wu
Millender-McDonald	Scott (VA)	Wynn
Miller (NC)	Sensenbrenner	

NOES—160

Aderholt	Diaz-Balart, L.	King (IA)
Akin	Diaz-Balart, M.	Kingston
Bachus	Doolittle	Kirk
Baker	Duncan	Kline
Ballenger	Dunn	Knollenberg
Barrett (SC)	Emerson	Kolbe
Barton (TX)	English	Latham
Beauprez	Everett	Lewis (CA)
Biggert	Feeney	Lewis (KY)
Bishop (UT)	Ferguson	Linder
Blunt	Flake	Lucas (OK)
Boehner	Forbes	McCotter
Bonilla	Franks (AZ)	McCreery
Bonner	Frelinghuysen	McInnis
Boozman	Garrett (NJ)	Miller (FL)
Brady (TX)	Gibbons	Miller (MI)
Brown (SC)	Gilchrest	Moran (KS)
Brown-Waite,	Gillmor	Murphy
Ginny	Gingrey	Musgrave
Burgess	Goode	Myrick
Burr	Goodlatte	Neugebauer
Burton (IN)	Goss	Ney
Buyer	Granger	Northup
Camp	Graves	Norwood
Cannon	Greenwood	Nunes
Cantor	Hall	Nussle
Capito	Hart	Osborne
Carson (OK)	Hayes	Oxley
Carter	Hayworth	Paul
Castle	Hensarling	Pearce
Chabot	Hergert	Pence
Chocola	Hobson	Peterson (PA)
Coble	Hoekstra	Petri
Cole	Hostettler	Pickering
Cox	Houghton	Pitts
Crane	Hulshof	Porter
Crenshaw	Hunter	Portman
Cubin	Hyde	Pryce (OH)
Culberson	Jenkins	Regula
Davis, Jo Ann	Johnson (IL)	Rehberg
Davis, Tom	Johnson, Sam	Renzi
Deal (GA)	Jones (NC)	Reynolds
DeLay	Keller	Rogers (AL)
DeMint	Kennedy (MN)	Rogers (KY)

Rohrabacher	Simpson	Walsh
Ros-Lehtinen	Smith (MI)	Weldon (FL)
Rush	Smith (TX)	Weller
Ryan (WI)	Tauzin	Wicker
Ryun (KS)	Taylor (NC)	Wilson (NM)
Schrock	Terry	Wilson (SC)
Sessions	Thornberry	Wolf
Shadegg	Tiahrt	Young (AK)
Shaw	Tiberi	Young (FL)
Sherwood	Toomey	

## NOT VOTING—13

Carson (IN)	Gutknecht	Lee
Collins	Isakson	Majette
Deutsch	Istook	Saxton
Dooley (CA)	Jackson-Lee	Vitter
Gephardt	(TX)	

## ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. MILLER of Florida) (during the vote). Members are advised that the voting machine may not be operational. Before the Members leave the Chamber, members are asked to check their votes. The voting machine is undergoing technical difficulties, and Members may be able to vote from the well.

## ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised not to leave the Chamber. The voting machine is inoperable at this time. Please do not cast votes even in the well at this time as the electronic voting system is inoperable and the clerk has no way of tallying the votes.

The clerk is working on rebooting the voting system, which would require everyone to cast their votes a second time if they have already voted.

□ 1415

## ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. MILLER of Florida) (during the vote). The Chair is advised that the electronic voting system has been restarted, and the electronic vote will be conducted anew, a totally fresh start. Members must recast their votes even if they previously cast votes under the earlier, defective electronic vote.

The bells will be rung to indicate a 15-minute vote on the Hooley amendment, followed by a 5-minute vote on the Weiner amendment.

The vote was taken by electronic device, and there were—ayes 260, noes 160, not voting 13, as follows:

□ 1437

Messrs. POMBO, SULLIVAN, FOSSELLA, and GERLACH changed their vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

## AMENDMENT OFFERED BY MR. WEINER

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. WEINER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 223, noes 197, not voting 13, as follows:

[Roll No. 364]

AYES—223

Abercrombie	Hastings (FL)	Olver
Ackerman	Hefley	Ortiz
Alexander	Herseth	Ose
Allen	Hill	Owens
Andrews	Hinchee	Pallone
Baca	Hinojosa	Pascrell
Baird	Hoeffel	Pastor
Baldwin	Holden	Paul
Becerra	Holt	Payne
Bell	Honda	Pelosi
Bereuter	Hooley (OR)	Peterson (MN)
Berkley	Hoyer	Pomeroy
Berman	Hyde	Price (NC)
Berry	Inslee	Rahall
Biggert	Israel	Rangel
Bishop (GA)	Jackson (IL)	Reyes
Bishop (NY)	Jefferson	Rodriguez
Blumenauer	John	Ross
Boehlert	Johnson, E. B.	Rothman
Boswell	Jones (OH)	Roybal-Allard
Boucher	Kanjorski	Ruppersberger
Boyd	Kaptur	Rush
Brady (PA)	Kelly	Ryan (OH)
Brown (OH)	Kennedy (RI)	Sabo
Brown, Corrine	Kildee	Sánchez, Linda T.
Capps	Kilpatrick	Sanchez, Loretta
Capuano	Kind	Sanders
Cardin	King (NY)	Sanders
Cardoza	Klecicka	Sandlin
Carson (OK)	Kucinich	Schakowsky
Case	Lampson	Schiff
Chandler	Langevin	Scott (GA)
Clay	Lantos	Scott (VA)
Clyburn	Larson (CT)	Serrano
Conyers	LaTourette	Shays
Costello	Levin	Sherman
Cramer	Lewis (GA)	Simmons
Crowley	Lipinski	Skelton
Cummings	LoBiondo	Slaughter
Davis (AL)	Lofgren	Smith (NJ)
Davis (CA)	Lowey	Smith (WA)
Davis (FL)	Lucas (KY)	Snyder
Davis (IL)	Lynch	Solis
Davis (TN)	Maloney	Souder
Davis, Tom	Markey	Spratt
DeFazio	Marshall	Stark
DeGette	Matheson	Stenholm
Delahunt	Matsui	Strickland
DeLauro	McCarthy (MO)	Stupak
Dicks	McCarthy (NY)	Sweeney
Dingell	McCollum	Tanner
Doggett	McCotter	Tauscher
Dooley (CA)	McDermott	Taylor (MS)
Doyle	McGovern	Taylor (NC)
Edwards	McHugh	Thompson (CA)
Ehlers	McIntyre	Thompson (MS)
Emanuel	McNulty	Tierney
Engel	Meehan	Towns
Eshoo	Meek (FL)	Turner (TX)
Etheridge	Meeks (NY)	Udall (CO)
Evans	Menendez	Udall (NM)
Farr	Michaud	Upton
Fattah	Millender-	Van Hollen
Ferguson	McDonald	Velázquez
Filner	Miller (NC)	Visclosky
Ford	Miller, George	Waters
Fossella	Mollohan	Watson
Frank (MA)	Moore	Watt
Frost	Moran (VA)	Waxman
Gonzalez	Murtha	Weiner
Gordon	Nadler	Weller
Green (WI)	Napolitano	Wexler
Grijalva	Neal (MA)	Woolsey
Gutierrez	Oberstar	Wu
Harman	Obey	Wynn

NOES—197

Aderholt	Ballenger	Bass
Akin	Barrett (SC)	Beauprez
Bachus	Bartlett (MD)	Bilirakis
Baker	Barton (TX)	Bishop (UT)

Blackburn	Goodlatte	Oxley
Blunt	Goss	Pearce
Boehner	Granger	Pence
Bonilla	Graves	Peterson (PA)
Bonner	Green (TX)	Petri
Bono	Greenwood	Pickering
Boozman	Hall	Pitts
Bradley (NH)	Harris	Platts
Brady (TX)	Hart	Pombo
Brown (SC)	Hastings (WA)	Porter
Brown-Waite,	Hayes	Portman
Ginny	Hayworth	Pryce (OH)
Burgess	Hensarling	Putnam
Burns	Herger	Quinn
Burr	Hobson	Radanovich
Burton (IN)	Hoekstra	Ramstad
Buyer	Hostettler	Regula
Calvert	Houghton	Rehberg
Camp	Hulshof	Renzi
Cannon	Hunter	Reynolds
Cantor	Issa	Rogers (AL)
Capito	Jenkins	Rogers (KY)
Carter	Johnson (CT)	Rogers (MI)
Castle	Johnson (IL)	Rohrabacher
Chabot	Johnson, Sam	Ros-Lehtinen
Chocola	Jones (NC)	Royce
Coble	Keller	Ryan (WI)
Cole	Kennedy (MN)	Ryun (KS)
Cooper	King (IA)	Schrock
Cox	Kingston	Sensenbrenner
Crane	Kirk	Sessions
Crenshaw	Kline	Shadegg
Cubin	Knollenberg	Shaw
Culberson	Kolbe	Sherwood
Cunningham	LaHood	Shimkus
Davis, Jo Ann	Latham	Shuster
Deal (GA)	Leach	Simpson
DeLay	Lewis (CA)	Smith (MI)
DeMint	Lewis (KY)	Smith (TX)
Diaz-Balart, L.	Linder	Stearns
Diaz-Balart, M.	Lucas (OK)	Sullivan
Doolittle	Manzullo	Tancredo
Dreier	McCrery	Tauzin
Duncan	McInnis	Terry
Dunn	McKeon	Thomas
Emerson	Mica	Thornberry
English	Miller (FL)	Tiahrt
Everett	Miller (MI)	Tiberi
Feeney	Miller, Gary	Toomey
Flake	Moran (KS)	Turner (OH)
Foley	Murphy	Walden (OR)
Forbes	Musgrave	Walsh
Franks (AZ)	Myrick	Wamp
Frelinghuysen	Nethercutt	Weldon (FL)
Gallely	Neugebauer	Weldon (PA)
Garrett (NJ)	Ney	Whitfield
Gerlach	Northup	Wicker
Gibbons	Norwood	Wilson (NM)
Gilchrest	Nunes	Wilson (SC)
Gillmor	Nussle	Wolf
Gingrey	Osborne	Young (AK)
Goode	Otter	Young (FL)

## NOT VOTING—13

Carson (IN)	Isakson	Lee
Collins	Istook	Majette
Deutsch	Jackson-Lee	Saxton
Gephardt	(TX)	Vitter
Gutknecht	Larsen (WA)	

## ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1445

Mr. TAYLOR of North Carolina changed his vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BONILLA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CAMP) having assumed the chair, Mr. MILLER of Florida, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R.

4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes, had come to no resolution thereon.

**MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 4613, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005, WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION**

Mr. LEWIS of California. Mr. Speaker, pursuant to clause 12 of rule XXII, I move that meetings of the conference between the House and the Senate on H.R. 4613 be closed to the public at such times as classified national security information may be broached, providing that any sitting Member of the Congress shall be entitled to attend any meeting of the conference.

The SPEAKER pro tempore. Pursuant to clause 12 of rule XXII, the motion is not debatable.

On this motion, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 411, nays 6, not voting 16, as follows:

[Roll No. 365]  
YEAS—411

Abercrombie Buyer Duncan  
Ackerman Calvert Dunn  
Aderholt Camp Edwards  
Akin Cannon Ehlers  
Alexander Cantor Emanuel  
Allen Capito Emerson  
Andrews Capps Engel  
Baca Capuano English  
Bachus Cardin Eshoo  
Baird Carson (OK) Etheridge  
Baker Carter Evans  
Baldwin Case Everett  
Ballenger Castle Farr  
Barrett (SC) Chabot Fattah  
Bartlett (MD) Chandler Feeney  
Barton (TX) Chocola Ferguson  
Bass Clay Filner  
Beauprez Clyburn Flake  
Becerra Coble Foley  
Bell Cole Forbes  
Bereuter Conyers Ford  
Berkley Cooper Fossella  
Berman Costello Frank (MA)  
Berry Cox Franks (AZ)  
Biggart Cramer Frelinghuysen  
Bilirakis Crane Frost  
Bishop (GA) Crenshaw Gallegly  
Bishop (NY) Crowley Garrett (NJ)  
Bishop (UT) Cubin Gerlach  
Blackburn Culberson Gibbons  
Blumenauer Cummings Gilchrest  
Blunt Cunningham Gillmor  
Boehlert Davis (AL) Gingrey  
Boehner Davis (CA) Gonzalez  
Bonilla Davis (IL) Goode  
Bonner Davis (TN) Goodlatte  
Bono Davis, Jo Ann Gordon  
Boozman Davis, Tom Goss  
Boswell Deal (GA) Granger  
Boucher DeGette Graves  
Boyd Delahunt Green (TX)  
Bradley (NH) DeLauro Green (WI)  
Brady (PA) DeLay Greenwood  
Brady (TX) DeMint Grijalva  
Brown (OH) Diaz-Balart, L. Gutierrez  
Brown (SC) Diaz-Balart, M. Hall  
Brown, Corrine Dicks Harman  
Brown-Waite, Dingell Harris  
Ginny Doggett Hart  
Burgess Dooley (CA) Hastings (FL)  
Burns Doolittle Hastings (WA)  
Burr Doyle Hayes  
Burton (IN) Dreier Hayworth

Hefley Meehan  
Hensarling Meek (FL)  
Herger Meeks (NY)  
Herseth Menendez  
Hill Mica  
Hinojosa Michaud  
Hobson Millender-  
Hoeffel McDonald  
Hoekstra Miller (FL)  
Holden Miller (MI)  
Holt Miller (NC)  
Honda Miller, Gary  
Hooley (OR) Miller, George  
Hostettler Mollohan  
Houghton Moore  
Hoyer Moran (KS)  
Hulshof Moran (VA)  
Hunter Murphy  
Hyde Murtha  
Inslee Musgrave  
Israel Myrick  
Issa Nadler  
Jackson (IL) Napolitano  
Jenkins Neal (MA)  
John Nethercutt  
Johnson (CT) Neugebauer  
Johnson (IL) Ney  
Johnson, E. B. Northup  
Johnson, Sam Norwood  
Jones (NC) Nunes  
Jones (OH) Nussle  
Kanjorski Oberstar  
Kaptur Obey  
Keller Oliver  
Kelly Ortiz  
Kennedy (MN) Osborne  
Kennedy (RI) Ose  
Kildee Otter  
Kilpatrick Owens  
Kind Oxley  
King (IA) Pallone  
King (NY) Pascrell  
Kingston Pastor  
Kirk Paul  
Kleczka Payne  
Kline Pearce  
Knollenberg Pelosi  
Kolbe Pence  
LaHood Peterson (MN)  
Lampson Peterson (PA)  
Langevin Petri  
Lantos Pickering  
Larson (CT) Pitts  
Latham Platts  
LaTourette Pombo  
Leach Pomeroy  
Levin Porter  
Lewis (CA) Portman  
Lewis (GA) Price (NC)  
Lewis (KY) Pryce (OH)  
Linder Putnam  
Lipinski Quinn  
LoBiondo Radanovich  
Lofgren Rahall  
Lowey Ramstad  
Lucas (KY) Rangel  
Lucas (OK) Regula  
Lynch Rehberg  
Maloney Renzi  
Manzullo Reyes  
Markey Reynolds  
Marshall Rodriguez  
Matheson Rogers (AL)  
Matsui Rogers (KY)  
McCarthy (MO) Rogers (MI)  
McCarthy (NY) Rohrabacher  
McCollum Ros-Lehtinen  
McCotter Ross  
McCrary Rothman  
McGovern Roybal-Allard  
McHugh Royce  
McInnis Ruppertsberger  
McIntyre Rush  
McKeon Ryan (OH)  
McNulty Ryan (WI)

Ryun (KS) Sabo  
Sánchez, Linda T.  
Sánchez, Loretta  
Sanders  
Sandlin  
Schakowsky  
Schiff  
Schrock  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Shadegg  
Shaw  
Shays  
Sherman  
Sherwood  
Shimkus  
Shuster  
Simmons  
Simpson  
Skelton  
Slaughter  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Solis  
Souder  
Spratt  
Stearns  
Stenholm  
Strickland  
Stupak  
Sullivan  
Sweeney  
Tancredo  
Tanner  
Tauscher  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Terry  
Thomas  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Toomey  
Towns  
Turner (OH)  
Turner (TX)  
Udall (CO)  
Upton  
Van Hollen  
Quinn  
Velázquez  
Viscosky  
Walden (OR)  
Walsh  
Wamp  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Weldon (FL)  
Weldon (PA)  
Weller  
Wexler  
Whitfield  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Woolsey  
Wu  
Wynn  
Young (AK)  
Young (FL)

□ 1504

So the motion was agreed to.  
The result of the vote was announced as above recorded.

**MAKING IN ORDER AT ANY TIME CONSIDERATION OF S. 15, PROJECT BIOSHIELD ACT OF 2004**

Ms. PRYCE of Ohio. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider in the House S. 15; the bill shall be considered as read for amendment; the previous question shall be considered as ordered on the bill to final passage without intervening motion except:

(1), 90 minutes of debate on the bill with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, 15 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform, and 15 minutes equally divided and controlled by the chairman and ranking minority member of the Select Committee on Homeland Security; and, (2), one motion to recommit.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

**REPORT ON H.R. 4818, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005**

Mr. KOLBE, from the Committee on Appropriations, submitted a privileged report (Rept. No. 108-599) on the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

**AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005**

The SPEAKER pro tempore. Pursuant to House Resolution 710 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4766.

□ 1504

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related

NAYS—6

DeFazio Kucinich  
Hinchev McDermott

Cardoza  
Carson (IN)  
Collins  
Davis (FL)  
Deutsch  
Gephardt

Stark  
Udall (NM)

NOT VOTING—16

Gutknecht  
Isakson  
Istook  
Jackson-Lee  
(TX)  
Jefferson

Larsen (WA)  
Lee  
Majette  
Saxton  
Vitter

Agencies for the fiscal year ending September 30, 2005, and for other purposes, with Mr. BASS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment by the gentleman from New York (Mr. WEINER) had been disposed of and the bill was open for amendment at any point.

Mr. BONILLA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Ohio (Ms. PRYCE).

Ms. PRYCE of Ohio. Mr. Chairman, I would like to engage in a colloquy with the gentleman.

Over the past 3 years, the Agriculture appropriations bill has funded a very important aquaculture research program at the Ohio State University which is in my district but which serves the entire State. I am concerned that language in this year's bill might divert that funding away from the Ohio State University. I support this project in its current form and am proud of the work that has been accomplished. Given that this historical funding arrangement has worked well in the past, I would like to ask the chairman to work with me in conference to ensure that this aquaculture funding continues to be directed toward the Ohio State University.

Mr. BONILLA. Mr. Chairman, I would be glad to work with my friend from Ohio to ensure that these funds continue to go to the Ohio State University as they have in the past.

Ms. PRYCE of Ohio. I thank the gentleman, Mr. Chairman.

AMENDMENT NO. 4 OFFERED BY MR. LUCAS OF OKLAHOMA

Mr. LUCAS of Oklahoma. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. LUCAS of Oklahoma:

At the end of the bill (before the short title), insert the following:

TITLE \_\_\_\_—ADDITIONAL GENERAL PROVISIONS

SEC. \_\_\_\_ (a) Section 1241(b) of the Food Security Act of 1985 (16 U.S.C. 3841(b)) is amended—

(1) in paragraph (1), by striking “paragraph (2)” and inserting “paragraphs (2) through (4)”; and

(2) by adding at the end the following:

“(3) FARMLAND PROTECTION PROGRAM, GRASSLAND RESERVE PROGRAM, ENVIRONMENTAL QUALITY INCENTIVES PROGRAM, WILDLIFE HABITAT INCENTIVES PROGRAM, AND GROUND AND SURFACE WATER CONSERVATION PROGRAM.—

“(A) IN GENERAL.—Effective for fiscal year 2005 and subsequent fiscal years, Commodity Credit Corporation funds made available to carry out a conservation program specified in paragraphs (4) through (7) of subsection (a) of this section or the ground and surface water conservation program under section 1240I shall not be available for the provision of technical assistance for any other of such programs.

“(B) SEPARATION OF GROUND AND SURFACE WATER CONSERVATION PROGRAM FROM THE EN-

VIROMENTAL QUALITY INCENTIVES PROGRAM.—For purposes of subparagraph (A), the ground and surface water conservation program under section 1240I shall be considered to be a program separate and apart from the rest of the environmental quality incentives program under chapter 4 of subtitle D.

“(4) CONSERVATION RESERVE PROGRAM AND WETLANDS RESERVE PROGRAM.—Effective for fiscal year 2005 and subsequent fiscal years, Commodity Credit Corporation funds made available to carry out a conservation program specified in paragraph (1) or (2) of subsection (a) shall be available for the provision of technical assistance for the program.”

Mr. BONILLA. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) reserves a point of order.

Mr. LUCAS of Oklahoma. Mr. Chairman, I rise today to offer my amendment printed as No. 4 in the CONGRESSIONAL RECORD.

I know that the gentleman from Texas (Mr. BONILLA) and his staff have worked diligently to create this year's bill under a very tight allocation.

In fiscal year 2003, USDA cut \$284 million from the Environmental Quality Incentives Program, the Farmland Protection Program, Wildlife Habitat Incentives Program, and the Grassland Reserves Program. I would like to include USDA's fiscal year 2003 and fiscal year 2004 chart of donor and recipient programs for the RECORD.

Most of this money was spent to provide technical assistance for each of the aforementioned programs. However, language in FY 2003's omnibus allowed USDA to take money from those four programs and provide technical assistance for the Conservation Reserve Program and the Wetlands Reserve Program. In FY 2004, USDA diverted almost \$80 million to CRP and WRP. This creation of donor programs was caused by various interpretations of the 2000 farm bill and, unfortunately, has ended in four important programs being drained of funds.

The budget recently passed by the House provided a fix for CRP and WRP so they would be able to pay for their own technical assistance. Unless the Senate acts on the budget, I am afraid that we will once again see the four donor programs losing a great amount of funding to CRP and WRP.

I have held numerous hearings on technical assistance issues, and it is hard to find a solution. Since the Senate has not passed the budget, the only fair solution is for each program, each program to pay for its own technical assistance. If we do not address this issue, USDA has estimated that for FY 2004, \$100 million will be transferred from EQIP, Farmland Protection, WEP, GRP in order to provide technical assistance. This number is most likely only to grow larger in FY 2005.

Consider for a moment that the Farmland Protection Program this year is \$112 million. And WEP, the Wildlife Enhancements Program, is \$60 million. Based on last year's number, the \$100 million spent on technical as-

sistance for CRP and WRP is more than the entire WEP program and almost as much as the entire Farmland Protection Program. I urge Members to support this amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order?

Mr. BONILLA. Yes, Mr. Chairman.

Mr. Chairman, I do make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill and, therefore, violates clause 2 of rule XXI. The rule states in pertinent part: “An amendment to a general appropriations bill shall not be in order if changing existing law.”

This amendment directly amends existing law.

I would also like to point out in this point of order that the gentleman from Oklahoma (Mr. LUCAS) is an outstanding Member who works with us on many issues in this bill, and this issue is especially important to him and we recognize that.

I ask for a ruling from the Chair.

The CHAIRMAN. Does anyone else wish to be heard on the point of order?

The Chair is prepared to rule.

The Chair finds this amendment proposes directly to amend existing law. The amendment, therefore, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained, and the amendment is not in order.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROWN of Ohio: At the end of the bill (before the short title), insert the following:

SEC. \_\_\_\_ . None of the funds appropriated or otherwise made available by this Act to the Secretary of Agriculture for expenditure for the school lunch or breakfast programs may be used, after December 31, 2004, to purchase chickens or chicken products from companies that do not have a stated policy that such companies do not use fluoroquinolone antibiotics in their chickens.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) reserves a point of order on the amendment.

Pursuant to the order of the House today, the gentleman from Ohio (Mr. BROWN) and a Member opposed each will control 5 minutes.

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

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, survival of the fittest has its downside. When an antibiotic is used on the bacteria in a person or animal, it may kill some of the bacteria, but it will not kill all of them. The survivors reproduce, propagating these heartier antibiotic-resistant bacteria.

Antibiotic resistance, as we have discussed on this floor for several years, is a serious and growing threat; 38 Americans die every day. Thirty-eight Americans die every day from antibiotic-resistant infections according to the World Health Organization. Some estimates suggest that the number is twice that size.

Antibiotic resistance costs the American health care system an estimated \$4 billion every year. The Centers for Disease Control has called antibiotic resistance one of its top concerns.

Human medicine is partly to blame. The CDC has launched a campaign to better educate doctors and patients about the dangers of antibiotic overuse. But animal agriculture is also to blame. Some 70 percent of antibiotic use in America is not for people but for cows, for pigs, for chickens and for other animals we eat. About 70 percent of those antibiotics are used not on sick animals but either to prevent illness prophylactically, or just to make healthy animals grow faster.

The overuse of antibiotics in animal agriculture has serious consequences. Fluoroquinolones, the class of antibiotics that includes Cipro, are a disturbing example. Cipro is used to treat food-borne infections from a bacterium called camplobacter. The FDA approved fluoroquinolones for use in human medicine in 1986, and for use in chickens in 1995. During the 9 years between 1986 and 1995, Mr. Chairman, no more than 3 percent of cases in the U.S. involved resistant bacteria. But just 2 years after FDA approved fluoroquinolones for use in chickens, resistance in humans had jumped to 13 percent. From 3 percent to 13 percent after the FDA okayed its use in chickens.

By 2001, 19 percent of these infections in humans were Cipro-resistant. Private industry has recognized the problem and has begun to respond. McDonald's, Wendy's and others will no longer buy products made from chickens raised with fluoroquinolones. And leading chicken producers like Tyson, Gold Kist, Purdue have also committed to stop using fluoroquinolones.

The American Medical Association, Consumers Union and other public health and consumer advocates believe it is time for the government to catch up to industry and take action on antibiotic resistance. Mr. Chairman, the National School Lunch Program lags behind. The USDA still buys chickens raised with fluoroquinolones.

Last year, this Congress decided it was time to act. The conference report for the 2004 ag appropriations bill strongly encouraged USDA to buy chickens for the School Lunch Program only from companies that do not use fluoroquinolones. That language was approved by bipartisan majorities in each House. The bill accompanying it was signed by the President; but, unfortunately, the Department of Agriculture did nothing.

The amendment I have offered was worded to closely track the language

we approved last year. The difference is under my amendment, we are not asking this time, we are telling. Unfortunately, that is also why my amendment is subject to a point of order and I must withdraw it. Before I do, I invite the chairman and all of my colleagues to work with me to address this issue as the USDA bill advances.

We asked USDA to do something last year in the strongest terms. It ignored us. Let us tell them we expect better this year. Let us tell the USDA we are serious about protecting the American people from a growing and serious problem, antibiotic resistance.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. BONILLA. The gentleman raises a very important issue, and we addressed this with report language in last year's bill. We will continue to try to work with the gentleman on this issue.

Mr. BROWN of Ohio. Mr. Chairman, I thank my friend from Texas.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1515

AMENDMENT NO. 5 OFFERED BY MR. LUCAS OF OKLAHOMA

Mr. LUCAS of Oklahoma. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. LUCAS of Oklahoma:

At the end of the bill (before the short title), insert the following:

TITLE \_\_\_\_—ADDITIONAL GENERAL PROVISIONS

SEC. \_\_\_\_ (a) None of the funds made available in this Act for the Environmental Quality Incentives Program authorized by chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa-3839aa-9), the Wildlife Habitat Incentive Program authorized by section 1240N of such Act (16 U.S.C. 3839bb-1), the Grassland Reserve Program authorized by subchapter C of chapter 2 of such subtitle (16 U.S.C. 3838n-3838q), or the Farmland Protection Program authorized by subchapter B of such chapter 2 (16 U.S.C. 3838h-3838j) may be used to provide technical assistance under the Conservation Reserve Program authorized by subchapter B of chapter 1 of such subtitle (16 U.S.C. 3831-3835a) or under the Wetlands Reserve Program authorized by subchapter C of such chapter 1 (16 U.S.C. 3837-3837f).

(b) None of the funds made available in this Act for the Conservation Reserve Program authorized by subchapter B of chapter 1 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3831-3835a) may be used to provide technical assistance under the Wetlands Reserve Program authorized by subchapter C of such chapter (16 U.S.C. 3837-3837f).

(c) None of the funds made available in this Act for the Wetlands Reserve Program authorized by subchapter C of chapter 1 of subtitle D of the Food Security Act of 1985 (16

U.S.C. 3837-3837f) may be used to provide technical assistance under the Conservation Reserve Program authorized by subchapter B of such chapter (16 U.S.C. 3831-3835a).

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Oklahoma (Mr. LUCAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. LUCAS).

Mr. LUCAS of Oklahoma. Mr. Chairman, I yield myself such time as I may consume.

My amendment No. 5 simply prohibits funding from being transferred from EQIP, WHIP, GRP, and FRPP to other conservation programs such as CRP and WRP for the purpose of technical assistance.

I have been asked on numerous times if CRP, WRP, continuous CRP and CREP sign-ups would still occur if this amendment was passed. It would be up to the USDA to find other funds from which to provide this technical assistance.

Mr. Chairman, quite simply put, I think it is a fairness issue. The programs should pay for themselves from their own expenditures.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. LUCAS of Oklahoma. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, the gentleman raises a very important issue in his amendment, and just for the record, we would be delighted to support the amendment.

Mr. LUCAS of Oklahoma. The gentleman much appreciates the Chair's offer.

Mr. Chairman, I yield as much time as he might consume that remains to the gentleman from Pennsylvania (Mr. HOLDEN), the ranking member of the Subcommittee on Conservation, Credit, Rural Development and Research.

Mr. HOLDEN. Mr. Chairman, I will be brief, and I thank the chairman for accepting the amendment, and I thank him and the ranking member for their significant work in bringing this bill to the floor.

As the chairman of the authorizing subcommittee has mentioned, we do have a tremendous problem with technical assistance, and when we passed the farm bill in 2002 it was never our intent, as we talked about that record-setting investment in conservation, to have the funds come from one program to be transferred to another. So I want to thank the chairman for accepting the amendment and thank my chairman for offering the amendment.

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

The CHAIRMAN. Does any Member rise in opposition to the pending amendment?

If not, the question is on the amendment offered by the gentleman from Oklahoma (Mr. LUCAS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BACA

Mr. BACA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BACA:

At the end of the bill (before the short title), insert the following:

SEC. \_\_\_\_ The amounts otherwise provided by this Act are revised by increasing the amount made available under the heading "OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS", by increasing the amount made available under the heading "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES", by increasing the amount made available under the heading "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—EXTENSION ACTIVITIES", by increasing the amount made available under the heading "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS", and by decreasing the amount made available under the heading "RURAL DEVELOPMENT—SALARIES AND EXPENSES" by \$250,000, \$1,500,000, \$1,000,000, \$750,000, and \$5,800,000, respectively.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California (Mr. BACA) and the gentleman from Texas (Mr. BONILLA) each will control 5 minutes.

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

Mr. BACA. Mr. Chairman, I yield myself as much time as I may consume, which is the 5 minutes.

I believe, Mr. Chairman, the third time is the charm. This is the third time I have brought this up. I rise in favor of an amendment by the gentleman from Mississippi (Mr. THOMPSON), the gentleman from Michigan (Mr. KILDEE) and myself to increase funding for minority programs at the USDA.

We propose four funding increases: \$250,000 for the Office of the Assistant Secretary for Civil Rights; \$1 million for tribal expansion grants; \$750,000 for grants to socially disadvantaged farmers and ranchers; \$1.5 million for Hispanic-serving institutions. We believe this is a small amount that equates to about \$5.8 million. We are asking only for \$5.8 million out of the \$170 million that are currently in the account right now under Rural Development in salaries and expenses because we just transferred an additional \$27 million this morning, and they were appropriated now \$147 million, and all we are asking for is this small amount.

We believe that this amendment is important because it provides funding for civil rights programs and other significant funding to help minorities in the field of agriculture and, I state, for civil rights programs.

The U.S. Department of Agriculture institution has problems that must be resolved. The problems with the USDA are so severe that civil rights complaints have cost the Federal Government nearly \$1 million in settlements and awards. Fixing the civil rights process and properly funding minority initiatives are necessary to permanently end a history of discrimination.

We must rebuild trust between minority communities and the USDA.

This amendment is supported by the National Council of American Indians, which represents about 250 tribal governments; the National Hispanic Legislative Agenda; the Hispanic Association of Colleges and Universities; and Rural Coalition, which has approximately 350 colleges and universities.

We believe this amendment is important in dealing with discrimination and civil rights. Without funding, it becomes very difficult for some farmer or others to obtain loans who may have been discriminated, and we know very well that in order to harvest your crops you have got to have the finances, and if you file a complaint and you do not receive the finances, there must be some kind of recourse for an individual to file a complaint. The civil rights is one of the areas that individuals who may have been discriminated, whether they are African American, whether they are Hispanic or whether they are Indians or others, they have an opportunity to seek assistance through civil rights.

We believe that we should protect civil rights. Civil rights was first introduced by Martin Luther King, who fought to make sure that justice and equality was there for all individuals.

All we are saying now is, in order to enhance and provide the services, we must provide the funding to have the individuals who can provide the assistance. These grants do that through the following areas.

I ask for support of this amendment, and hopefully my colleague from Texas will look at this as a worthy endeavor in providing assistance for civil rights.

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

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

This is difficult to support. The gentleman raises some good issues in his debate and his amendment, but, again, this is a rural development cut that he is proposing which, as we heard earlier on the floor, there is strong support for all of these programs out in the heartland. So I reluctantly would oppose this effort, oppose this amendment because of where the money would come from.

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

Mr. BACA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the fine gentleman from California (Mr. BACA) for offering this amendment, along with his distinguished colleagues, the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from Michigan (Mr. KILDEE). I would like to compliment the gentleman from California (Mr. BACA) for his steadfastness in standing up for inclusion of all farmers in our country, regardless of racial background, of ethnic background, of regional background. I really want to help the gentleman.

I support his amendment. As we move to conference I hope that his dogged efforts today and those of his colleagues will help us find a better way forward. I hope that the chairman will work with us as we go into conference committee because what the gentleman is asking for here is not outlandish. He is asking for small increases in the office for civil rights, for tribal extension grants, for outreach to minority farmers and for Hispanic-serving institutions, all of which, along with Native Americans, deserve more attention in this bill.

It is true that there are tremendous suits against the Department of Agriculture now totaling over \$1 billion. The gentleman's amendment is just infinitesimal in comparison to that. But we know the unmet need that is out there.

I just want to thank the gentleman. He has my support. He has my support not just here on the floor today but as we move to conference. I thank him for standing up for every farmer in America, regardless of where they might live, what their income or their background is. I commend the gentleman.

Mr. BACA. Mr. Chairman, I yield myself such time as I may consume. I thank the gentlewoman very much for her comments.

It is true we are only asking for \$5.8 million, which is a small amount of the \$170 million that are there in appropriations.

Hispanic-serving institutions are a great resource of innovation and deserve funding to continue generating advancements in agriculture and science. We must stop the long-standing practice of underfunding these institutions.

Currently, the Hispanic-serving institutions are underfunded by about 75 percent. We have a population that continues to grow, and that is important. We have 16 percent of the total population of the United States.

I urge an "aye" vote, and I encourage my colleague from Texas to reconsider and support this worthy cause.

Mr. HINOJOSA. Mr. Chairman, I rise in strong support of the Baca-Thompson-Kildee amendment. I would like to commend and congratulate my colleagues for bringing this important amendment before this body.

This amendment strengthens our federal commitment to redressing discrimination and assisting our socially disadvantaged farmers and ranchers.

This amendment also increases funding for Hispanic-Serving Institutions, which play a critical role in building the capacity of our community in research and agricultural fields. This competitive USDA/HSI grant program is designed to promote and strengthen the ability of HSIs to carry out education programs that attract, retain, and graduate outstanding students capable of enhancing the nation's food and agricultural scientific and professional work force.

Funded grants have supported projects in the fields of nutrition and dietetics, aquaculture, agribusiness technology, food and beverage export and international trade, food

and agricultural marketing and management, integrated resources management, food science technology engineering, plant science environmental science and veterinary science and technology.

Although Title VIII of the Farm Bill authorizes \$20 million for HSIs, actual appropriations remain at 20 percent of the minimally authorized level. Only 2.7 percent of Hispanic college graduates earn a degree in agriculture-related areas. The continued under-representation of Hispanics in these important areas demands a greater investment in such programs to expand funding to additional HSIs to better meet USDA goals. This amendment would increase funding for HSIs to \$7.1 million. It is a smart investment and a step in the right direction.

I urge my colleagues to vote "yes" on this amendment.

The CHAIRMAN. The time of the gentleman from California has expired.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BACA).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BACA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT OFFERED BY MR. TANCREDO

Mr. TANCREDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TANCREDO:

Page 79, after line 16, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 759. None of the funds made available under the heading "FOOD AND NUTRITION SERVICE—Food Stamp Program" in title IV may be expended in contravention of section 213a of the Immigration and Nationality Act (8 U.S.C. 1183a).

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Colorado (Mr. TANCREDO) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

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

This is another amendment that intends to encourage a Federal agency, in this case the USDA, to comply with an existing law.

I find myself up here oftentimes with amendments of this nature because there are a number of issues that we have on the books, there are a number of laws we have on the books, but we have, unfortunately, a problem with compliance. This is one of those kinds of situations.

The amendment essentially says that none of the funds provided in the bill

under the heading Food Stamp Program will be expended in contravention of 8 U.S.C. 1183(a).

Now 8 U.S.C. 1183(a) does a couple of things. First of all, it says that an affidavit of support must be filed by a sponsor on behalf of certain aliens. The affidavit of support is a legally binding guarantee on the part of the sponsor that the immigrant they are sponsoring will not become a "public charge," that is, dependent on welfare programs for 10 years or up to a point in time that they become a citizen, whichever happens first.

This public charge requirement is nothing new. The requirement has been the cornerstone of immigration policy since the 1880s. Even inspectors at Ellis Island during the heyday of legal immigration when the vast majority of those seeking entry were allowed to stay did not admit immigrants liable to become a public charge.

Second, the law makes the affidavit enforceable against the sponsor by "the Federal Government, any State (or any political subdivision of such State), or by any other entity that provides any means-tested public benefit." Meaning the sponsors, and not the taxpayer, are to be the people on the hook for this cost.

It also requires providers of these benefits to seek reimbursement from the sponsors and even allows the government to sue these deadbeat sponsors to recover these costs.

Interestingly, another law, 8 U.S.C. 1227, makes it clear that aliens who become a public charge within 5 years of their entry are, in some cases, deportable.

Reasonable people can disagree about issues revolving around immigration, but I think everyone should agree we should not be in the business of admitting people into the country for the purpose of allowing them to become a drain on the public Treasury.

The fact is that we have a law on the books. It is not being upheld. It is not being enforced. In fact, we actually wrote a letter to the Justice Department last year asking about this, and they said, to the best of their knowledge, there had not been a case enforced in over 10 years of anyone, anyone here. No one has actually gone to the extent of going to the affidavit that I have right here in front of me that says I will sponsor this person who is in the country; I will take responsibility for their costs should they become a public charge. Many do, in fact, become a public charge. It was happened in my State. It is happening in every State in the Nation. We should, in fact, encourage the enforcement of the law.

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

Mr. BONILLA. Mr. Chairman, we have no objection to this amendment.

The CHAIRMAN. Does the gentleman claim the time in opposition to the amendment?

Mr. BONILLA. Yes, and I reserve the balance of my time.

Ms. KAPTUR. Reserving the right to object, Mr. Chairman, I wanted to ask the author of the amendment a question.

The CHAIRMAN. The Chair is unaware of any pending request the gentlewoman is objecting to.

Ms. KAPTUR. I am trying to understand the procedure here. The gentleman is formally offering an amendment?

The CHAIRMAN. The Member will suspend. The time is controlled by the gentleman from Colorado (Mr. TANCREDO) and by the gentleman from Texas (Mr. BONILLA) in opposition.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The time is controlled and amendments are not in order.

Ms. KAPTUR. Mr. Chairman, I have a parliamentary inquiry.

Mr. BONILLA. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio (Ms. KAPTUR) for a brief question.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman very much for the time.

I just would like to know, for the record, does the gentleman's amendment in any way change existing law regarding immigration and food stamp eligibility?

Mr. TANCREDO. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Colorado.

Mr. TANCREDO. It does not.

□ 1530

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Ms. KAPTUR. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

Mr. BONILLA. Mr. Chairman, I move to strike the last word.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Nebraska.

Mr. TERRY. Mr. Chairman, I originally had drafted an amendment which would have de-funded a position at the Food and Drug Administration Center for Veterinary Medicine, which funded a bureaucrat for which we have been embattled in trying to protect one of my constituents, a small business located in my district.

I will not be offering that amendment and instead will be engaging in a colloquy with the chairman of the subcommittee, and so I appreciate his yielding to me.

Let me provide the chairman some background, since I know this issue is

fairly new to him, and I want to state the facts for the record here. In my district, I am proud to represent a third generation small family-owned business that manufactures veterinary pharmaceuticals. These are pharmaceutical, drugs, for cows, chickens, and pigs. They found a niche market where there was a monopoly player. They went out to engage in competition with this particular pharmaceutical manufacturer in a certain type of antibiotic for pigs and chickens.

They also found there was a firm in the Kansas City area that held a license for this particular drug. And by the way, this particular antibiotic drug has been approved by the Center for Veterinary Medicine for over 40 years and, as I stated earlier, was already being distributed by a soon-to-be competitor.

Now, this company in Omaha, Nebraska, wrote to the Center for Veterinary Medicine inquiring about the status of that drug and that license and received approval from the FDA to purchase that license and engage in the manufacture and selling of that approved drug. At the appropriate time, Mr. Chairman, I will submit a copy of that letter for the RECORD, but I will paraphrase here.

Director of the CVM says in this letter regarding that license and that drug, "You may rely on this letter to verify the approved status of the product."

That was in about 2002, when they engaged in the manufacture, sale and distribution of this antibiotic. In August of 2003, the FDA, with absolutely no warning, in the rules and regs published the suspension of that license, stating that there was "confusion about the license," which was certainly news to my constituents.

Now, when they asked about the confusion, there was no answer, no clarity provided by the Center for Veterinary Medicine, which left them with one procedural option, which was a hearing. They have still not received that hearing.

Unfortunately, Mr. Chairman, it came to a boiling point this last week when they at last sat down with my constituent. Mr. Sundlof and Mr. Beaulieu, his counsel, sat down, and I will tell you, as reported to me from my constituent and his counsel, it was probably one of the ugliest meetings I have ever heard of from a constituent meeting with a Federal agency and bureaucrats. And, really, it was unacceptable behavior. I will not even mention the phrases and wording that they used because it would violate the House rules.

I felt that probably the best way of dealing with that, since we cannot do anything with bureaucrats that act this way, other than de-fund their positions, was to ask the chairman for some help and some guidance on how to deal with this particular situation; A, the treatment that my constituent received at this meeting, and particu-

larly the problem that he is faced with right now, in having a letter saying you are approved and then a mysterious reversal of that.

So if the chairman has some words of wisdom and guidance for me, I would appreciate it.

DEPARTMENT OF HEALTH  
& HUMAN SERVICES,

Rockville, MD, December 17, 1998.

Dr. DONALD A. GABLE,  
Manager, Pharmaceutical Regulatory Affairs,  
Boehringer Ingelheim Vetmedica, Inc.,  
Elwood, KS.

DEAR DR. GABLE: This letter will confirm receipt of your certification letter dated November 17, 1998, as an amendment to your letter dated September 18, 1998, sent to CVM in response to my letter of July 29, 1998. The letter related to NOPTRACIN® MD-50, (bacitracin methylene disalicylate) Type A medicated articles which is the subject of the NADA 141-137.

In accordance with my letter, your certification will be used along with information in our files as the administrative record of an approval for NADA 141-137, which provides for a Type A Medicated Article, Noptracin® MD-50 (bacitracin methylene disalicylate) for use for the indications and under the conditions of use specified in the labeling attached to your letter.

The agency will begin the work of codifying the approval via publication in the Federal Register. This task most likely will be accomplished as part of an action affecting a number of products currently listed in 21 CFR 558.15. We will make every effort to bring this process to a conclusion as rapidly as possible given resource constraints and public health priorities. In the meantime, you may rely on this letter to verify the approved status of NADA 141-137.

If you have any questions concerning the agency's position regarding this NADA and the subject products, please do not hesitate to call me.

Sincerely yours,  
STEPHEN F. SUNDLOF, D.V.M., PH.D.  
Director, Center for Veterinary Medicine.

DEPARTMENT OF HEALTH  
& HUMAN SERVICES,  
Rockville, MD, August 28, 1998.

W. L. WINSTROM,  
Chief Executive Officer and Chairman,  
PennField Oil Co., Omaha, NE.

DEAR MR. WINSTROM: This letter will confirm receipt of two certification letters sent to CVM in response to my letter of July 29, 1998 to Mr. Greg Bergt of your company. One of the letters related to the combination of oxytetracycline and neomycin (subject to NADA 138-939), and the other related to the combination of chlortetracycline, sulamethazine and penicillin (subject to NADA 138-934).

In accordance with my letter, your certification will be used along with information in our files as the administrative record of an approval for the following: (1) NADA 138-939 which provides for two Type A Medicated Articles, Neo-Oxy 50/50 containing 50 grams of oxytetracycline HCl and 50 grams of neomycin sulfate per pound and Neo-Oxy 100/50 containing 50 grams of oxytetracycline HCl and 100 grams of neomycin sulfate per pound for use for the indications and under the conditions of use specified in the labeling attached to your letter, and (2) NADA 138-934 which provides for a Type A Medicated Article, Pennchrol SP 500 containing 40 grams chlortetracycline (as the calcium complex), 40 grams sulfamethazine and 20 grams penicillin (as procaine penicillin) per pound for use for the indications and under the conditions of use specified in the labeling attached to your letter.

The agency will begin the work of codifying the approvals via publications in the Federal Register. This task most likely will be accomplished as part of an action affecting a number of products currently listed in 21 CFR 558.15. We will make every effort to bring this process to a conclusion as rapidly as possible given resource constraints and public health priorities. In the meantime, you may rely on this letter to verify the approved status of NADAs 138-939 and 138-934.

If you have any questions concerning the agency's position regarding these NADAs and the subject products, please do not hesitate to call me.

Sincerely yours,  
STEPHEN F. SUNDLOF, D.V.M.,  
PH.D.,

Director, Center for Veterinary  
Medicine.

Mr. BONILLA. Well, Mr. Chairman, reclaiming my time, the gentleman raises a very, very good issue here that needs attention. This is an issue, however, that up until the last 24 hours was not an issue that we were aware of, although I know the gentleman has been working on it for some time now.

What we would like to do is look into this issue and see what is going on over at the FDA. And I certainly agree that government at all levels must be held accountable for decisions made by its public servants. This may be a case in which accountability is lacking, which is something we should all be concerned about.

So I pledge to the gentleman that we will try to figure out exactly what is going on here so that he gets an appropriate answer.

Mr. Chairman, I believe we are now out of time.

The CHAIRMAN. Time of the gentleman has expired.

Mr. BONILLA. I ask unanimous consent to speak for 1 more minute on this issue.

THE CHAIRMAN. The gentleman from Texas may strike the last word, if he wants to, an additional time between amendments.

Mr. BONILLA. Mr. Chairman, I move to strike the last word in the event the gentleman from Nebraska (Mr. TERRY) has any additional information on this.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I appreciate the gentleman yielding me this additional time and the effort he and perhaps the appropriators may extend to see if we can change the dynamic here.

And I might note, Mr. Chairman, that the gentleman from Iowa (Mr. LATHAM) is also apprised of this situation.

Mr. LATHAM. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Iowa for a brief comment on this matter.

Mr. LATHAM. Mr. Chairman, I became aware of this over the past year; and it is a very, very important issue that the gentleman from Nebraska is trying to deal with. When we have bureaucrats that are not responsive to

constituents, and without any valid reason, certainly it is something we should all be very concerned about and would support his efforts in any way possible.

Mr. BONILLA. Mr. Chairman, reclaiming my time, I thank the gentleman from Iowa and the gentleman from Nebraska.

AMENDMENT NO. 7 OFFERED BY MR. CHABOT

Mr. CHABOT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. CHABOT:

At the end of the bill (before the short title) insert the following new section:

SEC. \_\_\_\_ . None of the funds appropriated or otherwise made available by this Act may be used to carry out section 203 of the Agriculture Trade Act of 1978 (7 U.S.C. 5623) or to pay the salaries and expenses of personnel who carry out a market program under such section.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Ohio (Mr. CHABOT) and a Member opposed each will control 10 minutes.

The gentleman from Ohio (Mr. CHABOT) is recognized.

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

Mr. Chairman, each year, through the Market Access Program, known as MAP, Congress gives tens of millions of dollars away to industry groups to advertise their products in other countries. It is called the Market Access Program because it sounds better than the corporate welfare program. But, Mr. Chairman, it is, in actuality, one in the same.

This year, the Department of Agriculture is doling out \$125 million of the American taxpayers' money to various groups to advertise their wares overseas. Well over \$1 billion has been given away in the name of market access or market promotion over the years; this amid record budget deficits and a still-recovering economy.

So who is getting money from MAP, and how much are they getting? The U.S. Meat Export Federation is getting \$10.6 million just this year. Pistachio, prune, papaya, pear, pet food, and popcorn groups are all getting handouts, \$5.9 million. As is the Ginseng Board of Wisconsin, a little over \$5,000. And the National Watermelon Promotion Board, \$133,952.

Now, these groups should advertise. I think it is good they are advertising their products overseas. And if they sell them, that helps in this country. But it ought to be done with their money and not with the taxpayers' money.

Supporters, of course, will claim this so-called business and government partnership creates jobs. However, studies by the GAO indicate that this program has no discernible effect on U.S. agricultural exports. Further, it gives money to companies that would

undertake this advertising without this unwarranted government subsidy.

Let me give one example of the kind of outrage that this program generates. While I have used this illustration before in past years when we have tried to get rid of this program, unsuccessfully I might add, unfortunately, I would like to use it again. I think it really does bear repeating.

Many people probably remember the popular "Heard It Through the Grapevine" raisin commercial, sponsored by the California Raisin Board. Well, based on the success of the commercial, MAP decided it would be a good idea to use that commercial to attempt to boost raisin sales in Japan and put \$3 million into this project. Unfortunately, however, the ads, first of all, were in English, leaving many Japanese unaware that the dancing characters were raisins. Most thought they were potatoes or chocolate. In addition, many Japanese children were afraid of these wrinkled misshapen figures. They were actually frightened by these things on TV.

If this were not such a colossal waste of taxpayer hard-earned money, it would be funny. However this is the kind of wasteful spending that inevitably occurs when we give someone the ability to spend someone else's money. That is what this program does. Again, I am all for these groups advertising their products and selling them overseas; but they should do it with their money, not with taxpayer money.

Mr. Chairman, this is a simple, straightforward amendment. It would simply stop the Department of Agriculture from funding the MAP program. It would save the taxpayers' millions of dollars, as much as \$200 million annually by 2006.

Back in 1996, we reformed welfare for the poor. I think it is about time that we reformed or, in this case, got rid of welfare for the wealthy. I urge my fellow Members of Congress to join me and also the gentleman from California (Mr. ROYCE) and many others, including the National Taxpayers Union, Citizens Against Government Waste, Taxpayers for Common Sense, and U.S. PIRG, in casting a vote for the overburdened American taxpayer. I strongly urge support of this amendment.

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

Mr. BONILLA. Mr. Chairman, I claim the time in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, I recall in the previous administration they cutely coined the phrase "corporate welfare" any time there was any attempt by this institution or others in this country to fall on the side of free enterprise and the private sector. So I think this is one of those occasions where that phrase is being exploited to a great degree.

I want to point out that there are many positive aspects of the Market Access Program. The fiscal year 2005

funding level on this program authorized by the farm bill will be \$140 million from the Commodity Credit Corporation to help initiate and expand sales of U.S. ag products: fish and forest products overseas.

Rural American farmers and ranchers are the primary suppliers of commodities that benefit from MAP. All regions of the country benefit from the program's employment and economic effects from expanded agricultural export markets. So there is probably not a State in this Nation that does not see a direct benefit from this. Ag exports are expected to reach a record \$61.5 billion this year. There are well over 1 million jobs related to ag exports. This program goes a long way towards making sure American ag products have export markets.

Mr. Chairman, for those that argue there is corporate welfare, to use that cute phrase again, it is accurate that agricultural co-ops and small companies can receive assistance under the branded program. To conduct branded promotion activities, individual companies must provide at least 50 percent funding.

□ 1545

So it is not simply a complete giveaway, as might be indicated here. For generic promotion activities, trade associations and others must meet a minimum 10 percent match requirement. Participants are required to certify that Federal funds used under the program supplement, not replace, private sector funds. Many regulations limit the promotion of branded products in a single country to no more than 5 years.

Those are the facts. This is a program that has been around for some time, and we feel it has worked very well for the American people.

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

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

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE), the distinguished chairman of the authorizing committee.

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

Mr. GOODLATTE. Mr. Chairman, I rise in strong opposition to this amendment. We are engaged in negotiations with the Europeans and others around the world on trade and to pass this amendment and to effectively unilaterally disarm when we are already outspent by a 10-to-1 factor would be a serious, serious mistake.

The United States spends about \$200 million promoting our agricultural exports. This does a great deal of good because we are by far the world's leader in agricultural exports. This year, the Department projects we will export \$61.5 billion in agricultural products. This is a tiny, tiny fraction of that. At the same time, the European Union, which exports a far smaller amount of

their agricultural production, will spend \$2 billion on agricultural exports.

For us to abandon the field with this relatively modest program that helps cooperatives and other groups that do not have a name brand label product necessarily but often have a commodity that they are trying to market and sell in other countries, to take that opportunity to have a successful public-private partnership, and that is what this is, because the agricultural groups contribute 50 percent of the cost of these programs, would in my opinion be a serious, serious mistake and cost many American jobs if we were to eliminate this program.

This is an important, cooperative way to promote American agriculture overseas. I urge my colleagues to reject this amendment which I think is very misguided and would be very counterproductive to our trade negotiations with other nations around the world who have far, far higher agricultural subsidies than the United States does.

Mr. CHABOT. Mr. Chairman, I yield myself 30 seconds.

I just would like to respond with one thing. We had a letter here which I thought was by the National Taxpayers Union which said a lot of interesting things, but one thing I would like to read from it says:

“The more U.S. taxpayers are forced to support unnecessary and economically dubious programs such as the MAP, the less credibility our Nation has on adhering to free trade principles.”

I think even though the Europeans do it does not necessarily mean that that is right. Oftentimes, that means it is not the policy to follow. I think the United States should set an example. I think this program should be defunded.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM), the ranking member of the authorizing committee.

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the amendment and associate myself with both chairmen's comments.

Right now, we are in some serious negotiations on the current Doha round of the WTO agreement. As the gentleman from Virginia (Mr. GOODLATTE) made the comment a moment ago, I want to repeat it. It makes no sense for us to unilaterally disarm ourselves when we are in the process of negotiating the next round of trade agreements.

Also, I have to chuckle sometimes when I hear other groups who suddenly become experts on everything that is done or not done in agriculture. Right now, we are in an international marketplace in which we have to compete with other governments. I first became aware of this over 20 years ago when it affected the poultry industry and when we found turnkey jobs being offered to anyone that would buy their chickens. We had folks that were willing to pay for turnkey jobs for everything from

the feeding, to the growing, to the processing, to the selling, to the promoting. We had this same argument year after year in which for some reason we have been refusing to stand shoulder to shoulder with our businesses in that international marketplace.

If we could isolate it, then the gentleman is correct with his amendment. But when one looks at it from the standpoint of the negotiations that we are now going through, it makes no sense whatsoever for this body to unilaterally disarm those producers of commodities that are trying to compete in an international marketplace and the only help they get is this small amount which is given through the MAP program.

I ask my colleagues to oppose this amendment. Let us give our negotiators a chance, and if by chance we can negotiate away all Federal help by all governments everywhere in the world to do this, then I will be the first one standing here on this floor saying, let's do it. But today let us not do it.

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

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Chairman, I thank my friend for yielding me this time.

I have a great deal of respect for my friend from Ohio that is offering this amendment, but on this one I think he is wrong. I want to associate myself with the ranking member and the chairman of the Committee on Agriculture but specifically with the ranking member when he made the observation that we are in a global economy. I think that is the issue that we ought to be focusing on when we talk about agriculture in general.

There has been a great deal of talk in the past as we enter into these trade agreements with the President with the trade promotion authority of putting the ag sector at a much higher level than it has been with the past trade deals. That is what we have to keep in mind, because I believe agriculture as a whole in the past has gotten the short shrift on these past trade agreements.

There has been criticism of this program in the past where it has gone to big corporations. That was changed back in 1998, and now the principal beneficiary of this MAP program are specialty crops. Specialty crops by definition do not have the great deal of support behind them to market their products. My district is full of specialty crops. To some, it may be big industry, but they are specialty crops, like apples. The apple industry uses this immensely. The potato industry in the Northwest, Idaho, Oregon and Washington, use this to market their raw products and their processed products. The hop industry, which is very small in my district but large nationwide,

uses this overseas, as does the cherry industry. They are all the beneficiaries of this program.

I think as we go forward with these trade initiatives that the President is talking about in other areas this is a tool that the ag sector can use, and now is the time I think to continue funding. As a matter of fact, the farm bill authorizes more than what we are appropriating in this bill. We recognize the tight budget conditions, but I think this program is important. I urge my colleagues to reject the Chabot amendment and support the MAP program.

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

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

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

Mr. Chairman, I would just conclude by making a couple of points. Although supporters of the program some years ago changed the name, it was MPP, the Market Promotion Program, to MAP, the Market Access Program, and made some other cosmetic adjustments due to pressure from taxpayer watchdog groups, the basic concept and the cost to the taxpayers remain basically the same. The government is dipping into the pockets of hard-working individuals and promoting private corporate entities. Well over \$1 billion has been spent on this program over the last number of years, and studies by the GAO indicate that the MAP program has no discernible effect on U.S. agricultural exports. Further, it basically gives money to companies that would undertake this advertising without the government doing it.

I want to again emphasize I think it is good that these companies advertise and that they sell overseas, but rather than doing it with taxpayer dollars they ought to do it with their own dollars.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. CHABOT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CHABOT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. CHABOT) will be postponed.

Mr. BONILLA. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, I rise to engage in a colloquy with the distinguished chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies.

In the 2002 farm bill, an exemption from payment of promotion assessments was created for producers of 100

percent organic products. This exemption was established in light of the fact that commodity promotion programs do not focus on or promote organic products, which constitute only a small minority of agricultural production. Organic producers were paying assessments for promotion programs that did not benefit their specialized operations.

Section 10607 of the Farm Security and Rural Development Act of 2002 thus mandated a narrow exemption for producers of 100 percent organic products. The Secretary was specifically required to issue regulations for this exemption not later than 1 year after the date of enactment. Yet more than 2 years after enactment it still has not been implemented. The farm bill was enacted in May, 2002. The regulations should have been promulgated by May of last year, but they were not.

The Department of Agriculture finally issued proposed regulations earlier this year and collected public comments, but final regulations have yet to be issued. When asked for a timetable for their completion, Department officials refuse to identify one.

Mr. Chairman, I am prepared to offer an amendment to impose a spending limitation on the appropriations for the Agricultural Marketing Service until such time as final regulations for this exemption are issued and implemented. But, frankly, organic producers should not have to wait until fiscal year 2005 for relief.

I would ask the distinguished chairman of the subcommittee for his thoughts on getting this problem resolved.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I thank the gentleman from California for raising this issue today and pledge to work with him to arrive at a satisfactory resolution.

I agree that implementation of this regulation is long overdue and should be concluded immediately. As the gentleman suggests, a spending limitation on the Department's fiscal year 2005 appropriation may well be an appropriate step if the implementing regulations are not finalized in the very near future. I would hope, however, that we could be successful in convincing the Department of the serious need to conclude this matter on an expedited basis. Further delay is simply unacceptable.

Let me assure the gentleman that we will work with him to bring this issue to closure as quickly as possible. If we need to consider additional action as the appropriations process moves forward, we will do so.

Mr. DOOLEY of California. I thank the gentleman for his consideration.

Mr. BONILLA. I thank the gentleman from California.

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SANDERS:

Page 2, line 9, after the 1st dollar amount insert "(reduced by \$1,000,000)".

Page 34, line 23, after the 1st dollar amount insert "(increased by \$1,000,000)".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 7 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

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

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Texas.

Mr. BONILLA. I would like to state that we have seen the gentleman's amendment, and if he would like to just move the question, we would be happy to accept it if the gentleman sees fit.

Mr. SANDERS. I thank the chairman very much.

If I may just very briefly tell the Members what the amendment is. I very much appreciate the chairman's support for this amendment. I know the ranking member is also supportive.

Mr. Chairman, all over rural America, we are seeing the decline of family-based agriculture. And while we want to look at the broader picture as to how we can help family farmers in dairy or in any other commodity, I think one way that we can move forward, and I am glad that the majority agrees, is to start emphasizing agritourism. All over this country, in Vermont and in rural America, billions of dollars are being spent by tourists who go to rural areas. Yet, unfortunately, family farmers who in most cases are the folks who are keeping the land open and keeping the land beautiful are not receiving the kinds of funds from the tourists that they should and that they deserve.

To my mind, as we see the decline of family-based agriculture, what we are seeing in Vermont and all over this country is that agritourism is putting hard cash into the pockets of family farmers.

Mr. Chairman, from the experience of my own State, I can tell the Members that there is a lot of support for agritourism nationwide, and I know that there is in this body in a bipartisan way. My own State of Vermont has been working on this concept for many years now, in part with funding provided by the USDA some years ago.

Some of the successes of Vermont's agritourism model include on-farm technical assistance in using the Internet and helping farmers get business through the Internet, setting up cooperative marketing with various commodity groups, the Chamber of Commerce and the Vermont Departments of Tourism and Agriculture. In addition,

a regional marketing Web site was established that received over 40,000 hits in any average month. Vermont's agritourism initiative was highlighted by the travel book company Frommer's. In addition, the six New England States held an agritourism summit to coordinate their efforts in this area.

□ 1600

So, Mr. Chairman, I want to thank the chairman of the committee and the gentlewoman from Ohio (Ms. KAPTUR) for their support of the concept of agritourism, and I very much appreciate that.

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

Mr. BONILLA. Mr. Chairman, we will be happy to support this amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FLAKE:

Add at the end (before the short title) the following:

SEC. 7. None of the funds made available by this Act may be used to pay the salaries and expenses of employees of the Department of Agriculture who make payments from any appropriated funds to tobacco quota holders or producers of quota tobacco pursuant to any law enacted after July 1, 2004, terminating tobacco marketing quotas under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 and related price support under sections 106, 106A, and 106B of the Agricultural Act of 1949.

Mr. STENHOLM. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. FLAKE).

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

The Flake-Van Hollen-Platts-Waxman-Bartlett-Doggett amendment prohibits the expenditure of funds for salaries to implement a taxpayer-funded tobacco bailout in this program. This amendment would still permit the Department of Agriculture to implement a program using industry as opposed to taxpayer funds.

The tobacco buyout is simply a bad deal for taxpayers. There is never a good time to spend \$10 billion bailing out tobacco farmers; but in the midst of a war, a deficit, and an economic recovery, now is the worst time.

Unfortunately, Members of this body were not given the opportunity to debate this provision during the recent consideration of H.R. 4520, the corporate tax bill. An amendment I offered with the gentleman from Texas

(Mr. DOGGETT) would have stripped the bailout provision from the bill. However, this amendment was not accepted by the Committee on Rules. As a result, I and a number of my colleagues have no option other than opposing final passage of that legislation. There were a lot of provisions that I liked in that bill. The tax cuts were particularly good, but I voted against it because of this egregious provision, the tobacco bailout.

Today, the House finally has the opportunity to debate the merits of the \$9.6 billion bailout for the tobacco industry.

The Federal tobacco quota system was established as a temporary program during the Depression era and has gone relatively unchanged since then. It was created to control the supply and, in turn, market prices for U.S.-grown tobacco. The quota system has long outlived any usefulness it might have had. Tobacco production in the U.S. has been declining steadily because, among other things, lower-price foreign tobacco is reducing demand for artificially high-priced U.S. product.

Interestingly, current law requires that tobacco growers choose by referendum every 3 years whether or not to continue Federal support of the industry. While the quota system is resulting in the decline of the industry, growers have chosen to carry on with the program. Now we are offering to buy the growers out of the program that they have chosen to be with for the last 3 years, that they have chosen to continue at a cost of \$9.6 billion in taxpayer money. Much of the buyout payments would land in the accounts of the big tobacco companies.

I am also concerned that this proposed buyout would set a bad precedent and that future efforts to end agricultural quota or subsidy programs will come at too high a price for taxpayers. This \$9.6 billion buyout is being touted as a free market solution to the problems resulting from Federal support. Conservative estimates put the value of the Federal buyout at two to three times the market value of the quotas. This is no free market program. The Federal purchase of federally created quotas at two or three times the market price is simply not a free market solution.

For the sake of the taxpayers that we represent, I urge passage of the Flake-Van Hollen-Platts-Waxman-Bartlett-Doggett amendment. I want to say thanks in particular to the gentleman from Maryland (Mr. VAN HOLLEN) for working so hard on this amendment with others.

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

Mr. BONILLA. Mr. Chairman, I rise in opposition to the amendment, and I reserve the balance of my time.

Mr. FLAKE. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. VAN HOLLEN).

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

I am pleased to join with the gentleman from Arizona (Mr. FLAKE), the gentleman from Texas (Mr. DOGGETT), the gentleman from Pennsylvania (Mr. PLATTS), the gentleman from California (Mr. WAXMAN), and the gentleman from Maryland (Mr. BARTLETT) in offering what really is a very simple amendment that says none of the funds appropriated in this agriculture bill may be used to implement the \$10 billion taxpayer-funded bailout of the tobacco industry.

Less than a month ago, as we know, in this House, we passed a bill that was filled with various special interest tax provisions, and included in that bill was the \$10 billion bailout paid for entirely by taxpayers. Some call it a buyout. I call it a sellout of the American taxpayer. And this House never had an opportunity at that time to vote on that issue, and now we have that chance.

Just think about what we are saying to the American people. At a time when we are running huge deficits in this country, at a time when Congress is telling schools around the country we cannot fully fund No Child Left Behind, at a time when we are not meeting the requirements of the Homeland Security Department agencies, at that very time we are asking taxpayers to foot the \$10 billion bill for a tobacco bailout. Talk about misplaced priorities.

And what are the consequences of a taxpayer-funded bailout to the big tobacco companies? They are going to get cheaper tobacco; and as a result, they will reap a big windfall. According to Agriculture Department economists, they will reap \$15 billion in windfall profits over the next 14 years. In addition, economists will tell us, as a result of this bailout action, they will lower their prices and the result will be many more young people who get hooked on nicotine.

And what do the big tobacco companies do to get this taxpayer benefit? Nothing. They do not have to do anything. They do not have to put in a nickel. They do not have to submit to any additional regulations.

We now have before us an opportunity on a bipartisan basis to say we are not going to spend taxpayer dollars for a \$10 billion bailout.

I want to make a point that I think is important to many Members. This would allow a buyout to go forward not using taxpayer dollars. There is legislation, bipartisan legislation, that has been submitted before this House and before the Senate that calls for a buyout of some of these interests. However, in all those bills, the provision requires that it be funded not by the taxpayer but from other sources. That is all this amendment does. It says none of the funds in this bill can go for a taxpayer-funded bailout. It leaves open the option, the opportunity for other legislation to pass that would be similar to that that has already been introduced on a bipartisan basis.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Chairman, I appreciate the opportunity to speak on this amendment; and I would say, Mr. Chairman, that this amendment to me makes no sense to be even part of this debate because if we are talking about a buyout provision to end the Depression-era program that is in the FSC bill that has passed this House, this language will have no bearing on that because, in fact, there is no money coming from the Agriculture Department to fund the provisions that we called for in the FSC bill, Mr. Chairman. So that is why I am standing here in opposition to the amendment, because it has no place on this bill. It does not impact anything we did on the FSC bill to try to effect the tobacco buyout.

Mr. FLAKE. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I rise in support of this amendment.

This amendment sends a clear signal that we will be economic conservatives, that we will protect the public treasury, that we will also respect the private buyouts and the private settlements that have already happened with a substantial amount of funds already going to the tobacco industry States and tobacco growers. This amendment stands for the principle that if we buy out, then they should cease producing tobacco, which under the tobacco buyout does not happen. And for all of us as good protectors of the public FSC, it is incumbent upon us to stop new government programs and to make sure we restrict government spending especially at this time when our government budget is in the red.

We know there is an unfunded liability for Social Security. We know there is an unfunded liability for Medicare. It is very important for us then to restrict public spending so that we can honor the promises to the American people, especially for retirement security and health care, that we have already made.

I applaud the gentleman for putting this together. I apologize to my subcommittee chairman, who I know personally is a rancher and does not have a personal stake in this issue; and I applaud the gentleman for offering the amendment. I urge its adoption.

Mr. BONILLA. Mr. Chairman, I yield to a large number of Members who will ask for unanimous consent agreements; and I also note, Mr. Chairman, that in each case there will be an alternate from the majority and the minority to show strong bipartisan opposition to this amendment.

I yield for the purpose of making a unanimous consent request to the gentleman from Kentucky (Mr. ROGERS).

(Mr. ROGERS of Kentucky asked and was given permission to revise and extend his remarks.)

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, the irony here is enormous. Today we are hearing from anti-tobacco advocates who: want to keep the federal government in the tobacco business; want farm families to stay hog-tied to the tobacco industry; are pushing for the continuation of the tobacco program, not the ending of the tobacco program.

This Amendment seeks to prevent USDA from eliminating the federal tobacco program.

Every day, the Gentleman from Arizona comes down here to the well of the Floor to complain about the size of the federal government; the number of federal programs; and the fact that government bureaucracy is handicapping U.S. enterprise.

On these principles, I agree with him. However, I find it ironic that my colleague is now offering an amendment that will do the very thing he claims to vehemently oppose.

The bipartisan House-passed tobacco provisions will: Permanently eliminate a depression-era federal program; Get the Government out of the tobacco growing business; Allow U.S. growers to compete on the free and open market; Stop market share losses to Zimbabwe, Brazil, and China.

The tobacco provision will not: Bankrupt the federal government, as it is entirely offset through the extension of customs fees; Dramatically increase teen smoking.

There's absolutely no correlation between smoking and the buyout.

I urge my colleagues to reject this amendment and support family farms and ending the federal tobacco system.

Mr. BONILLA. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from North Carolina (Mr. ETHERIDGE).

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

Mr. ETHERIDGE. Mr. Chairman, I rise in strong opposition on behalf of the farmers who for years have made a contribution, and now they are asking for an opportunity for a way out to save their way of life. And I am embarrassed that people that have no farmers and do not understand the program are the ones who are in support of the amendment.

Mr. Chairman, I rise in opposition to the Flake amendment.

As I understand the gentleman's intention, he wants to prohibit USDA from implementing a tobacco program buyout if it is funded from taxpayer dollars out of the general fund.

When tobacco members first began working on tobacco buyout legislation, our intention was for the tobacco companies to finance it.

In fact, I along with Congressmen Fletcher, MCINTYRE and GOODE, introduced a buyout bill last year, H.R. 3160, which would have funded a more generous \$15 billion buyout paid for through user fees on the tobacco companies.

The vast majority of tobacco state members endorsed that proposition by cosponsoring the bill.

Buyout legislation pending in the other body would also have the companies pay for it. It has the support of every single tobacco state Senator, Republican and Democrat alike.

But financing the buyout from current tobacco excise taxes was the only way the Republican leadership would support a buyout.

Despite promises to the contrary, the Republican leadership never let H.R. 3160 see the light of day.

They did not believe tobacco companies should pay for a buyout, so they kept our bill bottled up.

Let me be clear, the buyout provisions the House included in the corporate tax bill Congress passed last month are not perfect, but as I said then, beggars can't be choosers.

Since 1997, tobacco quota has been cut by more than 50 percent. Consequently, farm families have seen their incomes cut by more than half.

My tobacco farmers need a buyout in order to have an honest chance to survive.

They don't care if it is paid through current excise taxes, new excise taxes, user fees, assessments, whatever.

They don't even care if it has FDA. All they care that it gets done this year.

The time for action is now. I urge my colleagues to oppose the Flake amendment, and let's move forward on an issue of great importance to North Carolina and other tobacco producing states.

Vote "no" on the Flake amendment.

Mr. BONILLA. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Tennessee (Mr. JENKINS).

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

Mr. JENKINS. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. BONILLA. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from North Carolina (Mr. MCINTYRE).

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

Mr. MCINTYRE. Mr. Chairman, I rise in strong opposition to this amendment. This is not a bailout. It is a buyout. And if we do nothing, it will be a wipe-out for our farmers.

Mr. Chairman, I rise in strong opposition to the Flake Amendment.

By combining the American Jobs Creation Act with the Fair and Equitable Tobacco Reform Act, which I had the privilege to coauthor with my friend from Tennessee, BILL JENKINS, we have created trade opportunities for American farmers and prevented our farm jobs from going overseas. The tobacco market reform legislation will create tens of thousands of new jobs in rural areas throughout the South and Midwest.

This ill-advised amendment would jeopardize that monumental agreement.

The current federal tobacco price support system is the last Depression-era farm program in America! It is time to get out of the 1930s.

The current federal tobacco policy was created during the Depression to manage the price and supply of tobacco. And, in the beginning, the price support program was effective. But, the world of tobacco production has dramatically changed. Our federal tobacco policy, unfortunately, has remained the same: too many farmers producing less and less tobacco in an overly-bureaucratic, government-controlled system, unable to respond to market pressures and opportunities.

This is not a "bailout", it is a "buyout", and if we continue to do nothing, it will be a "wipe-out". What if your income was cut by 50 percent like the farmers have suffered over the last 5 to 6 years? That's exactly what has happened! Why? Because the U.S. Secretary of Agriculture has the authority to set the quota each year. And, the farmers could be facing another 20 percent to 30 percent quota cut to their income later this year.

Tobacco produces 6 to 7 times the cash that other crops do. You can't tell a farmer simply to grow something else. With the average tobacco farm size being 19 acres, a farmer does not have 6 to 7 times the acreage to grow other crops to make up the difference.

Under current federal tobacco policy, American farmers lose, while farmers in countries like Brazil win. For example, when political instability in Zimbabwe opened up a 350 million pound opportunity for tobacco farmers, it was Brazil—not the United States—that took over hundreds of millions of pounds of tobacco production from Zimbabwe.

The American Jobs Creation Act, coupled with tobacco reform, ends the Depression-era price support program, buy back the federal property interest from quota holders and allow farmers to make the decision to stay in tobacco production under the free enterprise system or get out. And, this gets the government out of the tobacco business!

A vote for the Flake amendment is a vote against this important legislation that passed this body overwhelmingly on June 17, 2004, and is currently awaiting action by the Senate.

The American farmer is not the only one who suffers from this outdated federal tobacco policy. Banks and mortgage Brokers; Grocery stores and Gas stations; Fertilizer distributors and Farm equipment dealers; Automobile dealerships and Academic institutions, and the ripple effect on local, regional, and state economies is devastating for all types of restaurants and retail businesses everywhere. All sectors of the southern economy depend on the cash flow from tobacco production. Tobacco farmers' problems don't stop at the farm. It is not only the farmers' issue, it affects the entire community!

Our farmers and our rural, regional and state economies have suffered for too long under a government program that left them with an uncertain outlook to the future. It is time for the uncertainty to end!

Don't turn your back on the families and rural communities across out Nation by voting for this amendment. This is the time to get the federal government out of the tobacco business and let the farmers have freedom of choice—not a government mandate that dictates how much a farmer can earn or lose. We would not stand for that for any other vocation in our society. It is time for the discrimination against farmers to end.

Give them a choice! Get the government off their backs and out of their pockets. Do what's right, and stop the uncertainty for everyone—the farmer and his children, the government, and the American Taxpayer!

I urge my colleagues to vote against the Flake Amendment.

Mr. BONILLA. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from North Carolina (Mr. COBLE).

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

Mr. COBLE. Mr. Chairman, this is a devastating amendment. It is not a big buyout for big tobacco nor for tobacco farmers. I urge defeat of the amendment.

Mr. Chairman, I rise in strong opposition to the Flake/Van Hollen Amendment.

A tobacco buyout is of vital importance to tobacco farmers in the Sixth District of North Carolina. These farmers are desperate to get out of a Depression-era system which makes the cost of growing tobacco in the United States greater than non U.S. production. When in my district, almost daily I see the disastrous effect this Depression era government program has on farmers.

Opponents who argue a tobacco buyout is a bail-out for big tobacco are dead wrong. This is not big tobacco getting a tax-break, this is tobacco farmers receiving benefits that are due to them because of a government program created in the 1930's. Tobacco companies have grown to rely on foreign imports of tobacco to manufacture their legal product because the inflated price of U.S. tobacco which is directly attributable to the quota system. Eliminating the quota system levels the marketplace for U.S. tobacco farmers and enables them to compete in the world market.

Second, the authors of this amendment mistakenly purport that a buyout is funded by general tax revenues. This is also inaccurate. The federal excise tax on tobacco accounts for approximately \$7.5 billion dollars annually \$37.5 billion over five years. These taxes are paid by consumers of these legal products, not by all taxpayers. My point is our government realizes excessive amounts of revenue compliments of a tax on the tobacco industry. We simply seek nine point six billion dollars over 5 years in return to save growers and communities that support tobacco production from economic devastation.

Some may argue this is an unnecessary expenditure, and my friends, I tell you your commodity is next. This amendment sets a dangerous precedent for all agriculture commodities and could have an adverse impact on regional and national commodities seeking compensation in the future.

A vote in support of this amendment would prevent the United States Government from exiting tobacco production. Sounds strange, I agree. Considering the tobacco debates on this floor in the past, I am surprised to see some of my colleagues supporting the continuation of a government controlled federal tobacco program. Let the free market work itself out and give my tobacco farmers a chance to succeed. I adamantly oppose this amendment and I urge my colleagues to do the same.

Mr. BONILLA. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Kentucky (Mr. CHANDLER).

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

Mr. CHANDLER. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, communities across my home state of Kentucky are dependent upon the income from the production and sale of tobacco. While the federal tobacco program has served our farmers well for generations, the changes brought about by direct contracting with manufacturers, litigation with the tobacco

industry, and reductions in the tobacco quota have made a buyout option necessary. The reality of tobacco's decline, thousands of lost jobs and billions in lost economic activity in my state alone, extends well beyond the farm to affect virtually all of my constituents and their families.

The buyout provision we sent to conference last month would give tobacco farmers a chance to compete with foreign sources of less reliable, lower-quality tobacco. Plus, its payment assistance would make it easier for those farmers who wish to transition to another crop or vocation, while adding jobs and money to rural communities and families. This buyout would allow those who have borne the brunt of increasingly bleak market conditions to make a fair break from this 1930's program and continue to make a living.

For six years, our growers have had one simple request: passage of a fair buyout bill that reflects the new economic reality they live in. Instead, all they're heard back is news of quota cut after devastating quota cut, with no relief in sight.

This may be the last chance for the farmers in my district, and districts all over rural America. Buying out the antiquated tobacco program is a common sense solution for farm families that have, for too long, borne the brunt of bad politics and even worse economics. This buyout is absolutely critical to give these hard-working families and their communities an honest chance to survive.

Time for action is quickly running out. Our growers simply cannot face another year without action.

Mr. BONILLA. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Kentucky (Mr. LEWIS).

(Mr. LEWIS of Kentucky asked and was given permission to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, I would like to express my strong opposition to the Flake/Van Hollen Amendment offered during consideration of the FY05 Agriculture Appropriations bill. This amendment is counterproductive, potentially prohibiting USDA employees from administering a Federal tobacco buyout.

The Flake/Van Hollen Amendment significantly compromises the legislative process by using an appropriations bill to legislate on an unrelated free-standing bill, aiming to reverse funding parameters on legislation that has yet to become law.

The House passed version of H.R. 4520 calls for a quota buyout funded solely by tobacco tax revenue. Over \$30 billion in combined Federal, State and Municipal tax revenue are raised each year from users of tobacco products. Utilizing these funds establishes an equitable buyout plan that would provide tobacco generated revenue for tobacco farmers.

Those of us who represent tobacco growing states have been working on a bipartisan basis for over two years to end the depression-era price support system. The quota system, governing the price and supply of tobacco, has not been overhauled since 1986. Since the late 1990's, burley tobacco quotas have been cut in half, causing significant financial loss for family farmers who currently

earn less than half the amount they could have earned only five years ago. A tobacco quota buyout is the best option Congress can provide to protect their futures and ensure the prosperity of state and local economies.

With a tobacco reform package, farmers can move beyond tobacco. By ending the quota system, economists anticipate as many as two-thirds of current tobacco farmers would exit the business, without increasing taxes or the national debt.

The Flake/Van Hollen Amendment attempts to impede the long-awaited relief American farmers need as part of Congress' effort to replace lost jobs and revitalize thousands of communities across the Nation who depend upon tobacco farming for their economic stability.

Mr. BONILLA. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Virginia (Mr. GOODE), a distinguished member of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Subcommittee of the Committee on Appropriations.

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

Mr. GOODE. Mr. Chairman, I rise on behalf of thousands upon thousands of small farmers and small quota holders across the southeastern United States, primarily, and urge opposition to this devastating amendment.

Mr. Chairman, although it is questionable that the Flake amendment would have any impact on the payment of proceeds from the Federal Treasury, which receives billions of dollars annually from federal tobacco taxes, I still oppose this amendment because the proponents of the amendment regularly slam tobacco country and do not understand the tobacco buyout provisions in FSC/ETI, which will largely aid thousands of small quota holders and tobacco producers in the southeastern United States. I believe that the proponents have let their hatred of tobacco cloud their thinking in proposing this amendment. I still hope that the FSC/ETI legislation, which included tobacco reform legislation, will go forward in the Senate and that the measure will be passed and signed into law by the President so that many quota holders and growers can gracefully exit the current tobacco program and so that those who wish to continue growing tobacco can have an opportunity to compete with foreign tobacco.

Mr. BONILLA. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from North Carolina (Mr. BURR).

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

Mr. BURR. Mr. Chairman, I rise in strong opposition to this misguided amendment.

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

As the entire House of Representatives can see, there is strong bipartisan opposition to this amendment, and it is a tribute to the Members for coming down here and expressing their strong views.

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

Mr. FLAKE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PLATTS).

□ 1615

Mr. PLATTS. Mr. Chairman, I thank the gentleman for yielding me time. I want to commend him and the gentleman from Maryland for their sponsoring this amendment.

Mr. Chairman, I am pleased and proud to be a cosponsor of this amendment. I respect all Members' opinions, but I do take exception to the premise that we who maybe do not have tobacco growers have no business offering an amendment that deals with the expenditure of \$9.6 billion of our taxpayers' funds. I think we have every right to offer this amendment.

It is important to recognize that there are other proposals that would allow this quota system to end, allow for these small tobacco farmers to be adequately compensated for that right they have in these quotas, but it would be done in a way that is more responsible and that the beneficiary of the buyout, the tobacco industry, which CRS, Congressional Research Service, says will benefit to the tune of about \$15 billion over the next 10 years, that the tobacco industry will pay for the buyout, as opposed to the American taxpayer.

So I support the amendment. I think it is well thought out, it is reasonable, it is responsible. It is important to note just in the last several weeks two new reports have come out. In one, the latest data tells us that smokers, on average, have 10 years shorter life expectancies than non-smokers, yet we are proposing the American taxpayer pay \$9.6 billion, instead of the industry, to help an industry that shortens the life of users of their products by, on average, 10 years.

I commend the makers of this amendment, I am pleased to stand with them, and I certainly urge a yes vote.

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

Mr. Chairman, I would just like to make a point here that speeches are being made on this floor as though there is some tobacco buyout money in this bill. There is zero money in this bill for any tobacco buyout, zero money. So some of the speeches being given here are about spending something that we are not intending to spend anyway. There is nothing in this bill. I cannot emphasize that any more clearly.

So, as Members start to appear in support of this amendment, again, I hope to any constituent who might be listening out there, they might be asking themselves what are they talking about.

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

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

Mr. Chairman, before yielding to the gentleman from Texas, I would just point out that if there is no money,

why bother opposing this? This is an amendment that seeks to prohibit the expenditure of money. If no money is being expended, we need not worry in any other bills or here.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I am pleased to join in a bipartisan group in support of this amendment.

The bill that passed through the House called for \$9.6 billion of taxpayer dollars to be used to pay those who own these quotas for tobacco, and no strings were attached to that dishing out, that handout, of \$9.6 billion. They can just keep on growing tobacco. What is more, the bill favored just a few select growers.

According to an analysis by the Environmental Working Group, more than two-thirds of the money would go to just 10 percent of the recipients. The bill would pay more than \$1 million to only 462 individuals, corporations and estates.

This amendment provides that no taxpayers' money can be used for this purpose. If our colleagues who want support for the tobacco growers want to pay for it, that is something different. But all this bill that passed the House would do is to increase the deficit. So the Flake-Van Hollen proposal before us would be to put in this appropriations bill a restriction not to enforce that bailout, buyout, handout, should it pass.

Now, even the Louisville Courier-Journal said, rather than a buyout, the bill should be called an "entitlement" because "farmers, quota holders, warehouse holders and others would end up getting taxpayer money pretty much just because they are who they are."

Well, I do not think that is the American way, to take the tax dollars of hard-working Americans and just give it to people, billions of dollars to them, just because they are who they are.

So I think it is important to adopt this amendment, to let people who want to do something along these lines come back with a better proposal. And if they stick with the proposal that we were not even allowed to have a vote on in the FSC bill, then they will find that this restriction, should it become law, will not allow the Department of Agriculture to disburse the funds.

Mr. Chairman, I urge support for the Flake-Van Hollen amendment.

Mr. BONILLA. Mr. Chairman, I yield for the purposes of a unanimous consent request to the gentleman from Tennessee (Mr. GORDON).

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

Mr. GORDON. Mr. Chairman, I rise in opposition to this amendment, and would like to quickly remind my colleagues that this is not an amendment that is about smoking. I recognize a lot of folks understandably have concerns about smoking. But if this amendment passes, there will not be one less cigarette sold in this country.

Mr. BONILLA. Mr. Chairman, I yield for the purposes of a unanimous consent request to the gentleman from Tennessee (Mr. DAVIS).

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

Mr. DAVIS of Tennessee. Mr. Chairman, I would like to extend my remarks on the record. The gentleman from Tennessee (Mr. GORDON) certainly is correct. This does not control smoking. I rise in opposition to this amendment.

I thank the Chairman and rise in strong opposition to this amendment that has the potential to devastate the rural tobacco farmers in Tennessee's Fourth Congressional District, which I have the privilege to represent.

Our great country got its first start, and in fact, market edge in the global economy thanks to tobacco growers. Tobacco was America's first true international cash crop, and helped establish America as the best agriculture country in the world at a time when the early settlers were struggling for survival. Unfortunately, in the last five years, we have seen quota cut by more than 50 percent, which has drastically decreased tobacco income and devastated our small farmers and growing communities. It is absolutely wrong that our tobacco farmers are being unfairly handicapped by the last remaining depression-era quota system and the availability of cheap farm labor in countries like Brazil and Turkey. Given this reality, it made perfect sense to vote on a Tobacco Buyout Provision in a bill that dealt directly with international business and markets.

I am also confused by the arguments that this will not help small farmers. The facts show otherwise. The average buyout payment, averaged over all 436,719 eligible individuals, is less than \$4,400 per year. The average quota owner now only owns about 2,000 pounds of quota. The average acreage among all U.S. tobacco farms is only 7.5 acres. In my State of Tennessee the average tobacco farm is 4.4 acres. I wish it was more. I wish my small, rural farmers had more acreage, and more quota, and could still survive growing what was once the most valuable crop in the country, but because of the current system they can't.

Finally, the tobacco buyout is about creating new economic opportunities for communities that have been devastated by the quota system. 39,500 farming jobs have been lost due to changes in the tobacco sector. This buyout provision would bring \$2.7 billion per year in additional economic activity to the six major tobacco states, and would create more than 26,000 new jobs. With the \$65 million in total buyout payments for my constituents, we would see a net change in economic activity in my district roughly equal to \$85 million. This is why I supported the tobacco buyout, and this is why I must strongly oppose this amendment.

Mr. BONILLA. Mr. Chairman, I yield for the purposes of a unanimous consent request to the gentleman from Kentucky (Mr. WHITFIELD).

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

Mr. WHITFIELD. Mr. Chairman, I certainly want to commend the gentleman from Arizona for being concerned about our deficit, but this is not the proper place for it. Our farmers for many years have had this quota, a legal quota. They now see it being diminished by forces beyond their control. I would like to voice my strong opposition to the Flake amendment.

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

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

Mr. Chairman, before yielding to the gentlewoman from California (Mrs. CAPPS), I would like to point out the comments of the gentleman from Tennessee about this not being about smoking. That is exactly how I feel. This is about the expenditure of taxpayer dollars. This would still allow the expenditure of industry-funded bailouts, simply not taxpayer dollars.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I thank my colleague for yielding me time, and I rise in support of this amendment.

Almost 400,000 children have become regular smokers in 2004 thus far. 124,000 of them will die prematurely because of their addiction. As a former school nurse, I can tell you the effects of smoking are devastating on our youth and on all Americans. The Surgeon General recently released a report showing smoking to be even more deadly than we had previously believed.

This is something we can and should do something about. Part of the answer may be buying out tobacco farmers, but only if it is done properly, as part of a proposal to give the Food and Drug Administration the authority to regulate tobacco.

Unfortunately, last month this House included in the FSC tax bill a provision to just give almost \$10 billion in taxpayer money to tobacco companies without getting any public health benefit. The bill would not guarantee the exit of tobacco farmers from the market. It would actually result in more smoking, because the price of cigarettes would go down. That is not the way to deal with a problem of this enormity.

In the other body, there has been considerable debate about passing a comprehensive approach that would improve public health and also provide assistance to struggling farmers. We should embrace such a proposal in this body, instead of just giving another payoff to big tobacco.

Mr. Chairman, I urge my colleagues to support this amendment and protect the taxpayers' money.

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

Mr. FLAKE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT).

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Chairman, we lost about 3,000 people on 9/11. Do you know, Mr. Chairman, how long it took for cigarettes to kill 3,000 people? It took a bit less than 3 days. The loss of those 3,000 people on 9/11 changed our world, and yet, today, more than 3,000 young people will start smoking cigarettes, and more than 1,000 of them will die prematurely.

Where is the outrage? I cannot yell "fire, fire," in a crowded theater, because the logic is that somebody might get hurt trying to get out of the theater.

Let me ask you, Mr. Chairman, does it make any sense that I cannot yell "fire, fire," in a crowded theater, but we can advertise cigarettes in such enticing ways that 3,000 young people will start smoking today?

I contend that somebody from another planet who is coming here in a UFO might not want to land until they learned more about a society that totally changes its world when 3,000 people die, but they do not seem to care when, the last year for which I saw data, 472,000 people died from smoking cigarettes.

Mr. Chairman, if we are going to spend \$10 billion, I would be happy to spend \$12 billion productively to do something about cigarette smoking and the scourge to our country.

Mr. Chairman, I do not know if you know or not, but smoking cigarettes kills more people, is a bigger health problem than addiction to all other habit-forming drugs combined. Where is the outrage? Where is the sense of proportion?

I would be happy to spend \$12 billion if it would do good, if it would reduce some of those more than 1,000 young people out of those 3,000 that will start smoking today that are going to die prematurely from smoking cigarettes.

Mr. Chairman, this amendment sends the right message. Let us vote for it.

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

Mr. FLAKE. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. McDERMOTT).

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

Mr. McDERMOTT. Mr. Chairman, there are two bases on which to go for this amendment. One is the economic one, and one is the health one.

You heard my colleague from Maryland give all the reasons on the health side, but if you look at the simple facts out of the Department of Agriculture, the price supports presently for the tobacco quota system gives the highest yield per acre, \$3,855 per acre in the year 2002. Now, that compares to corn at \$312 an acre, \$215 for soybeans and \$95 an acre for wheat.

This is not an industry that is dying. If this money were going to the little farmers, that would be one thing. But if you look at the distribution, the way this money is going out, it goes to the big people, who also get a break in

their taxes if they sell overseas. So what they are going to get out of this is cheaper production costs and cheaper taxes overseas.

And what do the American people get? Nothing. We get no regulation from FDA, we get no protection for our children, and it costs us \$9.6 billion.

Vote for the amendment.

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

Mr. FLAKE. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. DOGGETT).

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

Mr. Chairman, I rise to speak in support of this amendment and against the fleecing of the American taxpayer. At this time in our country's history, with soaring deficits, a soaring national debt, and, at the same time, a soaring understanding of the harmful consequences of tobacco, that almost everything tobacco and tobacco smoke touches is harmed, at this time the very notion that the Congress would contemplate taking \$10 billion, that is billion with a B, \$10 billion of taxpayer money and using it to set up a new welfare program for the tobacco industry would be absolutely ludicrous if it were not being seriously considered in this Congress; in fact, considered so seriously that the House has it tucked away in a piece of legislation that has already passed this body and gone to a conference committee.

That is why today's action is so important, because this is the first opportunity that the House has had an opportunity up or down to speak to the wisdom of taking \$10 billion out of the taxpayers' pocket, not to improve public health, not to reduce the deficit, not to reach out and quiet the concern of millions of mothers whose children lack health insurance or to provide assistance to millions of young people who, if they had a doubling of their Pell Grant, would be able to go to college. No, to reach out and take that \$10 billion not for any of those well-defined and worthy purposes but to take that \$10 billion and create a new welfare program.

□ 1630

Who will get the benefit of that welfare? Well, there has been a recent study of that, and we learned that 354,000 people who would be eligible for this new benefit would get about \$1,000 a year out of the program; but that two-thirds of the benefit would go to 10 percent of those who are eligible. One company in Kentucky would get \$8 million.

This is a new welfare program where all the welfare goes to the people at the top and the fellow with the beat-up pickup truck, who some have claimed here today will somehow benefit from that program, is not going to get very much at all. Who will benefit from this program before us is the big tobacco companies. Because the big tobacco

companies will now have a larger supply of tobacco; it will be grown in any State in the Nation; they will have cheaper tobacco as a result of this. And to anyone who says it is not about smoking, I would say this amendment is all about smoking. It is about smoking a \$10 billion hole in the wallet of the American taxpayer that the gentleman from Arizona (Mr. FLAKE) is speaking out against, and it is about the danger that smoking poses to millions of young people and to all of those around them as they become addicted to nicotine.

We attempted to deal with this issue in the Committee on Ways and Means and were denied any opportunity to raise the amendment. The gentleman from Arizona (Mr. FLAKE) and I offered an amendment to the Committee on Rules and were denied any opportunity to consider this. The only reason that this ludicrous welfare program has gotten to this point is through deceit; and today, this amendment attempts to break through the deceit and get at a new plan, a new entitlement program that would pull billions from the American taxpayers and do harm to American health. The gentleman from Arizona attempts to get at that program and put a stop to it once and for all, drive a stake through this very bad idea in which we get no advances in public health, no increased wealth for the Food and Drug Administration, but simply a draw on the American taxpayer.

In short, it is not a job-creation bill for any part of the country; it is a disease-creation proposal that he seeks to put a stop to.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the distinguished gentleman from North Carolina (Mr. HAYES).

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

Mr. HAYES. Mr. Chairman, I would simply say hogwash to what the previous speaker said.

I am in strong opposition to the Flake amendment. This is an amendment that would block funding from the Agriculture Department to administer a tobacco buyout. The amendment is not fair for our tobacco farmers and quota holders in North Carolina and across America.

As we all know, the House recently passed the American Jobs Creation Act, which included a tobacco buyout. The most important factor, in fact, is not a new tax or a tax increase and it is not about smoking. We are simply moving 5 cents of the existing tax per pack to pay for a buyout that is badly owed to growers and quota holders whose quotas have been badly reduced.

Mr. Chairman, when I think of a buyout, I think of the folks in the eighth and other districts like Ricky Carter, Junior Wilsa, and Ester Smith, for people who make a living with tobacco and support their families and put their children through college. If

my colleagues support this amendment, they will take away my constituents' ability to continue to do this in the future.

I ask all of my colleagues to vote against the Flake amendment, because we are getting rid of a government program and saving that money. Vote against the amendment.

Mr. FLAKE. Mr. Chairman, I yield myself the remainder of the time.

Just in closing, Mr. Chairman, I would simply say that it has been pointed out again and again here, this does not prevent a buyout. Perhaps a buyout is proper, but it should happen not with taxpayer funds, but with industry funds. So this simply protects the taxpayer.

Mr. BONILLA. Mr. Chairman, I yield 15 seconds to the gentleman from Virginia (Mr. BOUCHER).

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

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Texas for yielding, and I rise in opposition to this amendment.

Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Arizona. His amendment would seek to prohibit the use of federal funding for the purpose of compensating tobacco quota owners and active tobacco producers for their federally controlled quota. As a Member who represents several thousand tobacco farmers, I can attest that legislation providing a tobacco buyout is critically needed to provide essential relief to the nation's tobacco farmers and to the economies of the rural communities in which tobacco is grown.

Since the mid-1990's, the major cigarette manufacturers have dramatically increased the purchase of tobacco from other countries. As more tobacco has been imported into the United States, less tobacco has been purchased from American farms. As a direct result of the foreign buying practices of the nation's cigarette manufacturers, the quotas assigned to U.S. tobacco farmers, which are automatically set based upon the level of domestic demand for both burley and flue-cured tobacco, have decreased by more than 50 percent since 1997.

Consequently and as a result of circumstances entirely beyond their control, tobacco farmers have lost more than one half of their income producing opportunities, and the buyout legislation has now become necessary. The quota, an asset which is controlled by the federal government, has a substantially reduced value, and its owners and users should be compensated for that asset's value. In today's market, the federal tobacco program is not operating effectively any more, and it is appropriate that we take steps to reform this antiquated system.

In order to accomplish this, Congress should authorize substantial payments to both active tobacco farmers and inactive quota owners. Following the buyout, active tobacco farmers would continue to produce tobacco without the burden of having to enter into a lease of quota from inactive quota owners and the federal government would no longer be in the tobacco business.

Opposition to a tobacco buyout is opposition to the financial interests of the nation's to-

bacco farmers and our rural tobacco producing communities.

The tobacco buyout provisions which were passed by the House are essential for the farmers and communities in my district and throughout the tobacco producing regions of the United States. We should stand united in support of our communities and our tobacco farmers. In view of the economic harm to tobacco farmers which the reduction of the federally governed quota system has caused, it is only appropriate that the Congress provide financial compensation to these farmers, and I urge my colleagues to reject this amendment.

Mr. MEEHAN. Mr. Chairman, I rise today in strong support of the Flake-Van Hollen amendment to prevent taxpayer funds from being used to give a sweetheart deal to Big Tobacco.

The \$10 billion dollar buyout that was included in the FSC bill is paid for out of the pockets of taxpayers. It makes tobacco a legislative chit to be cashed in for an unrelated corporate tax bill rather than dealing with tobacco as it should be: as a public health issue.

If we don't act on this today, cigarette manufacturers could take the entire \$10 billion windfall as profit, or use part of it to lower prices, addicting more children and killing more Americans.

It is no surprise that the Campaign for Tobacco Free Kids and other public health groups consider the no-strings-attached bailout a complete disaster. They join us in support of this amendment.

Senator KENNEDY, HENRY WAXMAN and I have sponsored a bill that would require the FDA to regulate tobacco.

Our bill will save lives and curb youth smoking.

Yet, the buyout would have the opposite effect by increasing tobacco use at the expense of taxpayers.

The tobacco industry is already spending \$30.7 million per day to market and advertise its products, much of it aimed at kids. Should we really be in the business of providing Big Tobacco with an even cheaper product?

We need to pass this amendment to the Agriculture Appropriations bill, reject taxpayer-funded giveaways to Big Tobacco, and pass a strong FDA-Grower buyout bill that isn't funded by taxpayers.

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

The CHAIRMAN. A point of order was reserved. Does any Member wish to make that point of order?

If not, the Chair will put the question.

The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The amendment was agreed to.

AMENDMENT NO. 10 OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Ms. KAPTUR: At the end of the bill (before the short title) insert the following:

SEC. . . None of the funds made available in this Act may be used to provide credits or credit guarantees for agricultural commodities provided for use in Iraq in violation of

subsection (e) or (f) of section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622).

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from Ohio (Ms. KAPTUR) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR).

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

Mr. Chairman, the amendment I am offering today would simply restate existing law, that none of the funds available in this act can be used to provide credit for use in Iraq in violation of our agricultural trade acts. Again, it is a restatement of existing law that the Commodity Credit Corporation cannot make any credit available to any country that the Secretary determines cannot adequately service its debt.

Let us take a look at Iraq, which now owes the United States over \$4 billion. And some people may be saying, well, what does the Agriculture Department have to do with debts owed from Iraq? The facts are, going way back to the 1980s, it was through the Commodity Credit Corporation of the Department of Agriculture that the Saddam Hussein regime was financed, and the \$4 billion in which Iraq is in default falls squarely in our laps in this committee.

I do not favor the forgiveness of those debts. In fact, at the time, and this is recounted in a book called "The Spider's Web," by Alan Friedman, "The Secret History of How the White House Illegally Armed Iraq," there were statements made at the time by James Baker, among others, that these debts would be paid back through oil revenues. And what this amendment attempts to do is to say, we ought to support existing law. We should not permit the Department of Agriculture to extend credits to Iraq. It is a place in transition. There is not a normal commercial environment in which to conduct business. And it is a place still rife with corruption. Sometimes it is hard to know who is friend and who is enemy.

The real question for us, for the USDA, should be: How should normal commercial transactions be handled with Iraq?

The past is prologue. U.S. law was violated in the past when it concerned Iraq, and it was repeatedly used to implement foreign policy objectives that were not known by the vast majority of Members of this Congress or the American people themselves.

The history of U.S. transactions with Iraq has been marked by fraud, deception, manipulation, unreported loans, and outright crime. Rumor has it that the administration is considering using CCC authority again to begin to try to sell products to Iraq. We should ask ourselves, how do we get strict oversight on this potential activity and, frankly, it should not be allowed in a normal business transaction.

Here we have a chart, and this indicates who owes us the \$4 billion. If we

go back to the 1980s and 1990s, booked currently through, this is as of December of last year, it is very interesting who the American taxpayers are being asked to bail out. The Arab American Bank: they got \$394,517,000 from the taxpayers of the United States, and now Iraq wants those debts forgiven. How about the Gulf International Bank. They get \$907 million. They do not sound like a very poor institution to me. How about the National Bank of Kuwait. Why should our taxpayers give them \$297,938? Why should we not get this money back?

Now, it is interesting, there is a little bank here in Texas, First City Texas Houston Bank, they got bailed out by the taxpayers, \$95,469,000. It is sort of interesting to look at who some of the people in place were when these deals were made. How about Kenneth Lay who was on the board of directors? How about James Elkins, Jr., who was chair until 1988? How about Jeff Skilling, who was working in the risk management division of that institution? Why should the American people pay the bill for this?

This is all caught up in the policies that the Department of Agriculture did not want to implement, if we go back to the record and look; and now the American people have bailed out these banks, and Iraq wants forgiveness on this debt. Why do we not go back to the original thought, and that is, let the oil revenues pay this off? Why should we, through our accounts of the Commodity Credit Corporation and the American people, be asked to bail out some of the wealthiest institutions on the globe?

How about Morgan Guarantee Trust Company of New York? \$284,077,000. This is the record, and, of course, the big one, the Banca Nazionale Del Lavoro in Italy, \$810 million. We all know the scandal that was involved with that.

The point is, these are still claims outstanding, principle and interest in default by the nation of Iraq.

My amendment would say, we should not open commercial relations with Iraq until these debts are paid, and all we do in the amendment is to reaffirm existing law.

These are not normal circumstances in which we are dealing. There is uncertainty regarding the condition of the Iraqi economy, the ruling authorities, and a host of other issues that make additional credits risky at this time. And we should not put the taxpayers further at risk. They are already \$4 billion on the hook, having bailed out these institutions that should have paid us in the first place.

At the subcommittee level, we offered a more restrictive amendment which did not receive broad support in the committee; and so we brought back another amendment that merely restates existing law. I would ask the Members to consider my amendment to make sure that we are protected, our taxpayers are protected, and based on

the history with this country that the largest banks in the world not have their hands in the pockets of our taxpayers. So I would ask for support for the Kaptur amendment.

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

Mr. BONILLA. Mr. Chairman, I rise in opposition to the amendment, and I yield such time as she may consume to the gentlewoman from Missouri (Mrs. EMERSON).

Mrs. EMERSON. Mr. Chairman, I rise in opposition to the amendment offered by my good friend, the gentlewoman from Ohio (Ms. KAPTUR).

First of all, let me state for my colleagues that the report language in the Committee on Agriculture report simply encourages the Secretary of Agriculture to offer a GSM program to Iraq, an action that the USDA already has the statutory authority to take. Nothing in the bill or the report requires the Secretary to take any kind of action contrary to the current law.

Meanwhile, the amendment offered by the gentlewoman from Ohio (Ms. KAPTUR) would apparently place unnecessary restrictions on the USDA's use of the GSM program in Iraq.

Now, I know that the gentlewoman has argued that her amendment simply restates current law. Well, if this is the case, then the amendment is completely unnecessary. If this is not true, then the Kaptur amendment puts potential U.S. agricultural sales to Iraq in jeopardy. Jeopardizing U.S. agricultural sales to Iraq is no small matter, because it is no small matter to U.S. farmers and exporters. Almost \$3.2 billion worth of U.S. agricultural commodities were sold to Iraq under the GSM export credit guarantee programs from 1987 through 1990. This included \$579 million worth of rice, \$535 million of wheat and wheat flour, \$301 million of corn, \$257 million of soybean meal, \$169 million of sugar, \$109 million of cotton, \$61 million of dry beans, peas, lentils, and a long list of other commodities, including dairy products, eggs, leather, and lumber.

One recent analysis indicated that U.S. rice farmers alone forfeited almost \$2 billion in sales to Iraq as a result of the embargo against sales to Iraq.

□ 1645

U.S. farmers need the GSM program to be available if they are to have any kind of a realistic opportunity to recapture this key export market. The future prosperity of U.S. agriculture should not be jeopardized by debts piled up by the Saddam Hussein regime.

So, in conclusion, I want to say that I would like my colleagues to oppose this amendment, and I would like them to oppose this amendment primarily because it is redundant and it is unnecessary. Adopting this amendment that would prohibit the use of funds for the violation of one narrow provision of law implies that it is acceptable to use

the funds in the bill to violate the broad array of other laws carried out by the Department of Agriculture.

Mr. Chairman, I yield to the distinguished gentleman from Virginia (Mr. GOODLATTE), chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Chairman, I thank the gentlewoman for yielding, and I would like to join her in opposition to this amendment.

This is the amendment that says it is okay to give food to Iraq, but it is not okay to sell food to Iraq. That does not make any sense to me. This is a new Iraqi government, just started. We ought to give the discretion that the law currently allows to the Secretary of Agriculture to make these decisions and not take that away from the Department, and I would strongly oppose an amendment that would harm American farmers.

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

Ms. KAPTUR. Mr. Chairman, I yield 1¾ minutes to the fine gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I support this amendment and urge my colleagues to do the same thing. It is appropriate because, under the act, all the gentlewoman from Ohio is asking is that we comply with existing law. It would be a lot easier if we had an administration that would be more forthcoming about the way this all is being handled.

The gentlewoman from Ohio (Ms. KAPTUR) has requested information, as have others, and this administration has refused to comply with the congressional request for information regarding Iraq. During their hearings, the gentlewoman from Ohio (Ms. KAPTUR) requested basic information about credit guarantees approved for Iraq; and despite USDA's promise a year ago to coordinate with the Treasury Department to provide these records, no information has been forthcoming.

Unfortunately, this is not an isolated incident. I have faced similar difficulties in getting information from the administration about Iraq contracts. It is not just the White House. Yesterday we received some documents from the Defense Department we requested 6 months ago, but DOD still has not sent other documents requested last December.

The gentlewoman from Ohio (Ms. KAPTUR) should get the documents she has requested. She should get those documents if Congress can make informed decisions about extending agricultural credit guarantees to Iraq.

In the meantime, it is essential that the administration comply with existing law as this amendment would have them do.

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

Ms. KAPTUR. Mr. Chairman, I include for the RECORD letters pertaining to this issue.

CONGRESS OF THE UNITED STATES,

Washington, DC, July 12, 2004.

Secretary ANN W. VENEMAN,  
U.S. Department of Agriculture,  
Washington, DC.

DEAR SECRETARY VENEMAN: We are writing to request information regarding nearly \$4 billion in unpaid credits for the sale of U.S. agricultural commodities to Iraq. The Departments of Treasury and Agriculture have failed to adequately respond to previous requests for this information.

During hearings before the Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for fiscal 2004, the Foreign Agricultural Service was asked to provide copies of minutes, transcripts, and reports from the National Advisory Council on International Monetary and Financial Policies. Requests were also made for the date, the amount, and specific votes by members of the National Advisory Council for each of the Commodity Credit Corporation Program credit guarantees that were approved for Iraq.

While USDA did participate in many of these meetings, the response was that USDA did not have such records, including the names of its own personnel who may have been involved in these meetings. Instead, it was suggested that the Department of Treasury would have these records. In response to these questions, USDA made a promise a year ago that the Department would work with Treasury to obtain these records. Despite this pledge, no information has been provided. (Fiscal 2004 hearing, Part 7, page 641)

In fact, when the issue was raised again earlier this year in questions presented to Secretary Veneman, the response was the "the Department does not have any additional information." (Fiscal 2005 hearings, Part 8, page 327)

Given that the outstanding debt is nearly \$4 billion in combined principle and interest and that this debt is still carried on the books of CCC, it is very difficult to believe and harder to accept that more detailed records of how these credits were approved do not exist. This is a matter that should be resolved before any additional credit of any kind is extended to be sure that limited resources are being used in the most judicious manner.

Additionally, in response to questions presented to the Foreign Agricultural Service during hearings this year, it was suggested that an IMF debt sustainability analysis was expected by early May, a U.S. Government Country Risk Assessment was expected by early June, and a determination by the Paris Club on debt treatment was expected as soon as this month. (Fiscal 2005 hearings, Part 7, page 922) We request summaries of each of these reports as well.

We ask that you provide the requested documents as soon as possible.

Sincerely,

MARCY KAPTUR,

Ranking Member, Subcommittee on Agriculture, Committee on Appropriations.

HENRY A. WAXMAN,

Ranking Member, Committee on Government Reform.

CONGRESS OF THE UNITED STATES,

Washington, DC, July 12, 2004.

Secretary JOHN SNOW,  
U.S. Department of Treasury,  
Washington, DC.

DEAR SECRETARY SNOW: We are writing to request information regarding nearly \$4 billion in unpaid credits for the sale of U.S. ag-

ricultural commodities to Iraq. The Departments of Treasury and Agriculture have failed to adequately respond to previous requests for this information.

During hearings before the Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for fiscal 2004, the Foreign Agricultural Service was asked to provide copies of minutes, transcripts, and reports from the National Advisory Council on International Monetary and Financial Policies. Requests were also made for the date, the amount, and specific votes by members of the National Advisory Council for each of the Commodity Credit Corporation Program credit guarantees that were approved for Iraq.

While USDA did participate in many of these meetings, the response was that USDA did not have such records, including the names of its own personnel who may have been involved in these meetings. Instead, it was suggested that the Department of Treasury would have these records. In response to these questions, USDA made a promise a year ago that the Department would work with Treasury to obtain these records. Despite this pledge, no information has been provided. (Fiscal 2004 hearings, Part 7, page 641)

In fact, when the issue was raised again earlier this year in questions presented to Secretary Veneman, the response was that "the Department does not have any additional information." (Fiscal 2005 hearings, Part 8, page 327)

Given that the outstanding debt is nearly \$4 billion in combined principle and interest and that this debt is still carried on the books of CCC, it is very difficult to believe and harder to accept that more detailed records of how these credits were approved do not exist. This is a matter that should be resolved before any additional credit of any kind is extended to be sure that limited resources are being used in the most judicious manner.

Additionally, in response to questions presented to the Foreign Agricultural Service during hearings this year, it was suggested that an IMF debt sustainability analysis was expected by early May, a U.S. Government Country Risk Assessment was expected by early June, and a determination by the Paris Club on debt treatment was expected as soon as this month. (Fiscal 2005 hearings, Part 7, page 922) We request summaries of each of these reports as well.

We ask that you provide the requested documents as documents as soon as possible.

Sincerely,

MARCY KAPTUR,

Ranking Member, Subcommittee on Agriculture, Committee on Appropriations.

HENRY A. WAXMAN,

Ranking Member, Committee on Government Reform.

Ms. KAPTUR. Mr. Chairman, I yield my remaining time to the gentleman from New York (Mr. HINCHEY), a very able member of our subcommittee.

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

Mr. HINCHEY. Mr. Chairman, this amendment is important, because as we have seen in the past, particularly during the Reagan and first Bush administrations, the Commodity Credit Corporation has been manipulated by those administrations, particularly for illicit purposes.

After the gassing of the Kurds in Halabjah, for example, the administration in 1988 when that occurred took Iraq off of the list of terrorist states and arranged for them to get substantial amounts of funding in a variety of ways, and principal among those ways was through the Commodity Credit Corporation. Probably more than \$4 billion flowed to Iraq through CCC, even though the Commissioner of Agriculture objected to it on many grounds, not the least of which was that they were not likely to be repaid.

Nevertheless, the then Vice President of the United States and others in the White House intervened, and the money was sent. Commodities were sent. We are not sure where they went. Weapons were sent. And now we are confronted with a situation where people take a very sanctimonious point of view.

Saddam Hussein gassed his own people, the Kurds. Yes, he did, and in a very evil way; and 5,000 people or more were killed. What was the response of the American administration? More support through Commodity Credit Corporation, more weapons, more armaments, more chemical weapons. That was the response, and many of those people were in positions of responsibility in those administrations at the time, those same people who are complaining about that sanctimoniously today.

Yes, this is a restatement of the existing law, but obviously the law needs to be restated.

Mr. Chairman, the amendment offered by my colleague Ms. KAPTUR is very simple but also critical.

During the 1980s and early 1990s, the administrations of Ronald Reagan and George Bush sent billions of dollars in CCC funds to the regime of Saddam Hussein.

This money was sent after the United States confirmed that Saddam Hussein had used chemical weapons against the Kurds and Iranians. For example, in November of 1983, the State Department confirmed that Iraq was using chemical weapons daily in attacks against the Iranians. At the same time, \$413 million in agriculture loan guarantees were sent to Iraq. In 1984, despite Iraq's continued use of chemical weapons, the Reagan administration sent Iraq \$513 million in agriculture loan guarantees.

These funds enabled Hussein to purchase more weapons and strengthened his grip on the Iraqi people. Oftentimes, this funding was sent only after top ranking officials such as James Baker and George Bush intervened over the objections of their subordinates. An example of this occurred on October 31, 1989 when Secretary of State Baker personally intervened with the Agriculture Secretary to get him to drop opposition to \$1 billion in food credits for Iraq. The funds were subsequently sent.

These actions clearly were illegal and should never have been permitted.

Ms. KAPTUR's amendment simply restates the restrictions on CCC loans contained in current law, which were violated by previous administrations.

This is extremely prescient because many of the officials responsible for our Iraq policy

when these violations occurred are back in power in George W. Bush's administration. They could probably use the reminder.

On March 16, 1988, Iraq used mustard gas and other nerve agents against the Kurds in Halabjah, Iraq, killing an estimated 5,000 people. This is an atrocity that is used by many, including the President and members of his cabinet, as justification for invading Iraq.

Yet, these same people in both the Reagan and the first Bush administrations worked to increase aid, cooperation, trade and intelligence-sharing with Iraq after the gassing occurred after these atrocities occurred.

Secretary of State Colin Powell was Ronald Reagan's National Security Adviser when the Kurds were gassed.

Deputy Secretary of Defense Paul Wolfowitz was Under Secretary of Defense for Policy from 1989 to 1993.

National Security Adviser Condoleezza Rice was a director on the National Security Council from 1989 to 1993.

Vice President DICK CHENEY was the Republican whip in the House in 1988 and the Secretary of Defense from 1989 until 1993.

Even Majority Leader TOM DELAY voted against legislation imposing sanctions on Iraq in September of 1988 in response to the Halabja tragedy.

As far as we know, not one of them opposed the massive aid and assistance the Reagan and Bush administrations sent after the Halabja bombing.

I urge the adoption of Representative KAPTUR's amendment to prevent a repeat of the abuse that occurred under the Reagan and Bush administrations.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentlewoman from Ohio (Ms. KAPTUR).

The amendment was agreed to.

Mr. BONILLA. Mr. Chairman, I move to strike the last word and yield to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I rise to enter into a colloquy with the gentleman from Texas (Mr. BONILLA).

I rise today on behalf of the gentleman from Nebraska (Mr. OSBORNE), the gentleman from Florida (Mr. BOYD), the gentleman from Tennessee (Mr. DAVIS) and the rest of the Congressional Rural Caucus to request that as you move forward with this appropriations bill and eventually go to a conference committee with the Senate you will work with the Rural Caucus to increase appropriations for both the value-added agricultural product market development grant program and the rural broadband loan program.

Since being authorized in the 2002 farm bill, the value-added grants program has been the engine that has driven many valuable projects and local entrepreneurs across the country. Unfortunately, this program has been funded well below the \$40 million authorized level every year, resulting in lost opportunities for rural America.

Likewise, the recently created rural broadband loan program is quickly proving to be an invaluable tool to

rural communities in connecting us to broadband technology.

Without access to this technology, rural communities will continue to struggle to become fully integrated into the new economy. We hope you will support these requests as you undergo the difficult task of guiding the fiscal year 2005 Agricultural, Rural Development and Related Agencies Appropriations Bill through this process. I know that you being from the Texas heartland are very sensitive to these rural issues, and I thank you for your leadership on these important issues.

Mr. BONILLA. Mr. Chairman, reclaiming my time, I thank the gentleman for raising these two very important programs, value-added grants and rural broadband loans, which are so valuable to rural America, and I will work with the gentleman and the Rural Caucus as we move through this process. And I thank the gentleman for raising this issue.

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

AMENDMENT OFFERED BY MR. HINCHEY

Mr. HINCHEY. Mr. Chairman, I offer an amendment.

THE CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HINCHEY:

Page 59, line 4, insert after the dollar amount the following: "(increased by \$500,000)".

Page 59, line 20, insert after the dollar amount the following: "(decreased by \$500,000)".

The CHAIRMAN. Pursuant to the order of the House today, the gentleman from New York (Mr. HINCHEY) and a Member opposed each will control 10 minutes.

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

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

My amendment cuts \$500,000 from the office of the Commissioner of the Food and Drug Administration and adds that money to the FDA's Center For Drug Evaluation and Research. It is my intention that the funds should be cut from the FDA's Office of General Counsel, which is housed in the Commissioner's office, and that those funds be added to the FDA's Division of Drug Marketing, Advertising and Communication, which is located in the Center for Drug Evaluation and Research.

The mission of the Food and Drug Administration is to ensure that the public is protected from unsafe food, drugs and medical products. The FDA's Chief Counsel, however, has taken the agency in a radical new direction, and in doing so has wasted taxpayer money on pursuits that are undermining FDA's basic mission.

For the first time in history, FDA's Chief Counsel is actively soliciting private industrial company lawyers to bring him cases in which FDA can intervene in support of drug and medical device manufacturers. The cases he is

seeking out are private, State, civil litigation cases. These are cases in which the court has not asked the FDA's opinion. These are cases involving drug companies and medical device manufacturers who are being sued by people who have been harmed by their products. This has never happened before, and according to the FDA, it has spent over 622 hours on these cases.

I have also uncovered what amounts to a pattern of collusion between the FDA and the drug companies and medical device manufacturers whom the FDA is defending in State courts. Here are three such cases:

One of Mr. Troy's clients, Chief Counsel for the FDA, Mr. Troy's clients at Wiley, Rein was Pfizer, which in the 3 years prior to his appointment in the FDA paid that firm \$415,000 for services provided directly by Mr. Troy.

In July of 2002, Malcolm Wheeler, an attorney for Pfizer, called Mr. Troy, then FDA's Chief Counsel, and requested that FDA get involved in the private State lawsuit against Pfizer that was ongoing in California. Mr. Troy obliged, and in September, less than 2 months later, FDA through the Department of Justice filed a court brief in support of Pfizer.

That same July, Mr. Troy also had a meeting with Ms. Michele Corash from Morrison and Foerster. Morrison and Foerster, one of the world's largest firms, is based in California. At the time of this meeting, it was representing Glaxo Smith Kline in a private lawsuit in California that revolved around California's Proposition 65, or the Safe Drinking Water and Toxic Enforcement Act. Michelle Corash was the lead attorney in that case. On September 12, less than 2 months after that meeting, Mr. Troy's FDA filed a brief in support of Ms. Corash's client Glaxo Smith Kline.

This pattern continued in 2003. On December 12, 2003, FDA filed a statement of interest in the case of *Murphree v. Pacesetter* in support of the medical device manufacturer Pacesetter. The company was being sued in Tennessee State court for a faulty pacemaker. My office has obtained the letter to FDA dated November 5, 2003, from the law firm of Feldman, Gale and Weber directing FDA on how it should assist its case against the person whose Pacesetter did not work. The firm was representing the Pacesetter.

Another pursuit of FDA's Chief Counsel was his publishing in the *Federal Register* a notice questioning whether FDA's own regulations complied with the first amendment. This notice is troubling because it would surely be used against FDA in lawsuits.

Because of the unusual nature of this action, CRS looked for a precedent, and what it found was this: "We were not able to uncover any similar instance where a Federal agency issued a notice seeking the type of public comment on a constitutional issue and regulatory issue such as this one which was sought out by Mr. Troy."

After receiving 700 filings and spending 600 hours on this matter, the FDA decided to drop it, once again wasting taxpayer money.

But this amendment is about more than just an FDA office wasting money. FDA's Chief Counsel is taking actions to undermine FDA's ability to carry out its mission. He is shutting down avenues used to expose fraud in the drug industry. He is making it easier for drug companies to produce misleading advertisements.

Instead of spending taxpayer dollars to make it easier to defraud the public, the FDA should be protecting the public and its interests.

My amendment would add funds to FDA's Division of Drug Marketing, Advertising and Communication. This division, which consists now of only seven people, is responsible for reviewing the accuracy of prescription drug consumer-directed advertisements. Last year, these seven people reviewed 38,400 such ads. This is a 6 percent increase over the previous year.

However, despite the increase in ads reviewed, the number of enforcement letters sent by FDA to drug manufacturers for false and misleading advertisements dropped 75 percent. They are only doing 25 percent of the work that they did previously. It dropped 75 percent in 2003.

The reason for this drop was not the drug companies suddenly cleaned up their act. In fact, all public information indicates the contrary. The real reason is a conscious effort on the part of the FDA to weaken advertising regulations.

Shortly after the Bush administration took office, FDA's Chief Counsel instituted a policy that all advertising warning letters go through his office, the Office of Chief Counsel.

□ 1700

Prior to this, all letters were sent from the Division of Drug Marketing. So now that they go through the Office of Chief Counsel, we have had this 75 percent reduction in enforcement. This extra money would strengthen FDA's division for drug marketing's ability to identify misleading ads that it sends to the FDA's Chief Counsel's office. It is clear this division is overwhelmed and requires more assistance. I urge support for this amendment.

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

Mr. BONILLA. Mr. Chairman, I claim time in opposition to the amendment. I rise to say we do not have opposition to the amendment.

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

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HINCHEY). The amendment was agreed to.

AMENDMENT OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. KAPTUR:

At the end of the bill, add the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act may be used to pay the federal share of the administrative costs of any state's operation of the food stamp program that are performed outside the United States, except that the amounts otherwise provided by this Act are revised by increasing the amount made available under the heading "Food Stamp Program" by \$6,500,000 for expenses under section 16 of the Food Stamp Act.

The CHAIRMAN. Pursuant to the order of the House today, the gentlewoman from Ohio (Ms. KAPTUR) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR).

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

Mr. Chairman, this amendment prohibits the use of funds in this bill to pay for outsourcing food stamp call center jobs to foreign countries. We used to have amendments on these bills that were identified "Buy American." Today I offer one to "Hire an American."

It would basically change the behavior of the U.S. Department of Agriculture and our respective States that receive food stamp dollars and in turn are outsourcing the call center jobs associated with food stamps to Mexico and to India and to other foreign countries.

The Richmond Times Dispatch reported in March that 38 States had been exporting our jobs since 2001. Since then we have learned from the Congressional Research Service that in fact 42 States have outsourced some part of their food stamp call center operations.

Think about that. The calls relate to food stamps for people inside the United States of America. Only Illinois, Iowa, Maine, Mississippi, Montana, Ohio, Texas, and Wyoming have their call centers exclusively inside the United States. Other States are beginning to look at this issue and take action, but this deserves national attention since these are dollars that fund the food stamp programs in all of our States.

It is also ironic that the biggest account in this entire bill is the food stamp program, ringing in at \$33 billion being paid out to needy Americans. Given the complexity that some people face when trying to complete those applications or find out where there may be stores that accept electronic benefit technology, you would expect that our constituents would be able to reach someone in their own community or our States who might be better able to relate to the problems that they are facing in their own lives.

So we provide \$33 billion for food stamps to all of our States, and that is

a program that has increased 46 percent in just the last 4 years.

Many banking companies have become the intermediaries that are administering the food stamp program and end up putting those jobs in other countries. Would it not be better use of American taxpayer funds to try to hire unemployed individuals? In fact, some of those receiving food stamps who could get off these food stamps by having good jobs at these call centers.

Mr. BONILLA. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I would like to inform the gentlewoman that we have reviewed this amendment and would be happy to accept the amendment if she would like.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman so very much for that.

I would be concluding my remarks and saying with all of our veterans returning home, many of them disabled now, this is an absolutely perfect opportunity to transition them into jobs with adequate training and why should we not be using tax dollars to help our own people get jobs right here at home. I thank the chairman very much for his consideration and for the membership. This is a great victory for the American people.

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

Mr. BONILLA. Mr. Chairman, I claim time in opposition to the amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio (Ms. KAPTUR).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. KAPTUR:

Add at the end (before the short title), the following new section:

SEC. 7. The amounts otherwise provided by this Act are revised by reducing the amount made available under title I for "OFFICE OF THE CHIEF INFORMATION OFFICER" and by increasing the amounts made available under title I for "MARKETING SERVICES" under the heading "AGRICULTURAL MARKETING SERVICE" (for the Farmers Market Promotion Program and administrative expenses related to such program), by \$6,000,000 and \$6,000,000, respectively.

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from Ohio (Ms. KAPTUR) and a Member opposed will each control 10 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR).

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

Mr. Chairman, the farm bill established for the first time the Farmers Market Promotion Program to expand and promote our farmers markets

around the country, to help farmers increase their sales at roadside stands and community-supported farmers markets across this country.

My proposal would take \$6 million from the Chief Information Officer's account and put it in this program. Though authorized by the farm bill, there were no funds appropriated to this account that were in the bill that cleared the subcommittee.

What this program does, it would give additional traction to farmers who are farming especially around our large urban areas to earn money from the market place rather than from subsidy programs. It is a direct-marketing program. None of the dollars in this measure go to buildings and so forth. And it is really aimed at those farmers that are trying to hang on and earn money from the market place.

The average age of farmers in our country is now about 58 years old. This is a very small amount of money coming out of a bill that is over \$80 billion, but really it has so much effect. If you go up here just on the street on the Mall and you look at the farmers market that operates outside the U.S. Department of Agriculture, the roadside stands that exist in many of the communities in which we live, or I was talking to the gentlewoman from New York (Ms. VELÁZQUEZ) and on the Lower East Side of Manhattan this weekend, farmers were able to bring their product there and have a real opportunity to market in a very high-priced part of the United States where there is a lot of the poverty.

This program is aimed at expanding those types of efforts and connecting the farm to the town, helping our farmers move their diversified product. And many of these farmers are not on any subsidy program. They raise vegetables. They raise fruits. They process the product. They bring them to the farmers market. This would really help them to expand their ability to market.

So we just basically move funds inside the bill from the administrative account of the Chief Information Officer, and we put it over in the account that deals with this farmers market program that was established in the new farm bill.

When Secretary Veneman spoke at the opening of the USDA Farmers Market just a little more than 2 weeks ago, she talked about how farmers were gravitating to farmers markets and trying more sophisticated ways to market their products because of the difficulties that are being faced in the general market place itself as it becomes more difficult for small entrepreneurs, small business people to move their product to market. So we know that the need is great.

The 2002 Census of Agriculture showed a 37 percent increase just since 1997 in direct sales to consumers. And we know that the interest is there. We know our farmers need a lot of help in marketing. Most farmers, if you ask

them what is the worst thing they do, they say it is market simply because they spend all their time growing, all their time picking and displaying, and it is hard for them to move product to market. This is something that will make a difference immediately.

It will also help farmers avoid the slotting fees that they have to pay if they are asked to show in a supermarket. They cannot afford \$50,000 or \$25,000 to put their product right on the shelf. It gives them an alternate direct-marketing opportunity.

I would ask the Members for their support of this very worthy program, to give life to the farmers marketing program that was authorized in the new farm bill.

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

Mr. BONILLA. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) is recognized for 10 minutes.

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

Mr. Chairman, the gentlewoman has already voted to zero out the agriculture buildings and facilities account. Cutting the CIO account would result in a direct loss of Federal jobs. The amendment for farmers markets would result in an increase of \$5.2 million, or a 600 percent increase.

The minority views in this report highlight a lot of funding shortfalls; and we have been reviewing them, not just today, but since they have arrived when they were completed. Not one of the amendments that has been offered today attempts to put money in any of the programs that were highlighted in the minority views. In fact, this amendment adds money to a newly authorized program.

I oppose this amendment and I ask that all Members who care about this bill oppose it as well. This is, again, somewhat of a flailing to try to put money into this program when, again, we find it interesting that many of the views expressed by the minority on this bill, none of those were addressed but yet there is an attempt to put money into this program.

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

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

Mr. Chairman, in closing today, I would just like to ask the Members of this House to think about the communities that they represent, how many farmers markets, how many potential farmers markets, how many roadside stands could be helped by additional marketing authority. We are not taking or creating any new money here. We are just moving money from an information account to a direct-market account for farmers to put income in their pockets through direct marketing of their own product, made and grown and harvested with their own hard labor. And I am always proud to stand up on behalf of the farmers of our country and try to help them find new ways to the market.

I would urge the membership to vote in favor of the Kaptur amendment for farmers markets across this country.

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

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

Mr. Chairman, I reiterate our strong opposition to this amendment and urge a "no" vote.

Ms. SLAUGHTER. Mr. Chairman, I rise in strong support of my friend, Representative KAPTUR's amendment, the Farmers' Market Promotion Program. This amendment would make grants to cooperatives, local governments, nonprofit corporations, and other groups that will increase the number of direct producer to consumer market opportunities.

This bill is a win-win all around. Farmers will have more markets for their goods. Consumers will have access to fresh-picked produce. And cities, towns, and hamlets—any area fortunate enough to have such a market at its core—will benefit from the economic ripples that will flow through their communities.

I have seen the boon these farmers' markets bring at first hand. For many years, the Rochester Public Market in my New York district has both benefited farmers in the adjacent counties while it has become a true gathering place for all our citizens. It's just the place to go—and with good reason. Who doesn't thrill when the first local tomatoes appear, or delight in the smell of fresh basil while buying just-picked corn that will go to the dinner table the same day? And that's just from the consumer's point of view. For our Monroe County farmers, it represents a fast and dependable way to move their goods to market productively without the otherwise inevitable middlemen.

In Buffalo, I have recently spearheaded a similar project on the East Side of the city, which is in dire need of economic stimulus such as this. In April, Congresswoman KAPTUR came to the announcement of a major overhaul of the country's oldest public market, which is now in need of revitalization—the Broadway Market. She, along with New York State Agriculture Market officials, Buffalo and Erie County officials, and agriculture leaders helped brainstorm ways we can return the Market to its former glory. We want it to become the finest farmer's market in the state—and after such a fine start, I'm sure it will. The farmers of Erie, Orleans, and Niagara Counties will reap the financial harvest.

This Farmer's Market Amendment would provide \$6 million to help other communities initiate worthwhile projects like the Buffalo Market by providing the seed money necessary for them to blossom and grow. That is exactly what the Agriculture Appropriations bill should be doing across the country, and why I hope my colleagues will join me in a favorable vote.

Mr. MORAN of Virginia. Mr. Speaker, I rise in support of the KAPTUR amendment to provide a modest \$6 million in funding for the Farmers' Market Promotion Program. This program was established by the Farm Bill to make grants to cooperatives, nonprofits, local governments, economic development corporations and regional farmers' market authorities for projects to establish, expand, and promote farmers' markets, roadside stands, and community supported agriculture programs. Unfortunately, the program has never been funded.

At a time when we spend billions on programs that primarily assist large agribusinesses, Congress needs to reaffirm its commitment to help farmers most in need of assistance. This relatively small investment in the Farmers' Market Promotion Program will produce economic benefits to small farmers and local communities that far exceed the \$6 million investment we are proposing in this amendment.

Farmers' markets are essential sources of income for thousands of small farmers. They provide farmers with direct access to consumers, and, in many instances, all of the small farmer's income comes from sales at farmers' markets. In a USDA survey of 772 farmers' markets, over 6,000 farmers said they sell their products only at farmers' markets.

Mr. Chairman, consumers also benefit from farmers' markets. Consumer demand for locally grown food produced by small farmers is on the rise. For safe, nutritious food, Americans place more trust in smaller scale farms. According to a recent national consumer survey, seven in ten Americans said smaller scale family farms are more likely than large farms to use techniques that won't hurt the environment.

Farmers' markets also help promote nutrition education, wholesome eating habits, and better food preparation, as well as boost the local community's economy. Many urban communities where fresh, nutritious foods are scarce gain easy access to quality foods at fair prices.

Consumers also have the opportunity to personally interact with the farmer who grows the produce. I enjoy spending Saturdays shopping at the farmers' markets in my district and interacting with the farmers. I know many of my colleagues have similar positive experiences at markets in their district.

The sights and smells of fresh produce, a conversation with a local farmer about the weather and growing techniques—these experiences make shopping at farmers' markets such a unique and enjoyable experience.

I urge my colleagues to support the Kaptur amendment to provide a modest but important investment in the Farmers' Market Promotion Program. Let's take this opportunity to help family farmers and consumers.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Ms. KAPTUR).

The question was taken; and the Chairman announced that the yeas appeared to have it.

Ms. KAPTUR. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Ms. KAPTUR) will be postponed.

□ 1715

Mr. BONILLA. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from Illinois (Mr. LAHOOD).

Mr. LAHOOD. Mr. Chairman, I wonder if Members under the unanimous consent request had thought that their amendments were so important why they would not be here to offer them.

It seems a little odd to me that when someone actually gets their amendment into the unanimous consent request because they think they have an important issue that is so earthshaking or so dramatic or so important, and yet when the hour arrives for their amendment to be considered, they do not come and offer it, I wonder how important the amendment really is.

So I wonder if we ought to just consider having the committee rise and vote on the bill. That seems to be the appropriate thing to do.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I was simply trying to facilitate the committee's work in trying to reach agreement on language that the gentleman from Virginia on your side of the aisle indicated he wanted to see in this bill, but if the gentleman does not want to wait for us to do that then I would be happy to pass it by and move on.

Mr. LAHOOD. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Illinois.

Mr. LAHOOD. Mr. Chairman, I think, out of courtesy to the gentleman from Virginia earlier today, it would have been nice if the ranking member of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies would have had the courtesy to recognize him when he was on the floor and could not get to the microphone. There was no consideration given to his ability when he had an important matter that he wanted considered, and out of courtesy that would have been nice to have been done.

If it had been done on the other side, if a Member on your side had been treated the way that the Member was treated on our side, I am sure there would have been many, many procedural votes today. But, apparently, the ranking member on the Committee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies did not have the courtesy or the common decency to allow the Member to have his say or the right just to have his say.

I guess that is the way it is, and we see from time to time when that courtesy is not extended to your Members, all you-know-what breaks loose around here.

Mr. BONILLA. Mr. Chairman, I thank the gentleman for his remarks.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me simply say that I was informed that the gentleman from Virginia on your side of the aisle, that he was prevented from getting to the microphone by a Member of his own party. So I was not on the floor, I did not see what happened, but if the gentleman would prefer to resurrect old antagonisms rather

than to solve problems, I am perfectly happy to leave this mess exactly where it is.

Mr. LAHOOD. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Illinois.

Mr. LAHOOD. Mr. Chairman, I know that the gentleman from Wisconsin is a very fair-minded person, and had he been on the floor and recognized what was done to the gentleman from Virginia I am sure he would have persuaded the ranking member to owe him the courtesy to give him a chance to speak.

AMENDMENT NO. 12 OFFERED BY MR. TIAHRT

Mr. TIAHRT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. TIAHRT: Add at the end (before the short title) the following new section:

SEC. 7 \_\_\_\_\_. None of the funds made available by this Act may be used to pay for the official travel of employees of the Department of Agriculture whose station of duty is at the Washington D.C. headquarters of the Department until the Secretary of Agriculture certifies to Congress that the Secretary has implemented a voluntary program under which beef slaughtering establishments may acquire and use rapid screen testing kits to test beef carcasses for the presence of bovine spongiform encephalopathy.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Kansas (Mr. TIAHRT) and a Member opposed will each control 5 minutes.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. TIAHRT).

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

My amendment would restrict travel funds for USDA employees who are working in Washington, D.C., until the Secretary of Agriculture implements a voluntary program for beef slaughtering establishments to screen for BSE, bovine spongiform encephalopathy, mad cow disease as it is commonly known.

Right now, America has the safest beef in the world, and a lot of it comes from the great State of Kansas, but this is not about food safety. This is about trying to meet the demands of customers.

Creekstone Farms Premium Beef is a small packing company in Arkansas City. At that location, they employ about 750 workers who have been reduced from 5-day work weeks to 4 days because we have failed to open up markets in Japan and South Korea. The reason that has happened is because they have demanded in those markets that we have some kind of 100 percent screening. The USDA has not allowed this to occur. It is my personal view that USDA should be in the business of

setting minimum standards and not maximum standards, but because of this ban, America has lost in exports to Japan and South Korea nearly \$1 billion worth of exports.

According to the USDA, that number is approximately \$959 billion over the last 6 months. Over the year, it will be close to \$1.5 billion, maybe \$2 billion.

I just want the floor to know, Mr. Chairman, that we need to allow American processors to have the flexibility to meet the demands customers are bringing to them.

In Japan, they already have their beef labeled as BSE tested. That is all we are asking for here, is to allow that screening to go on and for it to occur. The cost would be about \$15 per head. We have already lost in exports enough to test the entire 35,000 cattle that are processed every year in America, but because we have not been able to do that, we are looking at a loss of exports, plus loss of jobs here in America.

The amount of beef that is being sold in Japan and South Korea continues, but it is being supplied by Australian and New Zealand suppliers instead of American suppliers. So what we are trying to do is open up these markets back again for American beef processors.

I also want to make a point, Mr. Chairman, that in the past, during the free market system, we have said that the customer's demands ought to be met, the customer is always right, but currently we are not seeing that allowed because of inaction by USDA.

We know that in California that auto manufacturers meet unique safety and environmental standards, and they gladly put a little higher price tag for that, but currently we are not allowing American beef processors to put a little added extra safety in and charge a little more for it for those customers who want it.

So I have this amendment that would restrict travel for headquarters Washington USDA employees until a voluntary program is allowed to move forward. This is a very simple amendment. It does not go into a great deal of detail, but it makes a very strong point that we need to allow our processors to meet the demand of their customers.

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

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Texas insist on his point of order?

Mr. BONILLA. Mr. Chairman, I will make a point of order, but I do want to point out that the gentleman raises a very important issue. It is just that it does not fit in this particular part of the bill.

I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill and, therefore, violates clause 2 of rule XXI.

The rule states in pertinent part: An amendment to a general appropriation

bill shall not be in order if changing existing law. The amendment imposes additional duties.

I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Kansas wish to be heard on the point of order?

Mr. TIAHRT. Mr. Chairman, I do realize that I am moving towards an authorization-type language on an appropriations bill, but I thought the issue was important enough that it should be brought to the floor of the House and that I should ask for a vote on it.

The CHAIRMAN. Does anyone else wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair finds that this amendment includes language requiring a new duty, and the amendment, therefore, constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the amendment is not in order.

AMENDMENT NO. 11 OFFERED BY MRS. MALONEY

Mrs. MALONEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mrs. MALONEY:

At the end of the bill, insert after the last section (preceding the short title) the following section:

SEC. 759. None of the funds made available in this Act may be used to restrict to prescription use a contraceptive that is determined to be safe and effective for use without the supervision of a practitioner licensed by law to administer prescription drugs under section 503(b) of the Federal Food, Drug, and Cosmetic Act.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from New York (Mrs. MALONEY) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mrs. MALONEY).

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

My amendment would simply require the FDA to do the job that they are supposed to be doing. If the FDA finds the drug to be safe and effective for over-the-counter use, then the FDA cannot withhold the drug from over-the-counter status for nonstatutory reasons.

Americans rely on the Food and Drug Administration to make scientific, evidence-based decisions that are in the best interests of the American public and that will help improve our health. The majority of the time this is exactly what happens. Unfortunately, a recent FDA decision on whether to grant over-the-counter status for Plan B, an emergency contraceptive pill, went against the advice of the independent, expert advisory committee and the advice of FDA staff. The decision was not science-based and was not made in the best interests of American women. Instead, it was a decision influenced by inappropriate political and ideological considerations.

The Maloney-Waxman amendment would basically say that the FDA would have to rely on science in making these decisions, and in this amendment we are with the world community. Thirty-three nations have approved the sale of emergency contraceptives for over-the-counter use, and five States in the United States have also approved it.

The American Medical Association, the American College of Gynecologists and over 70 medical and public health groups have endorsed making emergency contraceptives available for over-the-counter because they believe that they are proven to be safe to use without any medical supervision.

I would place in the RECORD 10 editorials from newspapers across the country stating that science should be the basis for making medical decisions at the FDA, not politics.

[From washingtonpost.com, May 11, 2004]

#### NEW PLANS

At first glance, the news that the Food and Drug Administration had decided to reject over-the-counter sales of the emergency contraceptive Plan B seemed dramatic. As we pointed out earlier this year, the science around this drug is not controversial. In several international studies, the drug has been shown to be safe and effective if taken within 72 hours of intercourse—hence the request of its manufacturer, Barr Laboratories, to make it available over the counter. The FDA's own scientific advisory panel unanimously approved the request, and such a move would be popular. Most of the time, Plan B acts like a birth control pill, preventing ovulation and therefore conception: The greater use of Plan B therefore means fewer abortions.

But because Plan B may also prevent fertilized eggs from being implanted in a uterus, it has attracted negative political attention. Some of the drug's political opponents, those who equate a fertilized egg with a fetus, have called it an "abortion pill" and have lobbied the FDA hard to restrict it. Both state and national legislators have spoken out against the drug, partly on those grounds and partly out of concern for its impact on underage sex, leading many to fear that the FDA would make a political rather than a scientific decision.

In fact, though the FDA has banned the drug from over-the-counter use, it left open a window for future approval. "We weren't closing the door," said Steven Galson, acting director of the FDA's Center for Drug Evaluation and Research. Indeed, if the FDA ruling is taken at face value, the only thing required of Barr is that it either conduct more studies of the drug's impact on younger women or come up with a plan to ensure that the drug is available only by prescription to girls younger than 16: According to Dr. Galson, the FDA was bothered by the paucity of data describing the impact of the drug on girls ages 14 to 16 and the absence of data on girls younger than that, some of whom might presumably try to buy the drug. The company says it is "months, rather than years" away from providing precisely such information.

The FDA is within its rights to remain cautious about a controversial drug. But if the agency wants to preserve its reputation for making decisions based on sound science, it will stick to this proposal and grant Barr the license to sell the drug as soon as the information or a suitable plan becomes available. At this point, the FDA should be given the benefit of the doubt—but not indefinitely.

[From the New York Times, May 9, 2004]

#### THE PRESIDENT AND WOMEN

The arrival of an over-the-counter morning-after pill in American drugstores has been delayed by a disappointing, politically motivated decision by the Food and Drug Administration. Wider availability of the pill would make it easier to avert unwanted pregnancies and reduce the rate of abortions. But once again, the Bush administration seems determined to make things difficult for women in America. It's ironic, since President Bush has included more women in his innermost circle of advisers than any prior chief executive. Condoleezza Rice, the administration's most prominent female presence, has presided as national security adviser while a wholesale assault has taken place on the reproductive rights and health of poor women overseas. That assault began on President Bush's first full day in office with his reimposition of the Reagan-era global "gag rule," badly hampering international family planning and the fight against sexually transmitted diseases. On the domestic side, where Karen Hughes, Mr. Bush's former communications director, is still one of the most powerful forces, the record is equally dim. A new report by the National Council for Research on Women documents many small but important steps to manipulate information to the detriment of women and trust. Ms. Hughes herself made news in one recent interview when she appeared to suggest a parallel between supporters of abortion rights and terrorists. Asked on CNN whether abortion would be an election issue, Ms. Hughes said that she sensed that "after September 11th the American people are valuing life more and realizing that we need policies to value the dignity and worth of every life." Driving home that connection, she added that "the fundamental difference between us and the terror network we fight is that we value every life."

That interview occurred as an estimated one million people were gathering peacefully in Washington to protest the administration's dismal record on reproductive freedom, medical privacy and other issues vital to women. The turnout did not deter the administration from stopping the progress of the morning-after pill, which can reduce the chance of pregnancy if taken within 72 hours after intercourse. Some social conservatives have claimed that the pill might encourage teenage promiscuity—an argument that appears to have influenced the FDA more than the agency's own expert panel, which voted 23 to 4 to make the pill available over the counter, or the support of more than 70 medical and public health organizations.

In its decision, the FDA said the pills could not be made available without a prescription until the manufacturer figures out a way to keep young girls from obtaining them, or provided additional evidence that teenagers 16 and under could understand the directions for their use. These barriers seem artificially high. There are many over-the-counter drugs that could be harmful if used in the wrong way, but were not prevented from coming to market by speculative concerns about how they might be abused by young consumers.

We appreciate Mr. Bush's willingness to create an administration with strong women. We just wish that translated into an administration that was strong on women's issues.

[From the St. Louis Post-Dispatch, May 11, 2004]

#### PLAN B. STALL

What if, instead of approving the new generation of cholesterol-lowering drugs, the government turned them down for fear they would encourage people to continue overeating? Last week, the Food and Drug Ad-

ministration used precisely that sort of tortured logic in rejecting Barr Pharmaceuticals's application to sell the so-called morning-after pill without a doctor's prescription. The high-dose birth control pill, sold under the name Plan B, can prevent pregnancy if taken within 72 hours of unprotected sex.

The FDA's Dr. Steven Galson said the company had failed to provide documentation about the drug's safety for girls 16 or younger. Dr. Galson also said that making Plan B more widely available would encourage teenagers to have unprotected sex. The question isn't whether 16-year-olds should be having sex. Of course they shouldn't; it's emotionally and physically dangerous. The question is what to do when bad judgment overwhelms good intentions. And—as teen pregnancy and sexually transmitted disease rates show with depressing clarity—that happens regularly in all age groups. Keeping Plan B from being sold over the counter won't change that. But it could give women of all ages a prompt, private and less physically and psychologically stressful option to abortion.

In December, an FDA advisory panel overwhelmingly recommended making Plan B available without a prescription. More than 70 leading medical and public health groups have endorsed that conclusion. So did the FDA staff members responsible for reviewing the findings. It's all but unheard of for the FDA to reject the conclusions of both its advisory panel and review staff.

Making Plan B more widely available would have alienated the president's conservative political base. It may be that this decision is just an election year stalling tactic. Perhaps after the election, the FDA leadership will see fit to reverse its irrational decision. In any case, it demonstrates—yet again—in what low regard the Bush administration holds women's health and reproductive freedom.

This is not the first time political considerations have trumped science in the Bush administration. Once again, it clearly shows that it is impossible to create good public health policy by subverting science for political ends.

[From Newsday, May 11, 2004]

#### MORNING-AFTER PILL: POLITICS STALL 'PLAN B'

The U.S. Food and Drug Administration's rejection of a bid to sell an emergency contraceptive, the so-called morning-after pill, over the counter, smacks of politics trumping science.

The application by Barr Pharmaceuticals Inc. to sell its "Plan B" without a prescription was "not approvable," according to the FDA, because Barr hadn't adequately documented whether consumers under age 16 could use it safely without a physician's advice. Officials said they did not bow to political pressures in making the decision.

But emergency contraception is already available without prescription in six states and 33 other countries. Despite that record, Dr. Steven Galson, acting director of the FDA's Center for Drug Evaluation and Research, overruled both his staff and an advisory panel of outside medical experts when he blocked over-the-counter sales. That's highly unusual, if not unprecedented.

Morning-after pills contain hormones used in standard birth control pills. Taken within 72 hours of unprotected intercourse, Barr says its "Plan B" reduces the risk of pregnancy by 89 percent. But it's most effective within 24 hours of intercourse, so waiting to see a doctor could pose a problem.

The FDA gave Barr two options: Provide data showing that adolescents understand how to use the pills, what they're for and the appropriate dose; or draft labeling for over-the-counter sales to women over 16 and prescription sales for those under 16. Company officials say over-the-counter availability will be delayed at least a year.

President George W. Bush has chipped away at abortion rights and imposed restrictions on U.S. funding for international family planning. Going against scientific advice to block over-the-counter sales of the morning-after pill fits the pattern.

[From the Boston Globe, May 11, 2004]

#### MORNING-AFTER ROADBLOCK

Rejecting the overwhelming opinion of its own panel of experts, an official of the Food and Drug Administration last week blocked a bid by a drug company to make its morning-after contraceptive available over the counter. This politically driven decision will almost certainly result in more unintended pregnancies and more abortions.

Barr Laboratories' Plan B, which contains high doses of one of the hormones in birth-control pills, prevents 89 percent of pregnancies if taken within 72 hours of intercourse. According to the company, it does so by interfering with ovulation or preventing fertilization. Some research has suggested that in some cases it might keep a fertilized egg from implanting in a woman's uterus. This has led many abortion opponents to oppose Plan B. Social conservatives also criticize it for, in their opinion, encouraging promiscuity.

While advocates of reproductive choice acknowledge that morning-after pills do not provide the protection condoms do against sexually transmitted diseases, they support easier access to Plan B.

Late last year, Barr's request for approval of over-the-counter sales of Plan B, which is now available by prescription, was supported 23-4 by the FDA's expert panel. Over-the-counter sales have also been backed by the FDA's own staff, by the American College of Obstetricians and Gynecologists, and other physicians' organizations. Plan B has been available in several states through pharmacists who have agreements with physicians. Normally the FDA follows the guidance of its advisory panels and staff, especially when there is a consensus. The official who disapproved over-the-counter sales, Steven Galson, acting director of the FDA's Center for Drug Evaluation, denied he made the decision for political reasons. He told Barr he disapproved the request because only 29 of the 585 women studied by the company were under age 16—too small a sample, in his opinion, to prove its safety with teenagers.

Galson has said he was concerned that easy availability of Plan B might make young women more likely to have sex without condoms, exposing themselves and their partners to diseases. Often in cases in which research provided by a drug maker is deemed by the FDA to be inadequate, the agency tells the firm its drug is "approvable" if it takes further steps. Galson, instead, chose to call Barr's plan "not approvable," which left no doubt about his position to the Bush administration's supporters among social conservatives.

In January, 60 of the nation's leading scientists criticized the Bush administration for systematically suppressing or misrepresenting science in making decisions. The Union of Concerned Scientists issued a report detailing such politicization of science. The White House denied the charge. By its action on Plan B, the administration has given the scientists new evidence to back their accusation.

[From the Philadelphia Inquirer, May 11, 2004]

#### PLAN B SCRAPPED; FACTS LOSE OUT, AGAIN

A main job of the Food and Drug Administration is to weigh the safety and reliability of drugs used by Americans, based on scientific evidence.

The agency's regrettable decision last week to deny over-the-counter status for emergency contraception pills smacks primarily of politics, not science.

The facts favor the opposite decision.

In an overwhelming vote last December, two FDA advisory panels declared that emergency contraception is safe and that these two-dose, birth-control pills should be readily available to women and adolescents desperate to prevent pregnancy after unprotected sex. The American Academy of Pediatrics, the American College of Obstetricians and Gynecologists and the American Public Health Association all agreed.

The FDA seemed poised to accept the recommendations of its expert advisers—something the agency almost always does.

Both then politics and religion intervened. Last January, 49 Republican members of Congress sent a letter to President Bush voicing concerns that over-the-counter emergency contraception—or EC as it is known—might make adolescents more promiscuous. Leading the anti-EC charge was Concerned Women for America—an organization uncomfortable with all forms of birth control pills.

Suddenly, the FDA said it needed a 90-day delay before making its EC decision and asked the EC producer, Barr Laboratories, to respond to many of the questions posed by members of Congress.

Then last week came the FDA's wrong decision: No over-the-counter status for EC—unless Barr could prove easy access to the drug was safe for adolescents under 16.

Yes, it definitely would be better if there were more data describing likely use among teens. And there is no dismissing the concerns of parents who worry about their young daughters being able to buy EC pills off the shelf.

But studies should allay those fears. They have shown women and teens who have access to EC aren't more likely to engage in unprotected sex or less likely to use disease-preventing condoms. And there is no data to suggest that availability of EC would encourage very young teens, 14 and younger, to have sex. Even with readily available condoms, the sexual activity rate in the young crowd remains, thankfully, low.

The real danger lies in denying women and older teens ready access to EC. To be effective, Barr's EC pill product—called Plan B—must be taken within 72 hours of unprotected sex to prevent unwanted pregnancy. Imagine the hurdles faced by a 30-year-old woman who must see a doctor and secure an EC prescription in that time frame. Now imagine a 16-year-old girl—perhaps the victim of date rape—trying to do that.

In its rejection letter, the FDA asked Barr to consider allowing Plan B to be offered over the counter to those 16 and older; younger teens would need a prescription.

Barr officials seem willing to consider this restriction—if that's the only way to get EC to a wider number of women. Commendably, the company seems prepared to submit another application to the FDA.

If the FDA continues to block easy access to EC—now sold over the counter in 33 countries—it will be another example of the Bush administration ignoring a scientific consensus that conflicts with its political agenda.

Bush has restricted contraception funding overseas, has attempted to deny contrac-

tion coverage for federal employees, has pumped money into abstinence-only sex education programs that deny contraceptive information to young people.

Is it any wonder, then, that an FDA under his watch has denied women easy access to a safe and very needed drug?

[From the Houston Chronicle, May 10, 2004]

#### THE MORNING AFTER/FDA CONTRIVED EXCUSE TO DENY WOMEN CONTRACEPTION

Last week, Food and Drug Administration officials decided to reject over-the-counter sales of emergency contraception medication known as morning-after pills. Their rejection represents a missed opportunity to reduce unwanted pregnancies and abortions. Worse still, the officials contrived a ludicrous argument on which to base their decision.

Basically, the regulatory agency told women they could not have convenient access to this proven, safe and reliable method of preventing unwanted pregnancy because minor girls might not be able to figure out how to use it.

In denying Barr Pharmaceuticals' application to sell its product in drugstores, the FDA ignored the recommendation of its own advisory panel of physicians, who overwhelmingly agreed last December that women could safely use the drug, Plan B, to avoid pregnancy without a doctor's supervision.

To get approval to sell the medicine without a prescription, Barr now will have to come up with a way to prevent juveniles under 16 from buying it or conduct new studies to show that they can use it safely on their own.

The FDA's position showed the agency is more inclined to bend to political pressure than to meet women's health needs. Regulators bowed to pressure from President Bush's re-election campaign and abortion opponents, who falsely liken Plan B to abortion. Other moralists worry needlessly that, despite the dearth of evidence, access to morning-after pills will promote unsafe sex and promiscuity.

In the first case, emergency contraception does not cause the abortion of a fetus; taken up to 72 hours after unprotected intercourse, it prevents the implantation of a fertilized egg in the womb or disrupts ovulation to prevent fertilization. It holds the potential to reduce the number of abortions sought because women got pregnant as a result of rape, birth control failure or simple unprotected sex.

In the second case, the United States is saturated with sexual come-ons. They are a staple of advertising, movies, television, magazines, novels, billboards, adult book stores and videos, the Internet, sports half-time shows and telephone chat services. Respectable women hold sex toy parties the way housewives of the last century got their girlfriends together to buy plastic containers. Easy access to the morning-after pill as an inducement to promiscuity would be bringing coals to Newcastle.

Incidentally, cigarettes are widely available in stores in spite of being—in contrast to safe and effective morning-after pills—addictive, carcinogenic and without any healthful function. It is illegal to sell cigarettes to anyone under 18.

Couldn't morning-after pills be safely sold to women 18 and over, preventing countless unwanted pregnancies and abortions?

[From the Seattle-Post-Intelligencer, May 10, 2004]

#### WRONG TO LIMIT CONTRACEPTION PILL

Women deserve easy access to emergency contraception pills. The Food and Drug Administration has chosen to be an obstacle to

preventing pregnancies and reducing abortions.

Politics rules. The Bush administration talks about science, but acts on pseudo-science. In refusing to allow emergency contraceptives to be sold over the counter, the FDA rejected the overwhelming recommendation of its own scientific advisory panel. The panel said tests, which included girls under 16, had shown women can use the so-called morning-after pills safely and effectively without a doctor's prescription.

Pressured by President Bush's conservative supporters, however, the FDA decided that not enough testing had been done on young girls. The FDA professed concern about putting a strong medicine on shelves within adolescents' reach. Has the agency missed that kids can already buy off-the-shelf medications, ranging from aspirin to Zantac? Of course not.

The United States might benefit from Washington state's system of making emergency contraception available without a prescription but with counseling by a pharmacist. It generally works well, although implementing it nationally certainly would run risk that pharmacists might withhold the pills in isolated areas.

The pill's maker, Barr Pharmaceuticals, says it can overcome FDS concerns, possibly within months. We hope so. Women deserve help from medical science, not politically induced evasions.

**P-I OPINION** The American Academy of Pediatrics supported making emergency contraception available over the counter. Federal bureaucrats decided they knew better.

[From the Los Angeles Times, May 8, 2004]

#### POLITICS OF CONTRACEPTION

More than 70 of the nation's leading medical and public health groups backed a proposal to let women buy emergency contraception without a prescription.

The U.S. Food and Drug Administration's own advisory panel, after reviewing 40 studies and 15,000 pages of data, overwhelmingly recommended over-the-counter status for the so-called morning-after pill.

Use of this pill would cut the number of abortions in this country—a goal President Bush ardently embraces—and millions of women who have used it by prescription since 1999 have found this drug to be safe and effective in blocking unwanted pregnancies.

And yet it's an election year, and many of Bush's supporters insist that broader availability of the pill would encourage promiscuity and unsafe sex.

So when FDA leaders overruled their own scientific advisors to reject over-the-counter sales Thursday, politics once again trumped science, despite their avowals to the contrary. The decision echoes this administration's big-footing of scientific evidence of stem cell research and environmentally safe levels of mercury and arsenic.

The agency has, however, left open a path that would let women eventually obtain this drug more easily—after the November election—and the pill's maker should pursue that opportunity.

In a letter to manufacturer Barr Laboratories, the FDA said the company had failed to prove that girls younger than 16 could safely use the drug, which it markets as Plan B, without guidance from a doctor or nurse. Until Barr can satisfy the agency that Plan B is safe for teenagers or present a plan for over-the-counter sales to older women and more restricted sales to 14- to 16-year-olds, the FDA has blocked all over-the-counter sales.

Barr says it will pursue these options, but even if it acts quickly, approval probably won't come for a year, long after November's votes are counted.

Emergency contraceptives contain a concentrated dose of the hormones found in birth control pills. Taken within 72 hours of unprotected sex, the pill prevents pregnancy by delaying ovulation, blocking fertilization and inhibiting uterine implantation. But the drug is more effective if it is taken within 24 hours rather than 72 hours.

That's why California and four other states permit pharmacists to dispense it without a prescription if women ask.

But surveys show that few pharmacies in California stock the pill and few women know to ask for it. Over-the-counter sales would give far more women access to this drug, especially on holidays and weekends. For now, however, FDA leaders have left a lot of women in a difficult, and unnecessary, spot.

Mrs. MALONEY. I am sure that the majority of this body agrees, like the expert panel and the FDA staff, that American women deserve the most safe and effective contraceptives available. Supporting this amendment is a vote in support of healthy women and evidence-based science.

A perfect example of inserting politics into science is the recent decision by the FDA to deny over-the-counter status to Plan B or the morning after pill. On December 16, 2003, a joint panel of the FDA's Reproductive Health Drugs Advisory Committee and Non-prescription Drugs Advisory Committee voted 28 to 0 that Plan B could be safely sold as an over-the-counter medication. It then voted 23 to 4 to recommend that the FDA approve the application to make Plan B available over the counter. Yet on May 6, 2004, the FDA rejected over-the-counter status for Plan B.

The Washington Post, dated June 18, 2004, reported that a top agency scientist dismissed the reasoning that was used to justify the rejection as unfounded.

Officials at FDA wrote that Acting Center Director Stephen Galson was introducing a different standard for evaluating Plan B than the FDA had applied to other contraceptives.

Politics and ideology have been allowed to influence science, endangering the reputation of the FDA and having a direct and irreversible effect on the health and well-being of thousands of women.

The Maloney-Waxman amendment ensures that the FDA will not deprive American women of safe and effective contraceptives on ideological grounds. Accepting the Maloney-Waxman amendment is a vote in favor of safe and effective contraceptives for American women, a vote in favor of scientific, evidence-based science. A vote in favor of this amendment requires the FDA to spend money on doing their job and making decisions based on science, not politics, and I am very grateful that the majority is considering accepting this amendment.

□ 1730

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

Mr. BONILLA. Mr. Chairman, I claim the time in opposition, but I am not opposed to the bill.

The CHAIRMAN. Without objection, the gentleman from Texas (Mr. BONILLA) is recognized for 10 minutes.

There was no objection.

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

Mr. Chairman, my understanding is that this amendment just says that if FDA determines a product is safe and effective for over-the-counter use, it should approve the application.

I do not know why we should single out any particular product. Every product should have to meet a set standards to be sold without a prescription. But that is current law, and I do not object to the gentlewoman's amendment, based on the wording and what the amendment actually says.

Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. I thank the gentleman for yielding me this time.

First, I want to thank my friend for clarifying that the pending amendment is simply a restatement of current law. I appreciate the fact that he has made that very clear.

I want to make a point so that we are also clear about the FDA's decision concerning Plan B. Dr. Stephen Galson, the acting director for FDA's Center For Drug Evaluation and Research, stated in a letter that based on science and safety concerns, Plan B will not be sold over-the-counter and this is his quote: "Based on the review of the data, we have concluded that you (Barr Research Inc) have not provided adequate data to support a conclusion that Plan B can be used safely for young adolescent women."

He also goes on to point out that "only 29 of the 585 subjects enrolled in the study were 14 to 16 years of age, and none were under the age of 14." So based on science and safety concerns, the recommendation was made that Plan B should not be approved for over-the-counter sales.

So this restatement of current law does not add nor detract from things as they are.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume to thank the gentleman for his comments.

Mr. CROWLEY. Mr. Chairman, I rise in support of this amendment.

Earlier this year, the FDA denied an application to approve an emergency contraceptive, Plan B, for over-the-counter use. Yet the evidence suggests the FDA made the wrong decision. EC can reduce the risk of pregnancy by as much as 89 percent, which—in turn—reduces the number of abortions.

It is estimated that greater use of EC could halve the number of unintended pregnancies. EC does not cause abortion.

One of the goals of Healthy People 2010, a publication from the Office of the Surgeon General, is to increase the proportion of health care providers who provide EC to their patients.

The American Medical Association and American College of Obstetricians and Gynecologists endorse greater access to EC, even

to the point of having dedicated emergency contraceptive products available without a prescription. Moreover, the FDA's own expert advisory panel reviewed the evidence and found Plan B to be effective and safe. The expert panel found Plan B to meet the requirements to receive over-the-counter status.

So why are we here discussing this? Because this past spring the FDA put politics above sound policy. Karl Rove and his right wing agenda won again and the people who are going to suffer are the women of my district and the women throughout this country. By not approving the sale of emergency contraception, marketed as Plan B over the counter, countless women may find themselves struggling to adapt to unplanned pregnancies.

The New York Times recently highlighted a young woman from the Bronx who is facing many of the issues that people in Washington like to talk about.

Jasmine, born in the Bronx, is struggling to understand reproductive health issues in the context of her high school, her boyfriend, her family, and her life. The story goes on to describe very real efforts to make a relationship work with her boyfriend Alberto.

Information is not always easy to come by. And good intentions are not always sufficient. But this young woman does not need rhetoric as she tried to navigate complex relationships, work, school, and her own health. She needs information and access to things like emergency contraception. Girls and women like her often find themselves torn between two choices—to have a baby, or to have an abortion.

Why not provide them with another choice—the choice to use Emergency Contraception, available over the counter at local drug stores, to prevent the pregnancy in the first place.

We have seen how in New York City alone, the availability of birth control and counseling at local high schools and targeted to young women has dramatically reduced the number of women having unintended pregnancies.

Why is the FDA holding up something that makes common sense, something that any woman in America can use by calling their physician? This isn't about making emergency contraception legal, it already is. This is about making emergency contraception available.

I urge an vote for the women of America. I urge an "aye" vote on the Maloney/Waxman amendment.

Mr. DAVIS of Illinois. Mr. Chairman, I rise today in support of the Waxman/Maloney amendment. I am here today to speak on behalf of women's health and the integrity of the American regulatory process.

As a nation, we rely on the FDA to make decisions based on clear scientific evidence that have the best interests of the community in mind. Unfortunately, recently, the FDA's decision not to allow Emergency Contraceptive Pills, Plan B, to be available over the counter went against the opinion of the independent expert panel and FDA staff. Additionally, over 70 organizations including the American Medical Association and the American College of Obstetricians and Gynecologists support over-the-counter access to Emergency Contraceptive Pills. We must reassure the American People, that the FDA's decisions are based in scientific evidence and made with their best interests in mind. American women must be able to trust the FDA to make the best decisions possible with respect to their health.

Emergency Contraceptive Pills, Plan B, are too often associated with abortion. These pills do not abort a fetus. They prevent a pregnancy from occurring in exactly the same way as other methods of birth control do and are 95 percent effective if taken within 24 hours. Physicians and other experts have indicated, in fact, that the availability of these pills over the counter would lead to a 50 percent decrease in abortion and unintended pregnancies. This could lead to 800,000 fewer abortions and 1.7 million fewer unintended pregnancies. This medicine could lead to a decrease in teen pregnancy. In Chicago alone, more than 7,500 babies are born to teen moms every year, 88 percent of which are out of wedlock. The availability of Plan B over-the-counter could decrease this by at least 50 percent.

Mr. Chairman, unintended pregnancy is so closely linked to other critical social issues: child poverty, out-of-wedlock birth, a well-trained and ready workforce and the encouragement of strong American families. We must do what we can do decrease the number of unintended pregnancies, and in the case of Emergency Contraceptive Pills we have the opportunity and the scientific backing.

Mr. Chairman, I strongly support this amendment and urge all my colleagues to vote based on science and evidence and not politics.

Mr. WAXMAN. Mr. Chairman, I rise in support of the amendment. The issue before us is the process by which the FDA decides whether to make Plan B, a form of emergency contraception, available over the counter. Plan B has long been considered a safe and effective prescription method of emergency contraception. Earlier this year the FDA's expert advisory committee and its scientific staff both concluded that it was safe and effective for use over the counter, as have several other countries. It was therefore with grave concern that I learned that the FDA decided to reject the scientific recommendations of its staff and expert committee and refused to grant over-the-counter status for Plan B. Instead of science, the over-riding basis for the FDA's decision appeared to be the Bush administration's desire to cater to its right-wing base in an election year.

The FDA has a long and respected tradition of making decisions on the basis of science. FDA's drug approval process is admired and emulated around the world for this very reason: its decisions have always been based on the best available evidence. America's health and the industries the FDA regulates have thrived under this system.

I am concerned not only because improperly withholding emergency contraception will result in countless unnecessary abortions and unwanted pregnancies. I am concerned because public health agencies like the FDA run tremendous risks when they allow an ideological agenda to subvert science. They run those risks with their own credibility, with the credibility of the products they regulate, and ultimately with the lives of the American people. An FDA motivated by politics instead of science is bad for America's health.

The Bush administration has repeatedly shown its willingness to distort science to suit political ends, from suppressing the science on global warming, to censoring websites about sex education, to appointing unqualified individuals with lead industry ties to expert ad-

visory committees on lead poisoning of children. Let's send them a strong message today: decisions as important to the public health as the availability of emergency contraception must be based on science, not ideology. Anything less is unacceptable.

Mr. SHAYS. Mr. Chairman, I rise in support of the Maloney amendment to H.R. 4766.

If the FDA finds a drug to be safe and effective for over-the-counter use, it should not go on to withhold the drug from over-the-counter use for any other reason. Not for political reasons. Not for ideological reasons.

This amendment states that once a determination of safety and effectiveness is made, the FDA can't deny a product's approval for over-the-counter status for reasons other than safety and effectiveness.

On May 6, the Food and Drug Administration, FDA, turned down Barr Laboratories' application for Plan B emergency contraception to be distributed over the counter.

I was disappointed the FDA went against the advice of the FDA's own expert panel, which in December recommended unrestricted over-the-counter access by a vote of 23 to 4.

A drug is considered acceptable for over-the-counter status if it has low-toxicity, has no potential for overdose or addiction, isn't harmful to an existing pregnancy, does not require medical screening, is self-identifiable, has a uniform dosage and if there are no important drug interactions. Emergency Contraception, EC, was found to meet every single criterion.

That is why, along with 40 of my colleagues, including the gentlelady from New York, I sent a letter to the Acting Commissioner of the FDA, Dr. Lester Crawford, asking him to reconsider the determination on the status of the application to make Emergency Contraception available over the counter.

We have not yet received a response.

The FDA should only make decisions based on science, not politics and ideology. The decision was made despite the significant need for access to emergency contraception.

The fact is, our children are having children. Approximately 82 percent of teen pregnancies are unintended and more than half of these end in abortion.

Expanded access to emergency contraception will decrease the risk of unintended pregnancy and decrease the number of abortions.

I would like to see abortion remain safe and legal, yet rare, which is why I urge my colleagues to support this amendment.

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

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

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Mrs. MALONEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OBEY:

Add at the end (before the short title), the following new section:

Sec. . None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information

technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer: *Provided further*, That the report described in the second proviso under the heading "OFFICE OF THE CHIEF FINANCIAL OFFICER" shall also be submitted to the Committee on Government Reform of the House of Representatives.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. OBEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. BONILLA. Mr. Chairman, we have not seen the amendment, so at this time I reserve a point of order.

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

Earlier in the day we had a dispute erupt between the authorizing committee and the Committee on Appropriations with respect to one language provision in this bill from last year's bill. Subsequent to that, we had another dispute manifest itself with respect to new language in this bill. As a result of that altercation, we had two sections of the bill which were stricken on points of order.

After that occurred, I discussed the episode with the gentleman from Virginia, the chairman of the subcommittee from the authorizing committee, which had objected to our committee's initial actions. The gentleman told me that what he was trying to get at was simply to make certain that in the provision that was carried in last year's bill that the authorizing committee would also receive notice before the agency could proceed to outsource or to contract for certain jobs outside of the agency itself.

This amendment is simply an effort to reinstate the language as I understand the gentleman from Virginia wanted it, and to also insert the language originally inserted in this bill by the Committee on Appropriations which would prevent the agency from transferring certain funds that the committee had indicated should not be transferred.

This is a simple effort on the part of one Member of the minority party to defend the institutional prerogatives of the Congress. And if the majority wants to accept it, that is fine with me. If they do not want to accept it, I could not care less.

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

Mr. BONILLA. Mr. Chairman, I claim the time in opposition; however, I want to emphasize that the amendment that the gentleman from Wisconsin is offering today has been reviewed and cleared, and I am prepared to move on and accept it. So I withdraw the point of order earlier raised.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The amendment was agreed to.

Mr. BAIRD. Mr. Chairman, I have an amendment at the desk, although I am not sure it is at the desk.

The CHAIRMAN. Would the gentleman submit his amendment to the desk.

Mr. BAIRD. Mr. Chairman, I think they are bringing it, but I am not sure of the status.

Mr. BONILLA. Mr. Chairman, as we have not had a chance to review this amendment, I would like to reserve a point of order on this amendment.

Mr. BAIRD. And my understanding is that it may be ruled out of order; but if I may, I would like to speak to it, Mr. Chairman.

The CHAIRMAN. The gentleman must submit his amendment to the desk in order for it to be considered. Does the gentleman have an amendment?

Mr. BAIRD. Mr. Chairman, I think it is being brought to the floor. If I might ask the gentleman if we could bring it back up in a few moments, I would appreciate it. My understanding was it had been submitted. Apparently, somehow, it did not get here.

The CHAIRMAN. If the gentleman from Washington would offer an amendment, the Clerk would designate it and consideration would proceed under the order of the House.

Mr. BONILLA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would inform the gentleman that, to our knowledge, this is the last amendment; and we are a little bit stumped as to why we would not have a copy of the amendment here. We are concluding a major appropriation bill.

Mr. BAIRD. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Washington to discuss this issue.

Mr. BAIRD. Mr. Chairman, I thank the gentleman for yielding to me. It was my understanding the amendment was here, and I apologize for the confusion.

Mr. Chairman, it was my intent to withdraw the amendment, but I wanted to rise today to discuss a program fraught with waste. It was created with noble intentions but is poorly constructed and implemented, and as a result has facilitated, I think, abuse of an otherwise well-intentioned program. I am referring to the Livestock Compensation Program, which provides Federal funds to compensate livestock producers for financial losses stemming from natural disasters.

I strongly support the intentions of the LCP, and I applaud the Secretary of Agriculture for creating the program. However, when it was created in 2002, it was designed to provide payments to compensate for drought dam-

ages, and then Congress expanded the program in 2003 to provide payments for all natural disasters.

Congress only authorized the program until 2003; and, consequently, the LCP is currently dormant. However, we can be assured that the Secretary and Congress would likely be pressured to reauthorize the program during the next significant disaster, which is, unfortunately, an inevitability.

While I support the intentions of the LCP, the authorizing legislation and accompanying regulations contained a massive loophole. Essentially, it was this: the LCP did not require eligible parties to demonstrate any actual loss to receive Federal assistance. As a consequence, ranchers who resided in regions affected by natural disasters, but whose property was completely unaffected, were able to march down to the local FSA, provide documentation simply that they owned livestock, and receive a check for as much as \$40,000. They did not have to demonstrate that their farm or ranch had been harmed; neither did they have to demonstrate that their livestock had been harmed. Apparently, FSA simply wrote checks without asking the relatively simple question: What sort of damages did you sustain?

To this day, we have no idea how much money was wasted because the government failed to ask this question. We do know, however, that the program distributed a total of \$1.1 billion, including \$234 million for disasters other than drought.

We asked the USDA Inspector General to investigate the program; and, indeed, they suggested it was in need of reform. That is why I am calling this to the attention of this committee. I believe we ought to address this.

My understanding is that the amendment was likely to be ruled out of order, and I do have now available a copy of the amendment, so that I would have had to withdraw it. But I would ask this committee to consider this. This is a program that may have been well intentioned, but has been abused. If it is extended further, we need to make sure that money only goes to people who have suffered livestock loss.

We talk a lot about waste, fraud, and abuse in this Congress. Here is a clear-cut case of waste. I do not think it is intentional fraud, but it is clearly waste and possibly abuse, and so I think we should address it.

Mr. Chairman, I thank the gentleman for his indulgence, and I submit for the RECORD a copy of the amendment I had intended to offer.

AMENDMENT TO H.R. 4766, AS REPORTED OFFERED BY MR. BAIRD OF WASHINGTON

Page 79, after line 16, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 759. None of the funds appropriated by this Act may be used to make payments pursuant to the Livestock Compensation Program to persons who do not incur a financial loss resulting from the natural disaster with respect to which such payments are otherwise available.

Mr. BONILLA. Reclaiming my time, Mr. Chairman, I thank the gentleman for his comments; and in closing, I would just urge all Members on the upcoming votes on the three amendments to vote "no," and "yes" on final passage.

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

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 8 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: the amendment offered by the gentleman from California (Mr. BACA), amendment offered by the gentleman from Colorado (Mr. TANCREDO), amendment No. 7 offered by the gentleman from Ohio (Mr. CHABOT), and the amendment offered by the gentlewoman from Ohio (Ms. KAPTUR).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. BACA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. BACA) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 209, not voting 19, as follows:

[Roll No. 366]

AYES—205

Abercrombie	Cramer	Gutierrez
Ackerman	Crowley	Harman
Alexander	Cummings	Hastings (FL)
Allen	Davis (AL)	Herseth
Andrews	Davis (CA)	Hill
Baca	Davis (FL)	Hinchev
Baird	Davis (IL)	Hinojosa
Baldwin	Davis (TN)	Hoefel
Bass	DeFazio	Holden
Becerra	DeGette	Holt
Bell	Delahunt	Honda
Berkley	DeLauro	Hooley (OR)
Berman	Dicks	Hoyer
Berry	Dingell	Insee
Bishop (GA)	Doggett	Israel
Bishop (NY)	Doolley (CA)	Jackson (IL)
Blumenauer	Doyle	Jefferson
Boswell	Edwards	John
Boyd	Ehlers	Johnson, E. B.
Bradley (NH)	Emanuel	Kanjorski
Brady (PA)	Engel	Kaptur
Brown (OH)	Eshoo	Kennedy (RI)
Brown, Corrine	Etheridge	Kildee
Burns	Evans	Kilpatrick
Capps	Farr	Kind
Capuano	Fattah	Kucinich
Cardin	Filner	Lampson
Cardoza	Forbes	Langevin
Carson (OK)	Ford	Lantos
Case	Frank (MA)	Larson (CT)
Chandler	Frost	Leach
Clay	Gephardt	Levin
Clyburn	Gonzalez	Lewis (GA)
Conyers	Gordon	Lipinski
Cooper	Green (TX)	Lofgren
Costello	Grijalva	Lowey

Lucas (KY)	Ortiz	Shays
Lynch	Owens	Sherman
Maloney	Pallone	Skelton
Markey	Pascrell	Slaughter
Marshall	Paster	Smith (WA)
Matheson	Payne	Snyder
Matsui	Pelosi	Solis
McCarthy (MO)	Peterson (MN)	Spratt
McCarthy (NY)	Pomeroy	Stenholm
McCollum	Porter	Strickland
McDermott	Price (NC)	Stupak
McGovern	Rahall	Tanner
McIntyre	Rangel	Tauscher
McNulty	Reyes	Thompson (CA)
Meehan	Rodriguez	Thompson (MS)
Meek (FL)	Rogers (AL)	Tierney
Meeks (NY)	Ross	Towns
Menendez	Rothman	Turner (TX)
Michaud	Roybal-Allard	Turner (CO)
Millender-	Ruppersberger	Udall (OR)
McDonald	Rush	Udall (NM)
Miller (NC)	Ryan (OH)	Van Hollen
Miller, George	Sabo	Velazquez
Mollohan	Sánchez, Linda	Visclosky
Moore	T.	Waters
Moran (VA)	Sanchez, Loretta	Watson
Murtha	Sanders	Watt
Nadler	Sandlin	Waxman
Napolitano	Schakowsky	Weiner
Neal (MA)	Schiff	Weller
Oberstar	Scott (GA)	Wexler
Obey	Scott (VA)	Wilson (NM)
Oliver	Serrano	Wu
		Wynn

NOES—209

Aderholt	Franks (AZ)	Miller, Gary
Akin	Frelinghuysen	Moran (KS)
Bachus	Gallely	Murphy
Baker	Garrett (NJ)	Musgrave
Ballenger	Gerlach	Myrick
Barrett (SC)	Gibbons	Nethercutt
Bartlett (MD)	Gilchrest	Neugebauer
Barton (TX)	Gillmor	Ney
Beauprez	Gingrey	Northup
Biggett	Goode	Norwood
Bilirakis	Goodlatte	Nunes
Bishop (UT)	Goss	Nussle
Blackburn	Granger	Osborne
Blunt	Graves	Ose
Boehlert	Green (WI)	Otter
Boehner	Greenwood	Oxley
Bonilla	Hall	Paul
Bonner	Harris	Pearce
Bono	Hart	Pence
Boozman	Hastings (WA)	Peterson (PA)
Boucher	Hayes	Petri
Brady (TX)	Hayworth	Pickering
Brown (SC)	Hefley	Pitts
Brown-Waite,	Hensarling	Platts
Ginny	Herger	Pombo
Burgess	Hobson	Portman
Burr	Hoekstra	Pryce (OH)
Burton (IN)	Hostettler	Putnam
Buyer	Hulshof	Quinn
Calvert	Hunter	Radanovich
Camp	Hyde	Ramstad
Cannon	Issa	Regula
Cantor	Jenkins	Rehberg
Capito	Johnson (CT)	Renzi
Carter	Johnson (IL)	Reynolds
Castle	Johnson, Sam	Rogers (KY)
Chabot	Jones (NC)	Rogers (MI)
Choccola	Keller	Rohrabacher
Coble	Kelly	Ros-Lehtinen
Cox	Kennedy (MN)	Royce
Crane	King (IA)	Ryan (WI)
Crenshaw	King (NY)	Ryun (KS)
Cubin	Kingston	Schrock
Culberson	Kirk	Sensenbrenner
Cunningham	Kline	Sessions
Davis, Jo Ann	Knollenberg	Shadegg
Davis, Tom	Kolbe	Shaw
Deal (GA)	LaHood	Sherwood
DeLay	Latham	Shimkus
DeMint	LaTourrette	Shuster
Diaz-Balart, L.	Lewis (CA)	Simmons
Diaz-Balart, M.	Lewis (KY)	Simpson
Doolittle	Linder	Smith (MI)
Dreier	LoBiondo	Smith (NJ)
Duncan	Lucas (OK)	Smith (TX)
Dunn	Manzullo	Souder
Emerson	McCotter	Stearns
English	McCrery	Sullivan
Everett	McHugh	Sweeney
Feeney	McInnis	Tancredo
Ferguson	McKeon	Tauzin
Flake	Mica	Taylor (MS)
Foley	Miller (FL)	Taylor (NC)
Fossella	Miller (MI)	Terry

Thomas	Upton	Whitfield
Thornberry	Walden (OR)	Wicker
Tiahrt	Walsh	Wilson (SC)
Tiberi	Wamp	Wolf
Toomey	Weldon (FL)	Young (AK)
Turner (OH)	Weldon (PA)	Young (FL)

NOT VOTING—19

Bereuter	Isakson	Lee
Carson (IN)	Istook	Majette
Cole	Jackson-Lee	Saxton
Collins	(TX)	Stark
Deutsch	Jones (OH)	Vitter
Gutknecht	Klecza	Woolsey
Houghton	Larsen (WA)	

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. QUINN) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1808

Mr. BERRY changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TANCREDO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 156, noes 262, not voting 15, as follows:

[Roll No. 367]

AYES—156

Aderholt	Davis, Jo Ann	Hoekstra
Akin	Deal (GA)	Hooley (OR)
Bachus	DeFazio	Hostettler
Baker	DeLay	Hunter
Barrett (SC)	DeMint	Johnson (CT)
Bartlett (MD)	Doolittle	Johnson, Sam
Bass	Duncan	Jones (NC)
Beauprez	Dunn	Keller
Bilirakis	English	Kelly
Blackburn	Everett	Kennedy (MN)
Boozman	Feeney	King (IA)
Boyd	Flake	Kingston
Bradley (NH)	Foley	Kline
Brady (TX)	Forbes	Kolbe
Brown (SC)	Fossella	Lewis (KY)
Brown-Waite,	Franks (AZ)	Linder
Ginny	Gallely	Lucas (OK)
Burgess	Garrett (NJ)	Manzullo
Burns	Gibbons	Matheson
Burton (IN)	Gillmor	McCotter
Buyer	Gingrey	McCrery
Camp	Goode	McHugh
Cantor	Goodlatte	McInnis
Capito	Gordon	McKeon
Carson (OK)	Goss	Mica
Carter	Graves	Miller (FL)
Chabot	Green (WI)	Miller (MI)
Choccola	Greenwood	Miller, Gary
Coble	Harris	Moran (KS)
Cox	Hart	Murphy
Cramer	Hastings (WA)	Musgrave
Crane	Hayes	Myrick
Crenshaw	Hayworth	Nethercutt
Cubin	Hefley	Neugebauer
Culberson	Hensarling	Northup
Cunningham	Herger	Norwood

Ose  
Otter  
Paul  
Pence  
Peterson (PA)  
Petri  
Pickering  
Pitts  
Platts  
Pombo  
Putnam  
Quinn  
Ramstad  
Rehberg  
Renzi  
Rogers (AL)  
Rogers (KY)

Rogers (MI)  
Rohrabacher  
Royce  
Ryan (WI)  
Ryan (KS)  
Schrock  
Sensenbrenner  
Sessions  
Shadegg  
Shays  
Shimkus  
Shuster  
Simmons  
Simpson  
Smith (MI)  
Smith (TX)  
Souder

Stearns  
Sullivan  
Sweeney  
Tancredo  
Taylor (MS)  
Taylor (NC)  
Terry  
Tiberi  
Toomey  
Upton  
Walden (OR)  
Wamp  
Weldon (FL)  
Wicker  
Wilson (SC)

Turner (OH)  
Turner (TX)  
Udall (CO)  
Udall (NM)  
Van Hollen  
Velazquez  
Visclosky  
Walsh

Bereuter  
Carson (IN)  
Collins  
Deutsch  
Gutknecht  
Houghton

Waters  
Watson  
Watt  
Waxman  
Weiner  
Weldon (PA)  
Weller  
Wexler

Isakson  
Istook  
Jackson-Lee (TX)  
Jones (OH)  
Larsen (WA)

Whitfield  
Wilson (NM)  
Wolf  
Woolsey  
Wu  
Wynn  
Young (AK)  
Young (FL)

Lee  
Majette  
Saxton  
Vitter

Boozman  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Brady (TX)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Burns  
Burr  
Buyer  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Capps  
Capuano  
Cardin  
Cardoza  
Carson (OK)  
Case  
Chandler  
Chocola  
Clay  
Clyburn  
Coble  
Cole  
Conyers  
Cooper  
Costello  
Cramer  
Crane  
Crenshaw  
Crowley  
Cubin  
Cummings  
Cunningham  
Davis (AL)  
Davis (FL)  
Davis (IL)  
Davis (TN)  
Davis, Tom  
Deal (GA)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Dooley (CA)  
Doolittle  
Doyle  
Dreier  
Dunn  
Edwards  
Emanuel  
Emerson  
Engel  
English  
Eshoo  
Etheridge  
Evans  
Everett  
Farr  
Fattah  
Filner  
Foley  
Forbes  
Ford  
Frank (MA)  
Frost  
Gallegly  
Gephardt  
Gerlach  
Gillmore  
Gingrey  
Gonzalez  
Goode  
Goodlatte  
Gordon  
Goss  
Granger  
Graves  
Green (TX)  
Green (WI)  
Greenwood  
Grijalva  
Gutierrez  
Hall  
Harman  
Harris  
Hart  
Hastings (FL)

Hastings (WA)  
Hayes  
Herger  
Hersteth  
Hill  
Hinchev  
Hinojosa  
Hobson  
Hoeffel  
Holden  
Holt  
Honda  
Hoolley (OR)  
Hoyer  
Hulshof  
Hunter  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jefferson  
Jenkins  
John  
Johnson (CT)  
Johnson (IL)  
Johnson, Sam  
Jones (NC)  
Jones (OH)  
Kanjorski  
Kaptur  
Keller  
Kelly  
Kennedy (MN)  
Kennedy (RI)  
Kildee  
Kilpatrick  
Kind  
King (NY)  
Kingston  
Kleczka  
Kline  
Knollenberg  
Kolbe  
Kucinich  
LaHood  
Lampson  
Langevin  
Lantos  
Larson (CT)  
Latham  
LaTourette  
Leach  
Levin  
Lewis (CA)  
Lewis (GA)  
Lewis (KY)  
Lipinski  
Lofgren  
Lowey  
Lucas (KY)  
Lucas (VA)  
Lucas (OK)  
Lynch  
Maloney  
Markey  
Marshall  
Matheson  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCotter  
McCreery  
McDermott  
McGovern  
McHugh  
McIntyre  
McKeon  
McNulty  
Meehan  
Meek (FL)  
Meeks (NY)  
Menendez  
Mica  
Michaud  
Millender  
McDonald  
Miller (MI)  
Miller (NC)  
Miller, George  
Mollohan  
Moore  
Moran (KS)  
Moran (VA)  
Murphy  
Murtha  
Nadler  
Neal (MA)  
Nethercutt  
Neugebauer

Ney  
Northup  
Norwood  
Nunes  
Nussle  
Oberstar  
Obey  
Olver  
Ortiz  
Osborne  
Ose  
Otter  
Owens  
Oxley  
Pallone  
Pastor  
Payne  
Pearce  
Pelosi  
Peterson (MN)  
Peterson (PA)  
Pickering  
Platts  
Pombo  
Pomeroy  
Porter  
Price (NC)  
Pryce (OH)  
Putnam  
Quinn  
Radanovich  
Rahall  
Rangel  
Regula  
Rehberg  
Reyes  
Reynolds  
Rodriguez  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Ros-Lehtinen  
Ross  
Rothman  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Ryun (KS)  
Sabo  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sanders  
Sandlin  
Schiff  
Schrock  
Scott (GA)  
Scott (VA)  
Serrano  
Sessions  
Shaw  
Sherman  
Sherwood  
Shimkus  
Simmons  
Simpson  
Skelton  
Slaughter  
Smith (TX)  
Smith (WA)  
Snyder  
Solis  
Souder  
Spratt  
Stark  
Stearns  
Stenholm  
Strickland  
Stupak  
Sullivan  
Sweeney  
Tanner  
Tauscher  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Terry  
Thomas  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Tiahrt  
Tierney  
Towns  
Turner (OH)  
Turner (TX)

NOT VOTING—15

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1816

Mr. BOYD changed his vote from “no” to “aye.”

So the amendment was rejected. The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. CHABOT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. CHABOT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 72, noes 347, not voting 14, as follows:

[Roll No. 368]

AYES—72

Abercrombie  
Ackerman  
Alexander  
Allen  
Andrews  
Baca  
Baird  
Baldwin  
Ballenger  
Barton (TX)  
Becerra  
Bell  
Berkley  
Berman  
Berry  
Biggart  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blumenauer  
Blunt  
Boehrlert  
Boehner  
Bonilla  
Bonner  
Bono  
Boswell  
Boucher  
Brady (PA)  
Brown (OH)  
Brown, Corrine  
Burr  
Calvert  
Cannon  
Capps  
Capuano  
Cardin  
Cardoza  
Case  
Castle  
Chandler  
Clay  
Clyburn  
Cole  
Conyers  
Cooper  
Costello  
Crowley  
Cummings  
Davis (AL)  
Davis (CA)  
Davis (FL)  
Davis (IL)  
Davis (TN)  
Davis, Tom  
DeGette  
Delahunt  
DeLauro  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Dooley (CA)  
Doyle  
Dreier  
Edwards  
Ehlers  
Emanuel  
Emerson  
Engel  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Ferguson  
Filner  
Ford  
Frank (MA)

Frelinghuysen  
Frost  
Gephardt  
Gerlach  
Gilchrest  
Gonzalez  
Granger  
Green (TX)  
Grijalva  
Gutierrez  
Hall  
Harman  
Hastings (FL)  
Hersteth  
Hill  
Hinojosa  
Hobson  
Hoeffel  
Holden  
Holt  
Honda  
Hoyer  
Hulshof  
Hyde  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jefferson  
Jenkins  
John  
Johnson (IL)  
Johnson, E. B.  
Kanjorski  
Kaptur  
Kennedy (RI)  
Kildee  
Kilpatrick  
Kind  
King (NY)  
Kirk  
Kleczka  
Knollenberg  
Kucinich  
LaHood  
Lampson  
Langevin  
Lantos  
Larson (CT)  
Latham  
LaTourette  
Leach  
Levin  
Lewis (CA)  
Lewis (GA)  
Lipinski  
LoBiondo  
Lofgren  
Lowey  
Lucas (KY)  
Lynch  
Maloney  
Markey  
Marshall  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McColum  
McDermott  
McGovern  
McIntyre  
McNulty  
Meehan  
Meek (FL)  
Meeks (NY)  
Menendez  
Mica  
Michaud  
Millender  
McDonald

Miller (NC)  
Miller, George  
Mollohan  
Moran (VA)  
Murphy  
Murtha  
Nadler  
Neal (MA)  
Nethercutt  
Neugebauer  
Ney  
Northup  
Norwood  
Nunes  
Nussle  
Oberstar  
Obey  
Olver  
Ortiz  
Osborne  
Ose  
Otter  
Owens  
Oxley  
Pallone  
Pastor  
Payne  
Pearce  
Pelosi  
Peterson (MN)  
Peterson (PA)  
Pickering  
Platts  
Pombo  
Pomeroy  
Porter  
Price (NC)  
Pryce (OH)  
Putnam  
Quinn  
Radanovich  
Rahall  
Rangel  
Regula  
Reyes  
Reynolds  
Rodriguez  
Ros-Lehtinen  
Ross  
Rothman  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Ryun (KS)  
Sabo  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sanders  
Sandlin  
Schakowsky  
Schiff  
Scott (GA)  
Scott (VA)  
Serrano  
Shaw  
Sherman  
Sherwood  
Skelton  
Slaughter  
Smith (NJ)  
Smith (WA)  
Snyder  
Solis  
Souder  
Spratt  
Stark  
Stearns  
Stenholm  
Strickland  
Stupak  
Sullivan  
Sweeney  
Tanner  
Tauscher  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Terry  
Thomas  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Tiahrt  
Tierney  
Towns  
Turner (OH)  
Turner (TX)

Andrews  
Bachus  
Barrett (SC)  
Bartlett (MD)  
Bass  
Berkley  
Bradley (NH)  
Brown (OH)  
Burgess  
Burton (IN)  
Carter  
Castle  
Chabot  
Cox  
Culberson  
Davis (CA)  
Davis, Jo Ann  
DeLay  
DeMint  
Doggett  
Duncan  
Ehlers  
Feeney  
Ferguson

Flake  
Fossella  
Franks (AZ)  
Frelinghuysen  
Garrett (NJ)  
Gibbons  
Hayworth  
Hefley  
Hensarling  
Hoekstra  
Hostettler  
Hyde  
King (IA)  
Kirk  
Linder  
LoBiondo  
Manzullo  
McCollum  
McInnis  
Miller (FL)  
Miller, Gary  
Musgrave  
Myrick  
Napolitano

Pascrell  
Paul  
Pence  
Petri  
Pitts  
Portman  
Ramstad  
Rohrabacher  
Royce  
Schakowsky  
Sensenbrenner  
Shadegg  
Shays  
Shuster  
Smith (MI)  
Smith (NJ)  
Tancredo  
Tiberi  
Toomey  
Udall (CO)  
Van Hollen  
Wamp  
Waxman  
Wilson (SC)

NOES—347

Abercrombie  
Ackerman  
Aderholt  
Akin  
Alexander  
Allen  
Baca  
Baird  
Baker  
Baldwin

Ballenger  
Barton (TX)  
Beauprez  
Becerra  
Bell  
Berman  
Berry  
Biggart  
Bilirakis  
Bishop (GA)

Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Boehrlert  
Boehner  
Bonilla  
Bonner  
Bono

Udall (NM)	Watt	Wilson (NM)
Upton	Weiner	Wolf
Velázquez	Weldon (FL)	Woolsey
Visclosky	Weldon (PA)	Wu
Walden (OR)	Weller	Wynn
Walsh	Wexler	Young (AK)
Waters	Whitfield	Young (FL)
Watson	Wicker	

## NOT VOTING—14

Bereuter	Houghton	Larsen (WA)
Carson (IN)	Isakson	Lee
Collins	Istook	Majette
Deutsch	Jackson-Lee	Saxton
Gutknecht	(TX)	Vitter

## ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). The Chair reminds Members there are 2 minutes left in this vote.

□ 1825

Mr. BURTON of Indiana, Mr. WAXMAN and Mrs. DAVIS of California changed their vote from “no” to “aye.”

Mr. KUCINICH changed his vote from “aye” to “no.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

## AMENDMENT OFFERED BY MS. KAPTUR

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Ohio (Ms. KAPTUR) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 206, noes 213, not voting 14, as follows:

[Roll No. 369]

## AYES—206

Abercrombie	Costello	Gordon
Ackerman	Cramer	Green (TX)
Alexander	Crowley	Green (WI)
Allen	Cummings	Greenwood
Andrews	Davis (AL)	Grijalva
Baca	Davis (CA)	Gutierrez
Baird	Davis (FL)	Harman
Baldwin	Davis (IL)	Hastings (FL)
Becerra	Davis (TN)	Hastings (WA)
Bell	DeFazio	Herseth
Berkley	DeGette	Hill
Berman	Delahunt	Hinchee
Bishop (GA)	DeLauro	Hinojosa
Bishop (NY)	Dicks	Hoeffel
Blumenauer	Dingell	Holden
Boswell	Doggett	Holt
Boucher	Dooley (CA)	Honda
Boyd	Doyle	Hooley (OR)
Brady (PA)	Edwards	Hoyer
Brown (OH)	Emanuel	Hulshof
Brown, Corrine	Engel	Inslie
Capps	Eshoo	Israel
Capuano	Etheridge	Jackson (IL)
Cardin	Evans	Jefferson
Cardoza	Farr	Johnson, E. B.
Carson (OK)	Fattah	Jones (OH)
Case	Filmer	Kanjorski
Chandler	Ford	Kaptur
Clay	Frank (MA)	Kelly
Clyburn	Frost	Kennedy (RI)
Conyers	Gephardt	Kildee
Cooper	Gonzalez	Kilpatrick

Kind	Moran (VA)	Scott (GA)
Kleczka	Murtha	Scott (VA)
Kucinich	Nadler	Serrano
Lampson	Napolitano	Sherman
Langevin	Neal (MA)	Skelton
Lantos	Oberstar	Slaughter
Larson (CT)	Obey	Smith (WA)
Leach	Oliver	Snyder
Levin	Ortiz	Solis
Lewis (GA)	Owens	Spratt
Lipinski	Pallone	Stark
Lofgren	Pascarell	Stenholm
Lowey	Pastor	Strickland
Lucas (KY)	Payne	Stupak
Lynch	Pelosi	Tanner
Maloney	Peterson (MN)	Tauscher
Markey	Petri	Taylor (MS)
Marshall	Platts	Thompson (CA)
Matheson	Pomeroy	Thompson (MS)
Matsui	Price (NC)	Tierney
McCarthy (MO)	Rahall	Towns
McCarthy (NY)	Rangel	Turner (TX)
McCollum	Reyes	Udall (CO)
McDermott	Rodriguez	Udall (NM)
McGovern	Ross	Van Hollen
McIntyre	Rothman	Velázquez
McNulty	Roybal-Allard	Visclosky
Meehan	Ruppersberger	Waters
Meek (FL)	Rush	Watson
Meeks (NY)	Ryan (OH)	Watt
Menendez	Sabo	Waxman
Michaud	Sánchez, Linda T.	Weiner
Millender-McDonald	Sanchez, Loretta	Wexler
Miller (NC)	Sanders	Woolsey
Miller, George	Sandlin	Wu
Mollohan	Schakowsky	Wynn
Moore	Schiff	

## NOES—213

Aderholt	Dunn	Linder
Akin	Ehlers	LoBiondo
Bachus	Emerson	Lucas (OK)
Baker	English	Manzullo
Ballenger	Everett	McCotter
Barrett (SC)	Feeney	McCrery
Bartlett (MD)	Ferguson	McHugh
Barton (TX)	Flake	McInnis
Bass	Foley	McKeon
Beauprez	Forbes	Mica
Berry	Fossella	Miller (FL)
Biggart	Franks (AZ)	Miller (MI)
Bilirakis	Frelinghuysen	Miller, Gary
Bishop (UT)	Gallegly	Moran (KS)
Blackburn	Garrett (NJ)	Murphy
Blunt	Gerlach	Musgrave
Boehlert	Gibbons	Myrick
Boehner	Gilchrest	Nethercutt
Bonilla	Gillmor	Neugebauer
Bonner	Gingrey	Ney
Bono	Goode	Northup
Boozman	Goodlatte	Norwood
Bradley (NH)	Goss	Nunes
Brady (TX)	Granger	Nussle
Brown (SC)	Graves	Osborne
Brown-Waite,	Hall	Ose
Ginny	Harris	Otter
Burgess	Hart	Oxley
Burns	Hayes	Paul
Burr	Hayworth	Pearce
Burton (IN)	Hefley	Pence
Buyer	Hensarling	Peterson (PA)
Calvert	Herger	Pickering
Camp	Hobson	Pitts
Cannon	Hoekstra	Pombo
Cantor	Hostettler	Porter
Capito	Hunter	Portman
Carter	Hyde	Pryce (OH)
Castle	Issa	Putnam
Chabot	Jenkins	Quinn
Chocoma	John	Radanovich
Coble	Johnson (CT)	Ramstad
Cole	Johnson (IL)	Regula
Cox	Johnson, Sam	Rehberg
Crane	Jones (NC)	Renzi
Crenshaw	Keller	Reynolds
Cubin	Kennedy (MN)	Rogers (AL)
Culberson	King (IA)	Rogers (KY)
Cunningham	King (NY)	Rogers (MI)
Davis, Jo Ann	Kingston	Rohrabacher
Davis, Tom	Kirk	Ros-Lehtinen
Deal (GA)	Kline	Royce
DeLay	Knollenberg	Ryan (WI)
DeMint	Kolbe	Ryun (KS)
Diaz-Balart, L.	LaHood	Schrock
Diaz-Balart, M.	Latham	Sensenbrenner
Doolittle	LaTourette	Sessions
Dreier	Lewis (CA)	Shadegg
Duncan	Lewis (KY)	Shaw

Shays	Tancredo	Wamp
Sherwood	Tauzin	Weldon (FL)
Shimkus	Taylor (NC)	Weldon (PA)
Shuster	Terry	Weller
Simmons	Thomas	Whitfield
Simpson	Thornberry	Wicker
Smith (MI)	Tiahrt	Wilson (NM)
Smith (NJ)	Tiberi	Wilson (SC)
Smith (TX)	Toomey	Wolf
Souder	Turner (OH)	Young (AK)
Stearns	Upton	Young (FL)
Sullivan	Walden (OR)	
Sweeney	Walsh	

## NOT VOTING—14

Bereuter	Houghton	Larsen (WA)
Carson (IN)	Isakson	Lee
Collins	Istook	Majette
Deutsch	Jackson-Lee	Saxton
Gutknecht	(TX)	Vitter

## ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1833

Mr. BASS changed his vote from “aye” to “no.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. COLLINS. Mr. Chairman, I was not present for debate on the Legislative Branch Appropriations for Fiscal Year 2005—H.R. 4755—rollcall vote 359, amendment offered by HOLT to establish a Center for Science and Technology Assessment; rollcall vote 360, amendment offered by HEFLEY to provide a 1 percent reduction in discretionary funding; rollcall vote 361, a motion to recommit; rollcall vote 362, final passage of H.R. 4755.

Additionally, I was not present for debate on these amendments to the Agricultural Appropriations for Fiscal Year 2005—H.R. 4766—rollcall vote 363, an amendment offered by HOOLEY; rollcall vote 364, an amendment offered by WEINER; rollcall vote 365, a motion to close the DOD conference; rollcall vote 366, an amendment offered by BACA; rollcall vote 367, an amendment offered by TANCREDO; rollcall vote 368, an amendment offered by CHABOT; and rollcall vote 369, an amendment offered by KAPTUR.

Had I been present, I would have voted “yea” for rollcall votes 360, 362, 363, 365, and 367.

I would have voted “nay” on rollcall votes 359, 361, 364, 366, 368, and 369.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this will not take a great deal of time. I yield to the very distinguished 12-year Member of this institution, the gentleman from Chicago, Illinois (Mr. RUSH) for a very brief colloquy.

Mr. RUSH. Mr. Chairman, I thank the gentlewoman for yielding, and I rise to enter into a colloquy with my dear colleague, the gentlewoman from Ohio (Ms. KAPTUR).

Madam Ranking Member, due to the issues of education, migration, and disinformation, many African Americans have lost real property once in their possession or in the possession of their families because of fraudulent

practices by dishonest and unscrupulous people. As my colleague knows, many African American families migrated to the North and left their land behind with the understanding that they still retained ownership to their property. However, what occurred and what is still occurring is a blatant land grab among some in the South, thereby robbing many African American families of their ownership rights.

Madam Ranking Member, today, African Americans residing inside and outside of Southern States may still have legal claims to these lands. There is a group of law students who are working on a program called ROSA, Reclaiming Ownership of Southern Assets, that is helping African American families reclaim their stolen land. And Madam Ranking Member, I sincerely hope that the Federal Government can also join in this effort to help right a wrong.

It is for this reason that I would respectfully request that the Office of Civil Rights within the Department of Agriculture research this issue and provide technical assistance to these families who have been illegally deprived of their property. This is an urgent matter. It is a very, very important matter; and I respectfully ask that the gentlewoman from Ohio (Ms. KAPTUR) take this issue to the conference committee and champion this cause along with the law students who are involved in this program called ROSA, Reclaiming Ownership of Southern Assets.

Ms. KAPTUR. Mr. Chairman, reclaiming my time, I thank my distinguished colleague from Chicago, Illinois and all of the Members at the end of a very long day for having the courtesy to listen to him and these serious concerns. We certainly will take this to conference, and we will not forget that the gentleman from Illinois (Mr. RUSH) was the one who reminded us to do it.

Mr. SMITH of Michigan. Mr. Chairman, I rise to make the point that under the current law, there are no limits for government price support payments to farmers using commodity certificates.

If commodity certificates and loan forfeitures would have been included under the payment cap limit like in the Senate version of the 2002 farm bill, the CBO has estimated we would save \$118 million in FY 05 alone—\$118 million—that could be used for some other very worthy initiatives in this agriculture appropriation bill or larger supports for family farmers.

We all have heard the news reports about large corporate farms receiving millions of dollars in government payments through the use of generic commodity certificates. Generic certificates do not benefit average family farmers but allow the largest farmers to receive unlimited payments. It is not good public relations for agriculture or our next farm bill.

Under our current system, when the \$75,000 limit is reached, producers can continue to receive unlimited price support benefits through loan forfeitures and generic commodity certificates. Generic commodity certificates are in practice the same thing as marketing loan gains, yet they are not included under the payment limitations.

Thus, generic commodity certificates are essentially loopholes allowing large farming operations to exceed the payment limits. Should it be the objective of federal farm policy to provide virtually unlimited price support to large farming operations?

To add insult to injury, in a May 2003 article published in Tax Notes, it shows that gains from commodity certificates are not reported to the Internal Revenue Service.

Reading some of the comments following the USDA's Payment Limit Commission Report from last fall, it seems important to stress the fact that a few large farmers utilizing generic commodity certificates are avoiding payment limits.

While the Commission indicated that no changes should be made to payment limits until the next farm bill, we need to seriously consider where our agricultural appropriations money is going. Should the Federal Government be paying over 50 percent of the gross income for certain commodities?

It is often argued that cooperatives need to use these commodity certificates as a marketing tool and that the money is spread over numerous producers. This argument dodges the real issue, however, that generic certificates provide a loophole for large producers in the cooperatives to collect unlimited dollars in federal subsidies above and beyond the so-called payment limits.

Even within such co-ops, individual farm production records can be used to enforce compliance if this loophole were closed. As you may know a majority of the Senate and the House voted to instruct conferees to have "real" payment limits. Unfortunately, the conferees did not follow through. The next farm bill is at risk of overly severe limits if continued abuse is evident.

The CBO projected savings of \$118 million for FY05 and nearly a half billion dollars during the 5 years of our current farm bill.

That money could be used to fund the National Research Initiative, NRI, which is a national grant-based agricultural research program for our public and private scientists. The NRI was authorized in 1994 at \$500 million per year, but has received less than \$200 million every year since its inception. This kind of research can allow our farmers to be more productive and efficient, being less dependent on Federal farm programs.

The NRI has provided the agriculture community with valuable research such as sequencing the rice genome, disease resistance in soybeans, and improved management practices for livestock and crop producers.

Supporters of payment limits argue that large or unlimited payments benefit large farms, facilitate consolidation into larger units, raise the price of land, and put smaller, family-sized, or beginning farming operations at a competitive disadvantage.

Critics of payment limits counter that all farms are in need of support, especially when market prices decline, and that larger farms should not be penalized for the economies of size they have achieved.

Although the effect of payment limits can vary, affected farms are usually relatively large. Cotton and rice farms are affected more frequently because they tend to be larger and their subsidy value per acre is relatively high. Cotton and rice farms are also the largest users of commodity certificates in the marketing loan program, an important fact for payment limits.

Under the 2002 farm bill, producers receive three types of commodity payments that are subject to limits: direct payments, counter-cyclical payment, and marketing loan payments. With respect to payment limits, direct and counter-cyclical payments are relatively straightforward since they are direct transfers made in cash. Marketing loans, however, are more complicated.

The marketing loan program has four mechanisms to provide benefits when market prices are below loan rates: (1) loan deficiency payment (LDP)—a direct payment instead of a loan; (2) marketing loan gain (MLG)—repaying a loan at a lower market price (posted county price, or average world price for cotton or rice); (3) "commodity certificates"—purchased at the posted county price to repay the loan; similar to a MLG but without payment limits; and (4) forfeiting the collateral (commodity) and keeping the cash.

The 2002 farm bill retains annual limits on selected commodity program payments. It creates a prohibition on payments to persons or entities with adjusted gross income exceeding \$2.5 million—unless 75 percent or more comes from farming.

The annual limit per person is \$40,000 for direct payments, \$65,000 for counter-cyclical payments, and \$75,000 for marketing loan gains and loan deficiency payments. However, because commodity certificates and forfeiture of commodities are not subject to any limits, the limit on MLGs and LDPs simply becomes the point at which the farmer shifts to commodity certificates. So, as a practical matter, the marketing loan program is not limited.

Mr. Chairman, again I want to reiterate the pro-farmer, practical need to close the payment limit loophole. Without putting constraints on the benefits earned through marketing certificates and loan forfeitures, the annual per person payment limit on the marketing loan program is not a true limit on federal payments to large farmers with budgets that must be restrained the challenge of writing the next farm bill that will keep American agriculture strong will be a huge task.

Mr. BLUMENAUER. Mr. Chairman, while H.R. 4766, the fiscal year 2005 Agriculture Appropriations bill, is far from perfect, I vote in support of this bill that contains key programs for Oregon and important amendments that made this a better bill.

I am pleased that my amendment to designate \$1.2 million of the funds within the Office of Inspector General to be used to enforce animal fighting laws passed, reflecting Congress' continuing attention to the inhumane, cruel, and economically devastating problem of animal fighting. I was also pleased to see the passage of Representative HOOLEY's amendment that increases funding for programs to eradicate Sudden Oak Death, a serious plant disease that threatens a nursery industry responsible for \$700 million of annual production in Oregon and \$14 billion nationally.

I am disappointed to see the failure of an amendment offered by Ranking Member KAPTUR that would increase funding for Farmers Markets. I would hope the committee can work to improve funding for these programs that connect local farmers with their communities. I am also deeply dissatisfied in the funding levels for conservation programs that were a key component to the passage of the 2002 farm bill. Continual funding cuts to these programs have shown that these commitments

were, in actuality, empty promises. I will continue to work to strengthen funding for these programs that help farmers, and improve the environment and our communities.

Mr. VITTER. Mr. Chairman, today I rise in strong support of H.R. 4766, the Agriculture Appropriations Act for FY2005.

Agriculture is vital to not only the local economy in my home State of Louisiana but also to the culture and to way of life of many communities. Ag industries give Louisiana billions of dollars in economic impact and provide for hundreds of thousands of jobs. This bill funds many of the important programs and research that will help keep Louisiana's and our Nation's Ag sector profitable and vibrant.

This bill will fund a number of specific items of benefit to Louisiana. I am pleased that these important items were included by the Appropriations Committee, and, as a member of the committee, I will continue to push for these important items to be included as we go to conference with the Senate.

Some of these items include provisions to help solve specific needs in Louisiana, such as dairy waste remediation and an unexplained disease in rice crops. To help the sugar industry, there is funding to upgrade a sugar research station in southeast Louisiana.

The bill also provides for a number of research initiatives, such as ongoing work to solve the Formosan termite infestation in Louisiana and important research funding that will benefit many of the different industries—from aquaculture to forestry, and many others—across the State.

Also, this bill funds many different rural development programs and includes provisions to provide for needs in a number of communities across Louisiana that can use rural development assistance to solve waste water problems, make improvements on drinking water systems, deal with storm runoff, and other needs.

Finally, there are provisions that direct the FDA to continue efforts to benefit Louisiana's seafood industry. Particularly, funding continues for the FDA to educate Americans on oyster consumption. And, to help deal with shrimp imports that contain chemicals harmful to humans, language has been included directing the FDA to test more shrimp to catch these chemicals so that . . .

These are just a few examples of how this bill will benefit Louisiana and our Nation. I thank Chairman BONILLA for crafting such a good bill, and I urge all members to support it.

Mr. STENHOLM. Mr. Chairman, I rise in strong support of H.R. 4766.

Mr. Chairman, once again the chairman and ranking minority member of the Agriculture Appropriations Subcommittee have done an excellent job under very tight constraints. The bill is well balanced and will allow the Agriculture Department, the CFTC, and other related agencies to carry out their various important functions.

Mr. Chairman, the cap on this bill binds very tightly. It represents a near hard freeze and, as a result, the Appropriations Committee had to cut into mandatory funding.

I was very proud of the work that the Agriculture Committee and this House did in developing the 2002 farm bill, and for me it was a great honor to be involved in its development. In a very forward-looking way, it addressed farm income, but it also made substantial investments in research, so that Amer-

ican agricultural technology can continue to lead the world; in conservation, so that our natural resources will continue to be available for generations to come; in rural development, so that our rural areas could make technology improvements and provide basic services; and in preserving our nutrition programs that protect the needy.

But because of this Congress' failure to take a similar, forward-looking approach to government debt, this appropriations bill cuts the funding for the reforms and investments that were so strongly supported in this House. The FY 2004 Agriculture Appropriations bill made substantial cuts in farm bill programs of over \$650 million, and this year's bill goes farther still to the tune of \$1.26 billion.

I find it somewhat disingenuous for the leadership of this House to profess their commitment to agriculture and the progress made in the farm bill—even leading members of their own party to believe that the farm bill will not be opened—and then attacking the farm bill in this back door approach. Whether we open the farm bill and cut agriculture because of reconciliation instructions or because of appropriations constraints, the end result still takes us to the same place—breaking our commitments to farmers and ranchers, to our commitments to conservation of our environment and protection of wildlife, and to the improvement of our rural economy. What is even a bigger shame is the fact that when you slowly dismantle the farm bill in this fashion, without the benefit of an overarching budget agreement, you still don't achieve a lower deficit/balanced budget.

I have said before and I repeat it again, agriculture is always willing to do its fair share for fiscal sanity. However, when we willy-nilly cut agriculture without regard to a bigger plan I have severe reservations.

Mr. Chairman, you can't blame the Appropriations Committee for this condition. They have worked on a bipartisan basis to provide the best bill possible in a bad situation. Amazingly, we are considering this bill without the benefit of even having a budget in place; our deficit in May reached \$347 billion—well on its way to \$500 billion before the current fiscal year ends.

But in order to meet the cap, this bill cuts these mandatory farm bill programs: Key research in the Initiative for Future Agriculture and Food Systems; small watershed rehabilitation; the Rural Strategic Investment Program; rural broadband and local rural television initiatives; funding for rural firefighters; the Wetlands Reserve Program; the EQIP program; the Conservation Security Program; the Wildlife Habitat Incentives Program; the Farmland Protection Program; and the Renewable Energy Systems Program.

Mr. Chairman, the farm bill—which was developed in a very inclusive and bipartisan manner—has been working very well. But our current fiscal policies—which are being developed without that kind of commonsense bipartisanship—are causing the piece-by-piece dismantling of the farm bill. I hope that the leaders of this House will soon reach across the aisle so that we can work together toward a common solution.

Mr. Chairman, earlier this year, the U.S. Forest Service grounded 33 of their heavy airtankers that were used to support firefighting program. Although a few of these planes have been cleared for service in this

fire season, we must work to develop long-term plans for the U.S. Forest Services' aerial firefighting program. I would like to work with the members of the Appropriations Committee in the future to help fund research and development of adequate aircraft to support our country's forest firefighting program.

Mr. Chairman, once again I commend Appropriations Committee members on both sides for their work on this important bill and I urge my colleagues to support its passage.

Mr. NUSSLE. Mr. Chairman, I rise to speak on H.R. 4766, the Agricultural Appropriations bill for fiscal year 2005.

H.R. 4766 provides \$16.8 billion in budget authority and \$18.0 billion annually in outlays—a decrease of \$875 million in BA and \$181 million in outlays from fiscal year 2004.

As chairman of the House Budget Committee, I am pleased to report that the bill is consistent with the conference report on the Concurrent Resolution on the Budget for fiscal year 2005—H. Con. Res. 95—which recently passed the full House but has yet to pass the Senate. The bill comes in at its 302(b) allocation for fiscal year 2005 and therefore complies with section 302(f) of the budget resolution, which limits appropriations measures to the allocation of the reporting subcommittee.

H.R. 4766 continues the practice on Agriculture Appropriations bills of changing mandatory programs to generate savings to offset discretionary spending. This year's bill contains nearly \$1.3 billion in such changes to mandatory programs under the subcommittee's jurisdiction.

Let me conclude by commending Chairman BONILLA and Ranking Member KAPTUR for a job well done in prioritizing the programs within their jurisdiction and coming to the floor with a bill that complies with this year's budget resolution.

Mr. RUSH. Mr. Chairman, I rise to revise and extend my remarks. I would like to thank the chairwoman for her leadership today.

Madam Chairwoman, due to issues of education, migration and disinformation, many African Americans have lost real property once in their possession or in the possession of their families because of fraudulent practices by dishonest and unscrupulous people. As you know, many African-American families migrated to the North and left their land behind with the understanding that they still retained ownership to their property. However, what occurred and what is still occurring is a blatant "land grab" among some in the southern States thereby robbing many African-American families of their ownership rights.

Madam Chairwoman, today African-Americans residing inside and outside of southern States may still have legal claims to these lands. There is a group of law students who are working on a program called ROSA (reclaiming ownership of southern assets) that is helping African-American families reclaim their stolen land. I hope that the Federal Government can also join in their effort to help right a wrong.

It is for this reason that I would like to respectfully request that the Office of Civil Rights within the Department of Agriculture research this issue and provide technical assistance to these families that have been illegally deprived of their property.

Mr. SOUDER. Mr. Chairman, I will not offer an amendment today with respect to the Food and Drug Administration, but I do want to put

on the record my disappointment with the agency with respect to issues of concern to the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, which I chair.

The first matter concerns the reluctance of the FDA to exercise its responsibilities to protect the health of Americans from specious medical claims made about marijuana. In recent years, a large and well-funded pro-drug movement has succeeded in convincing many Americans that marijuana is a true "medicine," to be used in treating a wide variety of illnesses. Unable to change the federal laws, however, these pro-drug activists turned to the state referendum process, and succeeded in passing a number of "medical marijuana" initiatives. This has set up a direct conflict between federal and state law on whether or not smoked marijuana is "medicine."

State laws purporting to legalize marijuana for medical purposes bypass these important safeguards. California and Oregon have adopted the most wide-reaching such laws. They allow anyone to use, possess, and even grow his own marijuana, provided he obtains the written "recommendation" of a doctor. Few, if any, restrictions are placed on what conditions marijuana may be used to treat; virtually no restrictions are placed on the content, potency or purity of such "medical" marijuana.

The laws adopted in California, Oregon, and other States are extremely open-ended; California law even allows marijuana to be used for migraine headaches. This has led to a number of uses of marijuana as "medicine" that I believe to be highly questionable. For example, Dr. Phillip Leveque, has personally written recommendations for over 4,000 people to use marijuana, many of whom he never met. A witness who testified before my Subcommittee, Dr. Claudia Jensen, has recommended that teenagers use marijuana for the treatment of psychiatric conditions like attention deficit disorder (ADD). We do not allow patients to grow their own opium poppies to make painkillers like morphine, Oxycontin and even heroin with just a "doctor's recommendation." We do not allow people to manufacture their own psychiatric drugs like Prozac or Xanax to treat headaches.

Why, then, should we authorize people to "grow their own" marijuana, when the potential for abuse is high and there is little or no scientific evidence that it can actually treat all of these illnesses and conditions? Why should we abandon the regulatory process that ensures that drugs are manufactured at the right potency level and contaminant-free? Why should we stop the oversight that makes sure that drugs are being administered in the right dosage and in the safest manner? Where has the FDA been in the debate on medical claims concerning an unapproved drug? It is absent from the debate, deferring to other law enforcement agencies. Why? The debate that is taking place concerns FDA's core competency: is smoked marijuana medicine or not? FDA's feeble response to this direct challenge to its authority is to provide a link to the National Institute on Drug Abuse on its website.

"Medical" marijuana referenda are a direct assault on nearly a century of food and drug law, and FDA needs to rise to its own defense. I ask unanimous consent that a letter to President Bush from Arthur T. Dean, Chairman and CEO of the Community Anti-Drug

Coalitions of America, be inserted in the record concerning this important point.

While FDA is almost negligent with respect to marijuana, it is nearly usurpatory with respect to on-site drug testing. Once again, the FDA is seeking to impose overly restrictive guidance on the manufacturers and consumers of on-site drug tests, an ill-conceived effort that runs directly counter to the President's initiative to increase the availability of student drug testing.

Many schools also use these tests to deter student drug use. In his State of the Union Address, President Bush stated that student drug testing is an effective deterrent to drug use. Hunterdon Central High School in New Jersey is a model school that has used on-site drug and alcohol tests for over six years without problems. The New Jersey Supreme Court has upheld the program. The FDA's regulation of on-site tests will make them expensive and difficult to use and may cause Hunterdon and other schools to forgo the use of this valuable tool to deter drug use from our children.

The FDA has proposed requiring an expensive and repetitive approval process for the testing kits and has proposed requiring onerous training and other requirements. One of the key studies cited by FDA as supporting the rationale behind promulgating its proposed guidance has been misinterpreted and has not been peer-reviewed. I urge the FDA to reconsider this proposal in light of its damaging effect on the Bush administration's priorities for protecting the health and safety of young people.

Additionally, I am concerned that FDA is not using the best and latest science to alert consumers to the risks in using products regulated by the agency. For example, studies have consistently demonstrated that condom use does not provide effective protection against infection with human papillomavirus (HPV). HPV is a sexually transmitted disease that causes nearly all cervical cancers. By way of comparison, nearly the same number of American women dies every year as a result of HPV/cervical cancer as do of HIV/AIDS. Despite these facts, FDA-approved condom labels have erroneously stated that condoms provide effective protection against STDs, and some condom companies have even claimed that condoms protect against HPV. In December 2000, President Bill Clinton signed Public Law 106-554 requiring the FDA to "reexamine existing condom labels . . . to determine whether the labels are medically accurate regarding the overall effectiveness or lack of effectiveness of condoms in preventing sexually transmitted diseases, including HPV." Four years later, FDA has yet to comply with this legal requirement by relabeling condoms to be medically accurate. FDA assured me at a hearing held in March that the agency would issue new recommendations before the end of this year.

Lastly, studies have also long demonstrated that use of the spermicide Nonoxynol-9 (N-9) increases risk for HIV infection. Yet the FDA, as recently as last year, stated on its website that "some experts believe nonoxynol-9 may kill the aids virus during intercourse, too. So you might want to use a spermicide along with a latex condom as an added precaution." FDA did publish a proposed rule requiring warnings for OTC vaginal contraceptives containing N-9 on January 16, 2003. This rule does not, however, apply to other products containing

N-9 and the agency is still weighing whether or not to require consumer alerts on condoms containing N-9.

The House Government Reform Committee on February 26 voted to approve "Views and Estimates on the Fiscal Year 2005 Budget of the United States" without dissent. This document urges the FDA to take action to alert consumers of the dangers posed by so-called "medicinal" marijuana, HPV and N-9. The American people are still waiting.

COMMUNITY ANTI-DRUG  
COALITIONS OF AMERICA,  
*Alexandria, VA, May 7, 2004.*

President GEORGE W. BUSH,  
*The White House,*  
*Washington, DC.*

DEAR MR. PRESIDENT: On behalf of the 5,000 coalition members that Community Anti-Drug Coalitions of America (CADCA) represents, I am writing to strongly urge you to instruct the Food and Drug Administration (FDA) to issue warning letters to all states, local governments, medical boards, website operators and sellers of marijuana explaining that the FDA has not approved botanical marijuana for "medicinal use" and that it cannot be advertised as such. Furthermore, I respectfully request that you direct the FDA to take action against entities that continue to falsely advertise marijuana as medicine with appropriate penalties.

It has recently come to my attention that the FDA has issued a multitude of warning letters to websites over: (1) weight loss claims, (2) the relationship between walnuts and the risk of heart disease, and (3) the potential risk of ultrasound 'keep-sake' images. Many, if not most of these claims, are based on little or no conclusive, scientific evidence. Mel Stratmeyer, Ph.D., in the FDA's Office of Science and Technology was quoted in an article related to the ultrasounds as saying, ". . . if there's even a possibility of potential risk, why take the chance."

If the FDA uses the standard of "possibility of potential risk," don't Americans also deserve to be protected from the demonstrably false claims being made about "medical marijuana." The public relies upon the FDA to advise them on medicine, based on sound medical evidence. To date, the FDA has not approved nor has it found any medicinal value in botanical marijuana, which is why it remains a Schedule I controlled substance. Despite this fact, websites, state and local governments, private vendors and doctors continue to advertise and endorse the medicinal value of smoked marijuana.

Marijuana is not a harmless drug; it is the most widely abused illicit drug in the nation. According to the Substance Abuse and Mental Health Services Administration's Treatment Episode Data Set, approximately 60% of adolescent treatment cases in 2001 were for marijuana abuse. Research shows that the decline in the use of any illegal drug is directly related to its perception of harm or risk by the user. Advertising smoked marijuana as medicine sends the wrong message to America's youth—that marijuana is not dangerous. The effort of the drug legalization movement, to promote "medical marijuana" to the public severely dilutes the prevention messages that community anti-drug coalitions across America are trying so hard to communicate: marijuana is dangerous and has serious consequences.

An April 2nd story in Reuters Health ("FDA Warns 16 Websites Over Weight Loss Claims) shows that the FDA is issuing warnings in these cases based on "false and misleading claims" that may have significant health consequences to the public. These same kind of claims are being made regarding "medical marijuana." Doctors and



Pascrell	Sensenbrenner	Stupak
Paul	Shays	Tancredo
Rohrabacher	Smith (WA)	
Royce	Stark	

## NOT VOTING—13

Bereuter	Isakson	Lee
Carson (IN)	Istook	Majette
Deutsch	Jackson-Lee	Saxton
Gutknecht	(TX)	Vitter
Houghton	Larsen (WA)	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1856

Mr. BUYER changed his vote from "aye" to "no."

Ms. LOFGREN and Mr. UDALL of Colorado changed their voted from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. VITTER. Mr. Speaker, I ask that the RECORD reflect that, had I been present, I would have voted "yea" on rollcall 370, on passage of H.R. 4766, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.J. RES. 37 and H.J. RES. 66

Mr. HILL. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.J. Res. 37 and H.J. Res. 66.

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

There was no objection.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3575

Mr. SNYDER. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3575.

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

There was no objection.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3575

Mr. ROSS. Mr. Speaker, today I learned that I have been listed as a cosponsor of H.R. 3575, something I was not aware of and I did not ask to be cosponsor of, and I ask unanimous consent to have my name removed as a cosponsor of H.R. 3575.

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

There was no objection.

## BUSH ECONOMIC POLICY

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

Mr. BROWN of Ohio. Mr. Speaker, Vice President CHENEY came to my home State of Ohio last week to try to explain the Bush economic policy, visiting a State with high unemployment, a State that has lost 200,000 jobs since President Bush took office, a State that has lost one-sixth of its manufacturing jobs and a State that has lost about 190 jobs every single day of the Bush administration.

His answer to every economic problem is more tax cuts for the wealthiest people. Somebody making a million dollars gets a tax cut of \$125,000, hoping it will trickle down to create jobs and more trade agreements like NAFTA, which instead have simply shifted jobs overseas.

We need to change direction on this economy. It is not working in Ohio. It is not working in the industrial Midwest. We need a better manufacturing policy that pays attention to American manufacturing but does not shift jobs overseas.

## OIL-FOR-FOOD FRAUD

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

Mr. PEARCE. Mr. Speaker, tonight we are going to begin to look at one of the most far-reaching scandals that our generation has seen. The Oil-for-Food fraud is possibly the largest scandal in the history of the United Nations. We have got several speakers who are going to address the situation there where the United Nations Security Council possibly changed the votes in order to benefit themselves and certainly became very close to this scandal of tremendous proportions. Iraqi individuals appear to have bribed or coerced members of the U.N. who are administering the program.

Mr. Speaker, it is a shame that this issue is only being addressed by one side of the House. I would request that my colleagues on both sides begin to talk about the Oil-for-Food scandal, which possibly reached \$10 billion and certainly affected the U.N. votes as we considered going to war with Iraq.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## DRUG REIMPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, while Congress is working to provide affordable pharmaceuticals to American citizens through reimportation legislation, the Bush administration is

working to undermine those efforts. We will soon vote on the United States-Australia Free Trade Agreement.

Article 17.9.4 of the U.S.-Australia Free Trade Agreement would allow pharmaceutical companies to prevent imports of drugs to the United States. That means the Australian Free Trade Agreement is directly inconsistent with provisions in the bipartisan drug reimportation bill sponsored by Senators DORGAN, MCCAIN, SNOWE, LOTT and DASCHLE. Under its comprehensive pharmaceutical benefits scheme, the Australian government negotiates today lower prices for its citizens through mass procurement. In other words, they use volume purchasing.

The U.S. pharmaceutical industry has made sure that our government cannot use mass procurement to bring down drug prices for U.S. citizens, and that is not good enough.

□ 1900

Now they want to go a step further.

The U.S. Trade Representative's office, the President's person at the trade table, has included language in the Australian Trade Agreement that will forbid importation of cheap, affordable and safe Australian pharmaceuticals into our country. The clear winners as always in this Congress, as always in the White House, the clear winners are the large pharmaceutical companies; and the big losers, again, as far as prescription drugs and the Republican leadership, the big losers are American consumers, particularly millions of American retirees who lack drug coverage.

The Bush administration and its pharmaceutical allies argue the only way to ensure lower drug prices for Americans is by raising drug prices on every other nation, ostensibly because these nations are not helping to pay for research and development. That argument is not just specious; it is absurd.

Foreign drug prices already are high enough to cover research and development costs and still return a healthy profit to the drug industry. If you do not believe me, look at Pfizer's balance sheet, look at Pharmacia's balance sheets, look at Merck's balance, look at Schering's balance sheet.

Glaxo is headquartered in England. Aventis is headquartered in France. Bayer is headquartered in Germany. Would these companies set up shop in a country where they cannot do business and make a profit? What if other companies do increase their drug prices? Do we really think the drug industry is going to turn around and reduce their prices just because they can get higher prices in Europe? Not on your life.

Drug companies charge U.S. companies outrageous drug prices for one reason and one reason only, because they can. The Australian Trade Agreement simply helps them get away with it in that country too. Drug industry profits to \$59 billion. Last year the drug industry has been virtually the only industry in America left unscathed by the

Bush recession. Year after year after year they earn higher profits than any other industry in America for 20 straight years. Meanwhile, drug spending is fueling double-digit increases in health insurance premiums, drug spending is draining tax dollars out of the Federal Treasury hand over fist, drug spending is undermining the financial security of millions of seniors who have to choose between a full prescription drug dosage and their food or their utility bills.

Meanwhile, other countries are fighting back all over the world, but our government is not. Instead, at the behest of the drug industry, the Bush administration is trying to undermine price negotiations in Australia and block lower price prescriptions from even reaching our country.

Catering to a major campaign contributor like the drug industry is nothing new to this administration, but is it not getting a little ridiculous. If trade agreements are about creating open markets for cheaper goods and better market access, why are we trying to do something the opposite of that? Why are we trying to raise the price of prescription drugs across the world? The answer is easy: the pharmaceutical industry wants to make more money and the Bush administration and Republican leadership want their campaign help.

Enough is enough. A vote for the Australia Free Trade Agreement is a vote against U.S. consumers. It is as simple as that.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4759, UNITED STATES-AUSTRALIA FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108-602) on the resolution (H. Res. 712) providing for consideration of the bill (H.R. 4759) to implement the United States-Australia Free Trade Agreement, which was referred to the House Calendar and ordered to be printed.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4634

Mr. SESSIONS. Mr. Speaker, I ask unanimous consent to remove the name of the gentleman from Texas (Mr. GREEN) as a cosponsor of H.R. 4634.

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

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

(Mr. EMANUEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### EXCHANGE OF SPECIAL ORDER TIME

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Illinois (Mr. EMANUEL).

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

There was no objection.

#### TELL AMERICA THE TRUTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, this week had barely begun before three more U.S. soldiers died in Iraq. The U.S. casualties keep mounting and that is a tragedy, but this administration remains silent on a coming travesty in Iraq.

The President's appointed interim Iraqi government is preparing to offer amnesty to Iraqi insurgents, amnesty to the very people who are killing and wounding U.S. soldiers in Iraq. Our soldiers remain on patrol in the most dangerous place on Earth; and the snipers, bombers, and militants are about to be offered amnesty. What in the world is going on in this administration? Is this what the administration calls the road to peace? What is the President going to tell the families of every U.S. soldier killed or wounded in combat? What is the President going to tell the U.S. people?

The interim Iraqi government was created by the U.S. administration, make no mistake about that, so no one should think that this policy was not put in place without the express approval of the White House.

Now, Iraq says it is in their national interest to offer amnesty to the very insurgents U.S. soldiers have been battling day by day. This administration had no reason to start a war with Iraq. This administration had no plan to prosecute the war with Iraq, and now this administration demonstrates it has no plan to end the war in Iraq. What do we say to the dead? What do we say to the families of those who died? What do we say to the soldiers injured by roadside bombs and mortar attacks and snipers?

Is this the President's exit strategy in Iraq? 160,000 soldiers remain in harm's way in a country that is about to offer amnesty to the people who are attacking them. If the interim Iraq government can offer amnesty, why can the U.S. not offer every U.S. soldier the option to leave? If Iraq's insurgents are offered freedom, why are U.S. soldiers not offered the freedom to choose whether they stay?

Why will the people shooting at U.S. soldiers get special treatment while our soldiers get stop loss orders, forcing thousands of them to remain in harm's way. What in the world is going on in Iraq? We have to be brave enough to accept our people and embrace all Iraqis. That is a direct quote from Iraq's interim President, Sheikh Ghazi al-Yawar.

So much for the U.S. being seen as a great liberator. Even the interim government sees the U.S. as an occupier. So in their view it is okay to cut a deal with the insurgents. It is a statement about the instability of the entire country and the inability of the government to do anything about it. It is the most glaring statement yet that the administration was completely wrong in its need to go to war and unequivocally wrong with the consequences of post-war Iraq.

There have been more U.S. casualties since the President's declaration of "mission accomplished" than during all the major combat operations. Now the world has become even more dangerous and no amount of denial will alter the images of the Iraq prison.

Why talk about this shame again? Because it is entirely possible that this administration continues to ignore the most fundamental international protection for every prisoner. Abu Ghraib showed the world that the Geneva Convention was something the administration left out of the Iraq war plan. After those revelations, the administration made sweeping statements about their support of the Geneva Convention. Yet just today, the International Red Cross said it fears this administration is secretly holding more prisoners around the world.

Quoting a Red Cross spokesperson, "Some of these people who have been reported to be arrested never showed up in any of the places of detention run by the U.S. where we visit."

How bad does it get before the administration follows international law? Who does the administration think benefits from its failures to protect prisoners and follow international law? The International Red Cross tried to work behind the scenes before the Abu Ghraib scandal. The administration ignored them. The Red Cross tried to act as a catalyst for positive change in the wake of the scandals. Today's news makes clear the administration still believes it can flaunt international law. There can be no peace without justice, Mr. President, not in Iraq or anywhere else.

Justice begins by treating prisoners we capture in the same way, with the same rights that we would expect to be extended to an American. Justice delayed is justice denied. Act now before another day goes by. Give the International Red Cross unrestricted access to every secret U.S. location where prisoners are being held. Prove once and for all that America stands for human rights and justice. Let the Red Cross see and the world know if America is true to its words. Let the Red

Cross see and the world know if the prisoner abuses have stopped.

Do not tell the world the administration supports the Geneva Convention. Do it by following the Geneva Convention. One call, Mr. Speaker, is all it would take for the President to let the Red Cross in and the world know. Our soldiers deserve nothing less. Our Nation demands nothing more than the truth.

We only have 112 days left of this administration, but that is a long time if you are serving in Iraq under a stop loss order. The President has got to act to protect our people.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### EXCHANGE OF SPECIAL ORDER TIME

Mr. PEARCE. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Indiana (Mr. BURTON).

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

There was no objection.

#### OIL-FOR-FOOD SCANDAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. PEARCE) is recognized for 5 minutes.

Mr. PEARCE. Mr. Speaker, the Oil-for-Food fraud is possibly the largest scandal in the history of the United Nations and one of the greatest financial scandals of modern times. Set up in the mid-1990s as a means of providing humanitarian aid to the Iraqi people, the U.N.-run Oil-for-Food program was subverted and manipulated by Saddam Hussein's regime, allegedly with complicity of U.N. officials to help prop up the Iraqi dictator.

Saddam's dictatorship was able to siphon off an estimated \$10 billion from the program through oil smuggling and systematic thievery by demanding illegal payments from companies buying Iraqi oil and through kickbacks from those selling goods to Iraq, all under the noses of U.N. bureaucrats.

Members of the U.N. staff that have administered the program have been accused of gross incompetence, mismanagement, and possible complicity with the Iraqi regime. Benon Sevan, former executive director of the Oil-for-Food program appeared on an Iraqi oil minister list of 270 individuals, political entities and companies from across the world that allegedly received oil vouchers as bribes from Saddam Hussein's regime.

The U.S.'s General Accounting Office estimates that the Saddam Hussein re-

gime generated \$10.1 billion in illegal revenues by exploiting the Oil-for-Food program. These figures include \$5.7 billion from oil smuggling and \$4.4 billion in illicit surcharges on sales and after-sales charges on suppliers.

Without a shred of evidence, European and domestic critics have frequently derided the Bush administration's decision to go to war with Iraq as an oil grab driven by U.S. corporations such as Halliburton. They ignore the reality that the leading opponents of war at the U.N. Security Council, Russia and France, had vast oil interests in Iraq protected by the Saddam Hussein regime.

The Oil-for-Food program and its elaborate system of kickbacks and bribery are a major source of revenue for many European politicians and business concerns, especially in Moscow.

Mr. Speaker, the role of Congress should include first of all the strengthening of the Paul Volcker Commission of Inquiry. It should ensure that the Iraqi interim government and congressional investigators are able to conduct an effective and exhaustive investigation in the Oil-for-Food program. It should push the administration to ensure that the Oil-for-Food scandal is thoroughly investigated. It should keep the international spotlight on Oil-for-Food, encouraging foreign governments to launch their own investigations. It should increase the likelihood of serious reform at the U.N., including significant safeguards to prevent repetitions of its failures. It should limit the role of the United Nations in shaping the future of Iraq.

Mr. Speaker, the most effective way to ensure that the United Nations fully cooperates with its own commission of inquiry, which has received veiled threats if it continues to probe, the most effective way that we in the United States can deal with that inability to do its own investigation is threaten to reduce funding from the U.S. to the U.N., specifically the United States's assessed contribution.

Mr. Speaker, the U.N.'s dismal and allegedly corrupt handling of the Oil-for-Food program should lay to rest any notion that the organization can be entrusted with shaping the future of the Iraqi people. Many Iraqis regard the U.N. with suspicion, lacking both legitimacy and credibility.

Iraqis have bitter memories of Secretary General Annan's February 1998 statement to reporters, "Can I trust Saddam Hussein? I think I can do business with him," said Mr. Annan.

□ 1915

The Benon Sevan letters give us evidence that the former director of the Oil-for-Food Program interfered with congressional investigations. Specifically, Sevan wrote several letters on official U.N. stationery warning some of the companies implicated in the scandal that they must first seek U.N. approval before releasing documents to investigators.

Mr. Speaker, the Security Council had heated debates over whether the U.S.-led war to liberate Iraq should proceed, but the resistance in the Security Council cannot remain separated from the Oil-for-Food scandal and the fact that influential politicians, major companies and political parties from key Security Council member countries may have benefited financially from the program.

The Al Mada list of 270 individuals, political entities and businesses across the world that allegedly received oil vouchers included no fewer than 46 Russian and 11 French names. The Russian Government alone allegedly received an astonishing \$1.36 billion in oil vouchers.

The close ties between Russian and French politicians and the Iraqi regime may have been an important factor in influencing their governments' decision to oppose Hussein's removal from power.

Mr. Speaker, this Oil-for-Food scandal must come to the attention of the American public, and if it is only Republicans who will address it, we will do so.

#### SMART SECURITY AND POSTPONEMENT OF NOVEMBER ELECTION

The SPEAKER pro tempore (Mr. GINGREY). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, earlier this week, DeForest Soaries, chairman of the U.S. Election Assistance Commission and a Bush appointee, and I emphasize "and a Bush appointee," asked Homeland Security Secretary Tom Ridge to consider seeking the authority to postpone a Federal election. Specifically, he wants Ridge to push for legislation that will give his agency the authority to reschedule the November 2 Presidential election in the event of a terrorist threat or attack sometime near the election.

As a result of his request, the Department of Homeland Security asked the Justice Department's Office of Legal Counsel to analyze what steps would need to be taken to postpone this year's Presidential election, what steps would need to be taken to postpone this year's Presidential election.

Mr. Speaker, this is nothing short of outrageous. I am appalled that this request is even being considered. The postponement of a Presidential election would present the greatest threat to date to our democratic process. It would be an admission of defeat to the terrorists, inviting them to disrupt this election of our highest leader.

Mr. SKELTON. Mr. Speaker, will the gentlewoman yield?

Ms. WOOLSEY. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I certainly agree with the gentlewoman and wish to point out the fact that during the War Between the States the Presidential election continued on.

Ms. WOOLSEY. I am going to actually address that in a little bit.

It would also be unprecedented in our Nation's history.

Actually, in early 1864, as the gentleman from Missouri (Mr. SKELTON) just referred, President Abraham Lincoln feared that he would lose the Presidency due to widespread criticism of his handling of the Civil War. No President had won a second term since Andrew Jackson more than 30 years prior, and the Union had recently suffered a string of military disappointments.

Many of Lincoln's closest advisers urged him to postpone the election, but Abraham Lincoln never even considered that possibility, nor should we.

In response to calls for postponing the Presidential election, President Lincoln said the following in November of 1864: "We cannot have free government without elections; and if the rebellion could force us to forego or postpone a national election, it might already fairly claim to have conquered or ruined us."

The fight against terrorism, like the Civil War, will affect more than a generation of Americans, but we must be smart, smart about how we address the threat of terrorism, and we must make sure that in this long fight we do not lose what we are fighting for in the first place.

There must be a way to both fight terrorism and also hold on to democratic ideals that make our country great, and Mr. Speaker, there is.

I have introduced H. Con. Res. 392, the SMART security resolution, which provides a better way to address the threat of terrorism. SMART stands for Sensible, Multilateral, American Response to Terrorism.

Preventing future acts of terrorism, SMART security is more vigilant than the President on fighting terror. Instead of emphasizing military force, it focuses on multilateral partnership and stronger intelligence capabilities to track and detain terrorists.

Unlike the defective and obtrusive USA Patriot Act, SMART security focuses on tracking and arresting those involved in terrorist attacks, while respecting human and civil rights.

Terrorism is an international problem, we all know that. So the fight against terrorism must involve the international community. That is why SMART security calls for working closely with the U.N. and NATO to achieve its goal. Only by actively involving other Nations in this fight can we hope to prevent future acts of terrorism.

In the spirit of being smart about our national security, I have written a letter to Secretary Ridge that has been signed by over 100 Members of Congress requesting that Secretary Ridge take no further steps to postpone this year's Presidential election. Wars, droughts, floods and hurricanes have not stopped elections, and the possibility of a terrorist attack must not stop one either. We cannot forget that elections are the

very basis upon which our great American democracy was founded.

To ensure that the upcoming Presidential election is not postponed by the alarmist Bush administration, I urge all of my colleagues to add their signatures to this important letter to Secretary Ridge.

#### FREEDOM OF POLITICAL SPEECH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I want to read a couple of statements from Bishop Smith of Trenton, New Jersey. The title of his little writing is called Bishop Smith calls for Freedom of Political Speech for the Catholic Church, and I would like to say that not only the Catholic church but the Protestant churches, the synagogues and the mosques in this country.

What I would like to read is: "At the Respect Life Mass for the Diocese on March 27 in St. James Church, Bishop Smith asked why, in our presumably democratic country, Catholic churches fear that the Internal Revenue Service will punish them if they speak out on politicians' positions on issues."

He further stated or wrote: "The First Amendment protects the free exercise of religion. Separation of church and state does not mean that the Church and its members should not voice or advocate for their positions. Separation of church and state is designed to ensure that there is no governmentally established religion."

Mr. Speaker, I want to say that because whether this would be a bishop of a Catholic faith or a Protestant minister or a Jewish rabbi or a cleric, they have the same problem. Most people do not know that from the beginning of this great Nation until 1954 that there was total freedom. They did know that. What they did not know, which is what I meant to say, is that in 1954 Lyndon Baines Johnson introduced an amendment on a revenue bill going through the Senate that was never debated. There were no committee hearings. There was no discussion of his amendment. In fact, at the time, the Democrats were the minority and the majority leader accepted the Johnson amendment without debate, unanimous consent.

I want to further add that Dr. James Davidson, a sociology professor at Purdue University who I have spoken to by telephone a couple of years ago, I want to read from some of his research and writing. He says, "The First Amendment speaks of religious freedom; it says nothing that would preclude churches from aligning themselves with or against candidates for public office . . . The courts also have never used Thomas Jefferson's celebrated 1802 metaphor about 'a wall of separation between church and state' to stifle churches' support of or opposition to political candidates."

I share that with my colleagues because, just recently, the bishop of Colorado Springs, Bishop Sheridan, wrote a pastoral letter, three pages which I have and read many times. Never in his pastoral letter did he say anything about President Bush or Candidate for the Presidency KERRY or about Democrats or Republicans. He just reminded the Catholics in his diocese, about 125,000, that the church stands for protecting the unborn. They are opposed to stem cell research. It protects the elderly.

So, therefore, in his letter basically what he said was that we, as Catholics, we stand for protecting life, and we, as Catholics, should think carefully during this next election. But, again, he never said the name of any candidate. He never said the name of any party, but because he used the word "pro-life," Barry Lynn, the Americans for Separation of Church and State, filed a complaint.

Well, one might say, well, Congressman, how can he file a complaint? He did not mention the candidate. He did not mention a party.

But what the IRS did in the early 1990s, they took the Johnson amendment and they expanded it through their rulemaking process, and now they have code words. Code words can be "pro-choice," "pro-life," "liberal," "conservative," "Democrat" or "Republican."

This, in my opinion, is not what this great Nation is about. It is not what we have men and women who have served this Nation during wartime from the beginning of America until today and tomorrow and as this war goes on in Iraq and Afghanistan, and yet these fine men and women that wear the uniform are there to protect freedom, not only to help the Iraqi people but freedom for the American people, and yet we have a law on the books that prohibits a member of the clergy from speaking out on the moral and political issues of the day.

Now, if this was 1953, Mr. Speaker, I would not even be on the floor, because there would be no problem. There was no law. But because of the Johnson amendment, we have elements in this country today that are on the extreme left that watch what our clergymen are saying about the policy and the politics of the day. I believe sincerely if the moral values of America are going to stand, then I believe that the freedom must ring in the churches and synagogues and the mosques of America, that they must have the freedom to speak freely about the issues of the day.

Again, I plan to be on the floor the next two or three nights and will continue to talk about this, because, as my colleagues know, outside of my office, 422, I have 12 posters. On each poster is about 60 faces of men and women who have died in Iraq and Afghanistan. I have it there for a main reason, to remind the American people that freedom, there is a cost, and,

therefore, we must, within the House and the Senate, do our part to protect the constitutional rights of the American people, and that includes those who are spiritual leaders of this country.

Mr. Speaker, I close by asking God to please bless our men and women in uniform and their families, and I ask God to please bless America.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### EXCHANGE OF SPECIAL ORDER TIME

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent to replace the gentleman from California (Mr. GEORGE MILLER).

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

There was no objection.

#### SHORTCOMINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, Saddam Hussein was a murderous despot in Iraq, and the world is better off without him. There is no disputing that fact. However, the Senate Select Committee on Intelligence report, all 511 pages, including the 15 percent that was redacted, raises very serious questions about the nature of the threat that Saddam Hussein posed to the United States that led to the first-ever preemptive war in the history of our country. Even the President says there were "some shortcomings." Well, let us look at a few of the shortcomings.

The aluminum tubes that we were told was slam dunk evidence by Mr. Tenet of the CIA that they were going to separate uranium and enrich it misrepresented key evidence. It had nothing to do with uranium separation.

Uranium from Niger, obvious sign; a key document was forged, rather amateur forgery, actually.

The revised weapons program; the claim is not supported by the intelligence.

The mobile labs; withheld important information about the sources, lack of reliability.

This is the famous Curveball, showed up drunk at his one meeting with a U.S. intelligence representative and did not seem very credible. One upstanding individual over at the CIA wanted to raise concerns and go on record about how the fact he was not a good source, but the deputy chief of the agency's Iraqi task force said we can

hash this out in a quick meeting. He rejected the worries as irrelevant.

□ 1930

Here is his quote: "Let's keep in mind the fact that this war is going to happen regardless of what Curveball said or didn't said and that the powers that be probably aren't terribly interested in whether Curveball knows what he's talking about," the CIA official replied in an e-mail message obtained by the committee. Basically, they did not want to know that this was phony information.

Smallpox designer germs. Not supported by the intelligence, according to the CIA.

The drones. I saw pictures of the drones. They were these little patched-together things, and George Bush was talking about what a tremendous threat they were. Did not look like they could fly at all, and they certainly could not fly any distance. The head of intelligence for the Air Force, they know a little about planes, said, in fact, there was no credible threat connected to the drones.

The list goes on and on and on. And as the President says, there were some shortcomings. There were more than some shortcomings; there was an extraordinary distortion of very, very poor intelligence and minimal evidence that there was any threat posed by Saddam Hussein. In fact, the conclusion of this Republican Senate-led Select Committee on Intelligence is that the military of Saddam Hussein was on a horrible downward spiral, was incredibly degraded, had never recovered from the Gulf War, that the sanctions in the containment were working, and that he did not pose any credible threat to the United States nor even to Iran or some of his other neighbors.

But the President would still say, as he did seven times in 32 minutes yesterday, just to make sure people did not miss the message behind him, which was to show that American people are safer. Well, there is a real question about that since they put us on a higher terror alert. They are talking about postponing the elections. Postponing the constitutionally mandated elections, I do not know how they do that, but I guess it is part of his executive powers we do not know about, because of the threat posed by Osama bin Laden and al Qaeda, who have been over there regrouping and freely operating for the 2 years the Bush administration turned all our intelligence assets, the world's attentions, our military assets to Iraq.

And they say the world is safer? The world is not safer. In fact, he allowed those people to regroup and to raise a threat that is so grave that his Homeland Security Secretary is asking how we might be able to postpone the elections if we know 3 or 4 days before that George Bush is behind in the polls. No, no, I mean do we know there is a credible threat or there was a terrorist attack?

Now, there was one piece of evidence that was good. There is a guy named Zakawi; and he is a really, really bad guy. And Colin Powell pointed to where he was on the map. Guess where that was? That was in a little corner of Iraq, behind the Kurdish territory, which was overflowed by the United States on a daily basis. Saddam Hussein could not get at that guy if he wanted to. But we could have, three times.

Three times the Pentagon asked to take out Zakawi, who is now responsible for killing maybe tens of hundreds of U.S. troops and Iraqis in a terrorist campaign, and three times the Bush administration said, no, you cannot take him out. Because if you take him out, it might disturb our recruiting for the war against Iraq that does not pose a threat to the United States of America. What incredibly misplaced priorities these people have.

If it is a war on terrorism, then go after the terrorists: Osama bin, al Qaeda, Zakawi. But, no, they distracted us into this war with Iraq in some bizarre neoconservative vision of the world, and many Americans have died because of their mistakes, and I fear that more might because he has allowed the terrorists to regroup.

#### U.N. OIL-FOR-FOOD PROGRAM

The SPEAKER pro tempore (Mr. GINGREY). Under a previous order of the House, the gentleman from Indiana (Mr. CHOCOLA) is recognized for 5 minutes.

Mr. CHOCOLA. Mr. Speaker, I find it interesting how night after night during this period of the evening we call Special Orders that my friends on the other side of the aisle come down and talk about allegations of scandals, of things like contracts with companies trying to help rebuild Iraq, outcries over misleading our Nation to war, charges of coverups and lack of cooperation; and so I would like to just address what the previous speaker talked about, which is this allegation that there is an attempt to delay the elections.

All the news reports I have seen in the last 24 hours is that there was never any request nor any really evidence of anybody trying to delay elections by any means at all. But sometimes we just do not let the facts get in the way of our opinions, and so we ignore those.

Mr. Speaker, I am going to ask my colleagues to imagine that there is a scenario like the following: imagine if the press had reported an alleged scandal that entailed \$10 billion of illegal payments, and in that same article it was revealed that the head of the program that was the subject of those allegations was implicated and was suspected of directly participating in those illegal payments.

And then after this head of this program was implicated, he went back to the organization that he was running, and he sent out letters to all of the

companies that had contracts with this organization and said, now, remember, we have a contract that says you are not supposed to discuss any of our dealings with any third parties, and we will enforce that provision of our contract, and we expect you not to cooperate with anyone asking any questions. Now, that same contract said that we could waive this; but we are not inclined to do that, which means we really are not inclined to cooperate at all.

Also imagine if this same organization had done 55 internal audits and was now unwilling to share any of them with its stakeholders, the people that had invested in this organization, the people that were served by this organization. The people that had a stake in this organization were not allowed to see any of these internal audits because none of them were allowed to become public.

Now, if this had actually happened, I think there would be a great outcry, especially from my friends on the other side of the aisle. But, Mr. Speaker, the reality is that such a scandal truly exists, so we do not have to imagine a thing.

The Iraqi Free Press. Let me say that again. The Iraqi Free Press, which did not exist 18 months ago because there was no such thing as the Iraqi Free Press, broke a story about the U.N. Oil-for-Food scandal, which could potentially turn out to be the largest scandal in history. In that report they said there was a gentleman named Sevan, and possibly Benon Sevan, who ran the Oil-for-Food program, who may have gotten some of these illegal payments. And this same Mr. Sevan wrote to all of the U.N. contractors saying, now, remember, we have this clause that says you cannot discuss the details of our relationship with any third parties.

Now, Mr. Speaker, I would think that the U.N. would want to cooperate with an investigation; and if they truly wanted to cooperate, they would waive the provision that is in the contract and say, go ahead and cooperate with anyone who is investigating appropriately this matter, and do not worry about that provision because we really want to understand the truth in this matter.

Mr. Sevan will not allow the member states of the U.N. to see those 55 audits to understand exactly what was happening internally in the U.N., and specifically with the Oil-for-Food program.

Mr. Speaker, there is a ray of hope in this story. And the ray of hope is that former Federal Reserve Chairman Paul Volcker has recently been appointed to investigate this matter. He is a highly respected man and I am sure will do a very good job.

The most important thing we do is not engage in a bunch of rhetoric and outcry and charges and allegations. The most important thing we accomplish here is to actually get to the root of the problem and understand the facts and understand exactly what hap-

pened here and understand whether the allegations are true: that \$10 billion has somehow disappeared, money which was specifically supposed to go to help feed and provide for the health care of the Iraqi people because they are the ones that will ultimately suffer as a result of this scandal. They were supposed to be provided for with the oil riches of their nation in food and oil, and it appears that others used those riches for their own self-gain.

So I encourage all the Members of this body to express not outcry but sincere concern about this issue and use all the resources that we have at our disposal to make sure the U.N. cooperates in the Oil-for-Food scandal investigation and provides Chairman Volcker with all of the information and all of the resources that he needs so that we can thoroughly and properly investigate this matter.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### DO NOT POSTPONE THE NOVEMBER PRESIDENTIAL ELECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, almost 4 years ago, President Bush came to the office of the Presidency having lost the popular vote in this country by over 500,000 votes, having endured a disputed election in Florida, where there were multiple charges and accusations of fraud and people being denied the right to vote. We had the involvement of the Supreme Court for the first time, I believe, in our Nation's history in making a decision basically to stop the counting of votes in Florida. And so the President came to office under these very unusual circumstances.

I think all of us, all of the country recognized that there was a need for healing in our country, and we hoped that President Bush would do what he promised to do during his campaign: that he would be a uniter, not a divider; that he would govern as a compassionate conservative. But the fact is that President Bush has governed from the far right of his party, and he has perhaps been the most divisive President in recent history.

We all know also that on September 11, 2001, our country was attacked and all Americans pulled together at that time. It was a time when the President had a unique opportunity to mobilize the world in the fight against terrorism. But rather than do that, he chose to go his own way, to use intelligence data that was inaccurate, I believe exaggerated and manipulated, in

order to convince the American people that there was a threat from Iraq, when we now know that the real threat continues to come from al Qaeda and the terrorist network headed by Osama bin Laden, who I would remind all of us is free tonight to plot the next attack upon our Nation.

In the last few hours, something has happened that alarms me, and I think will alarm the American people as they find out about it. Earlier this week, the U.S. Elections Assistant Commissioner, who is a Bush appointee, asked the Homeland Security Secretary, Mr. Tom Ridge, to consider seeking the authority to postpone a Federal election. As a result, the Department of Homeland Security has asked the Justice Department's Office of Legal Counsel to analyze the steps that would be needed to postpone the November Presidential election.

Mr. Speaker, this is an outrage. The postponement of a Presidential election would present the greatest threat to date to our democratic process. It would be a capitulation to the terrorists, inviting them to disrupt the selection of our highest leader, and it would be unprecedented for a Presidential election.

Not even the Civil War stopped the 1864 Presidential election from taking place. I quote from Abraham Lincoln, November 10, 1864: President Lincoln said, "We cannot have free government without elections; and if the rebellion could force us to forego or postpone a national election, it might already fairly claim to have conquered or ruined us."

In early 1864, President Abraham Lincoln feared that he may lose the Presidency because of widespread criticism of his handling of the Civil War. No President had won a second term since Andrew Jackson, more than 30 years prior, and the Union had recently suffered a string of military disappointments.

□ 1945

Under those conditions, many of Lincoln's closest advisers urged him to postpone the election so that he could focus on the war effort, but Abraham Lincoln never even considered that possibility, nor should we.

The fight against terrorism, like the Civil War, will affect more than a generation of Americans. Let us make sure that in this long fight against terrorism we do not lose what we are fighting for in the first place. I do not know that this would happen, but I think the American people need to be paying attention. Would it be possible that shortly before the elections the residing party in power determined that things were not going so well, would there be a temptation under those circumstances to find some reason to justify postponing the election? We should never even consider such a possibility. I call upon the President to reject this suggestion, and I call upon this Congress to stand together as Republicans and Democrats to say we are

having our Presidential election on November 2, regardless of what the terrorists may seek to do.

#### OIL-FOR-FOOD PROGRAM

The SPEAKER pro tempore (Mr. GINGREY). Under a previous order of the House, the gentleman from Missouri (Mr. AKIN) is recognized for 5 minutes.

Mr. AKIN. Mr. Chairman, there have been charges over the last number of months, even the last year or two, of various kickbacks and mismanagement of different businesses and different kinds of things that are going on that I have heard from the Democrat Party, but it is interesting that there has been a stony silence when it comes to the biggest scam which is now emerging, the biggest scam in many, many years. It involves not only kickbacks and bribery but it involves even murdering various individuals. I am talking about the new evidence that is emerging on the Oil-for-Food program.

As the Members are perhaps aware, the Oil-for-Food program was a very large program administered by the United Nations. Its purpose was to try to provide humanitarian aid for the Iraqi people and so Saddam was allowed to sell some oil and the oil was supposed to be translated into food which was supposed to get back to his people. What is now emerging and has been emerging for some time is that the United Nations staff that have been administering this program is guilty of gross incompetence, mismanagement and probably complicit with the Iraqi regime in perpetuating the biggest scandal in United Nations history.

It was the largest U.N.-administered program anywhere in the world, that collected a 2.2 percent commission on every barrel of oil sold, and those dollars were put into the Banque Nationale de Paris. According to a February, 2004, article in the New York Times, it says that that money was "an open bazaar of payoffs, favoritism and kickbacks."

Why have we not heard more complaint about this? Why have we not heard complaint that the U.N. is trying to bottle up this information and not allow anybody to check into where this money was going? Particularly why is it that the Democrat Party would want us to turn Iraq over to the United Nations, the very people that are in the middle of perpetuating this scam? I do not understand that.

The emerging evidence suggests that corrupt politicians and businesses throughout the world benefited from this Oil-for-Food program and they kept the Iraqi dictator in power. Those who benefited from the corruption have been listed, some of them prominent United Nations officials, including the son of Secretary-General Kofi Annan. The list includes no fewer than 46 Russians and 11 French names. The close connection between French and Russian politicians and the Iraqi dictator suggests at least one reason why these

governments worked so hard to undermine American efforts to enforce the U.N. resolutions and ultimately remove Saddam from power. In fact, what we find is that documents that were discovered in the wreckage of the Iraqi foreign ministry reveal that the French were sharing the contents of confidential meetings and diplomatic traffic from Washington. Details of talks between French President Chirac and President Bush were also reportedly passed on to the Iraqi foreign ministry by French diplomats in Baghdad.

Yet I cannot understand, why would the Democrats criticize us for not obtaining support from the Russians and the French? The Russians and the French were skimming billions of dollars in a huge scam, and there was absolutely no financial reason for them to want to enforce the United Nations sanctions or to join America in messing up their cozy little deal.

I believe the United States should push for an exhaustive and independent investigation of the Oil-for-Food Program. I think Congress should consider linking our continued funding of the United Nations to long overdue reform and the prosecution of the U.N. officials who were taking part in this program.

In January of 2004 in the State of the Union address, President Bush asserted that America will never seek a permission slip to defend the security of our people. I am glad that he did not need a permission slip, because if we were waiting for the United Nations and for France and for Russia, we would still be waiting. The participation by undermining U.S. efforts in the war on terror is dramatic. Those who, like JOHN KERRY, would seek a permission slip from the U.N. need first to answer the question why the American people should trust their security to an institution whose largest humanitarian program benefited anti-American businesses and political elites, rather than the Iraqi people, a U.N. run by leaders who are part of the biggest scandal in United Nations history.

This needs to be discussed, and we need some answers before we continue to put American dollars into funding a United Nations who was working completely against the interests of the Iraqi people and the interests of freedom around the world.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OWENS) is recognized for 5 minutes.

Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### HONORING THE NATIONAL YOUTH SPORTS PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KIND) is recognized for 5 minutes.

Mr. KIND. Mr. Speaker, I rise today as national cochair to honor the outstanding work of the National Youth Sports Program in my home State of Wisconsin and the 200 programs throughout the Nation and to recognize the essential role NYSP plays in children's lives during those crucial weeks during the summertime.

For 35 years, NYSP has brought organized athletics and academic courses in math and science into the summer routines of low-income children aged 10 to 16. For 5 weeks, children learn leadership skills and work to develop strong moral character through sports. Furthermore, NYSP provides students with education in substance abuse prevention, career instruction and perhaps their first comprehensive physical. In addition, students receive a hot, well-balanced USDA-approved meal each day.

As a former college quarterback and a father of two little boys, I know the opportunity that sports can have on positively impacting the lives of our children. Thanks to NYSP, a soccer field, a basketball court, a swimming pool turns into classrooms. The lessons in these innovative classrooms are civility, teamwork and responsibility.

Mr. Speaker, it is our duty as policymakers to preserve these vital opportunities. It is in the interest of our children and our country to do so.

For proof of the importance of the National Youth Sports Program, I invite the Members to look at two participating institutions that I had the opportunity to visit recently from my home district in western Wisconsin.

At the University of Wisconsin-La Crosse, over 300 children participate in NYSP each summer. In addition to excellent athletic and academic instruction from a dedicated staff, these children have participated in a ropes course to foster higher self-esteem, have been treated by local physicians and dentists free of charge, participated in the DARE and GREAT programs with local police officers, and have painted over graffiti found on public property. The NYSP at the University of Wisconsin-La Crosse is enriching the lives of low-income children while simultaneously enriching the community as a whole. I would like to take this opportunity to thank program director Mary Beth Vahala and the many community volunteers, including Dr. Richard Foss and Dr. Holly Grimslid for their integral role in the success of NYSP at La Crosse.

The NYSP at the University of Wisconsin-Eau Claire, directed by Dr. Bill Harms and Mr. Tom Pratt, has been consistently ranked as one of the top summer programs in the entire Nation. Every summer, over 500 children learn to live the NYSP creed, "to walk tall, talk tall and stand tall." In addition to a wonderful selection of standard athletics at the University of Wisconsin-Eau Claire, students spend time each day studying math and science in an effort to teach the importance of these

subjects at a young age. Under the excellent tutelage of coordinators Ms. Sunshine McFaul and Mr. Jayson Leslie, students discover the value of math and science in their lives. I also want to thank and commend NYSP's national director Dr. Gale Wiedow for his terrific leadership of these 200 programs throughout our Nation.

Mr. Speaker, these two fine programs in my home district in western Wisconsin are indicative of the quality of NYSP as a whole; and I am thankful for the dedicated staff and volunteers that make it happen. Unfortunately, the President proposed to eliminate NYSP program funding in the next fiscal year's budget. Fortunately, however, NYSP has enjoyed wide bipartisan support in Congress.

I also want to thank my good friend and colleague from Buffalo, New York (Mr. QUINN) for cochairing the National Youth Sports Program with me in recent years. He has been a terrific advocate of youth generally and of NYSP specifically. I appreciate his hard work in going to bat for this program. He will be sorely missed in this Chamber, and we all wish him a happy retirement.

Tonight I stand with thousands of children to thank the Committee on Appropriations for fully funding NYSP, and I urge my colleagues to remember the value of athletics and academics in our children's lives and the important role NYSP plays in delivering both during the summer months.

Mr. Speaker, the legendary coach of the Green Bay Packers, Vince Lombardi, once famously said, "Once you learn to quit, it becomes a habit." The National Youth Sports Program teaches children not to quit, and it is our responsibility not to quit on them.

#### OIL-FOR-FOOD PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. MCCOTTER) is recognized for 5 minutes.

Mr. MCCOTTER. First, just a couple of minor observations on the debate so far tonight. We heard earlier the gentleman from Oregon mention that the Pentagon on three separate occasions believed that they could strike and eliminate a terrorist who was a threat to the United States. I would just caution the gentleman to be very careful lest he be considered as advocating a preemptive unilateral act of war against a resident alien in his sovereign host country.

Also, on the previous mentioning of plans, whether real or not, that explored potentially delaying the election, I, too, would just like to say that I would oppose any plan to delay an American election. But I also think that it is important to remember that in the 1864 election Abraham Lincoln did not spend a lot of time personally campaigning to win the votes of southern voters, as my understanding is that those people chose not to participate in

that election. The distinction which is critical would be, then, that while the southern States in rebellion chose not to participate in the Presidential election, there may be many Americans who, through an act of terror, may be precluded against their will from participating in an American election.

So if we are done with the rhetorical flourishes of partisanship, perhaps there would be some who would like to explore a responsible policy approach and instead think of if an urban center, which are primarily the targets of the terrorists, would be attacked, we do not suspend the date of the election but perhaps the election could be extended until those people could be given their American constitutional right to vote in that election. I say that as a Republican knowing full well that my party does not do well in large urban areas, but I say that as an American respecting the rights of my fellow citizens to be able to participate in the choosing of their national leadership.

On to the point that I wish to talk about. Mr. Speaker, in addition to playing host to the United Nations, United States taxpayers provide 22 percent of the United Nations' core funding. It is not, therefore, inhospitable nor unwarranted for U.S. taxpayers to demand a full and fair accounting of the U.N.'s \$111 billion Oil-for-Food Program, especially when, as revealed in a May 6 article by Hudson Institute Fellow Claudia Rosett, the U.S. Treasury Department has designated one of the Oil-for-Food contractors as a front group for senior officials of the Saddam Hussein regime.

Initial reports estimate over \$10 billion has been stolen, misplaced and/or skimmed from this program that was designed to help the Iraqi people. Combined with the aforementioned front group/contractor, we may well have witnessed a U.N.-administered relief program result in food being torn from the mouths of victimized Iraqis and placed in the pockets of Saddam's executioners and their contemptible, utterly corrupt international co-conspirators.

We in the world demand and deserve answers, Mr. Speaker, and yet we have been met by a stone wall of resistance and a wealth of stealth on the part of the United Nations. Excuses abound for the cover-up, the two most noticeable being that it is an institutional response. I am sure that they culled that from the old records of Tammany Hall. They also say that they will not release any of the 55 internal audits because of the, quote, sensitivity of member states. I think that the sensitivities of member states like the United States and the United States Congress which have repeatedly asked for these documents should be accorded as much as the purported sensitivity of states who may have something to hide.

□ 2000

If they do in fact have nothing to hide, if the intimidating letters to con-

tractors and the untendered records to Congress may be belied, then to save its last lingering endangered chard of integrity, General Secretary Kofi Annan, with the stroke of a pen, can release all the requisite oil for food documents and shed transparency and truth upon this abominable fraud. And while the U.S. taxpayers might not hold our breath until he complies, we U.S. taxpayers must withhold our funding from the United Nations until he does.

#### SUPPORT AMERICA'S TROOPS

The SPEAKER pro tempore (Mr. GINGREY). Under the Speaker's announced policy of January 7, 2003, the gentleman from Missouri (Mr. SKELTON) is recognized for 60 minutes as the designee of the minority leader.

Mr. SKELTON. Mr. Speaker, in families there are always very special occasions. Before I enter into my special order this evening, I wish to announce that in our family we have had a wonderful addition this past Saturday afternoon, July 10. Abigail Anding Skelton was born over here in Maryland. She is absolutely a gorgeous young lady, and we are very happy for her, her wonderful parents, her cousins and aunts and uncles, as well as grandparents.

Mr. Speaker, as Americans review the facts and decide whether it was prudent and necessary for the President to send American troops to invade Iraq, let me remind my colleagues and the citizens across our country that it is possible to respectfully disagree with the President and still strongly support our troops.

I believe that all House Democrats support our men and women in uniform and are committed to ensuring that they have the tools they need to succeed in Iraq and Afghanistan, wherever they may be serving in the defense of our country.

Over 466,000 service members are currently deployed to 120 countries around the world, and nearly half of those are serving and doing so in dangerous and often deadly conditions in the Middle East. While the majority of the troops deployed are on active duty, nearly 30 percent are citizen-soldiers from the National Guard, as well as the Reserve, who volunteered to serve our Nation. These men and women have volunteered to leave behind their families, their loved ones, jobs and communities to defend the freedoms that we hold so dear.

Over 150,000 Reservists and National Guardsmen are currently deployed, which is nearly 18 percent of the total Reserve force. Since September 11, over 215,600 Reservists and Guardsmen have served their Nation both at home and abroad. Not since the first Persian Gulf War have so many served under such arduous conditions for so long.

While 18 percent may not seem very high, let me put it in a bit different perspective. Over 40 percent of the

Army National Guard has been mobilized and close to 46 percent of the Army Reserve has been called to active duty. The Marine Corps Reserve has seen 61 percent of its forces back in uniform full-time. Let me tell you that the Coast Guard Reserve has tapped nearly all of its Reservists; 99 percent have been recalled to active duty.

Why is it important that so many of our citizen-soldiers have been activated? Because I want people to know that our Nation has been committed to military action that is taxing both active duty and Reserve troops to the limit.

This is not just my personal opinion. General Richard Cody, the Army's Vice Chief of Staff, last week testified before the Committee on Armed Services, and I said, "Are we stretched thin with our active and Reserve component forces right now?"

"Absolutely." Those are the words of General Cody.

Beyond General Cody, I want to relate a personal story. I recently spoke with the spouse of an activated National Guardsman. She described how her husband was still in Iraq and had been extended beyond one year per the agreement when he was called. She flat stated to me that at the end of his enlistment, he was going to get out of the military.

Mr. Speaker, we simply cannot afford to lose these good people from our military, and I worry about the nature and extent of our commitments in Iraq and Afghanistan and what they will cause our service members to do, maybe leave and cause others not to reenlist.

We have the finest military in history, we really do, and we simply cannot afford to squander it. Now we have recently learned that the Army is deploying to Iraq the opposition forces from the National Training Center at Fort Irwin, California, and the Joint Readiness Training Center at Fort Polk, Louisiana.

What makes the deployment of these forces particularly alarming is these are the troops that train our everyday forces that are getting ready to deploy to Iraq. We are deploying the trainers, a measure of last resort. That shows just how much we have stretched our forces to the limit.

More importantly, I worry about the consequences. The troops that we send in harm's way in Iraq and Afghanistan may not have the training they need to succeed and to survive.

Mr. Speaker, as many in this House know, I have been advocating an end strength increase, more troops, particularly for the Army, since 1995, when our committee first received testimony that the Army could use an additional 40,000 troops. What troubles me is that the administration continues to oppose an increase in the end strength for the Army and the Marine Corps.

Fortunately, Mr. Speaker, both the House and the Senate defense author-

ization bills include provisions for additional end strength, and I am committed to a conference outcome that makes this a reality. I know that other Democrats on the committee share this goal with me.

Just 3 years ago, the President addressed the soldiers of the 3rd Infantry Division at Fort Stewart, Georgia. He told them that they were overdeployed and needed more support. Since then, the members of the 3rd Infantry Division have been deployed to Kuwait for training exercises for nearly a year, only to be extended for the war in Iraq. After spending nearly a year in the desert, they came back to Fort Stewart, only to undergo a significant structural transformation. Recently members of the 3rd Infantry learned that they will be returning to Iraq for perhaps another year's deployment.

If the 3rd Infantry Division was already overdeployed in 2001, how can we honestly look these men and women in the eye and ask them to continue these levels of deployment, with no help in sight? To do so risks breaking faith with our troops and destroying the world's finest Army. That is not the way that a Nation should treat its troops or the families.

The increased operational demands in the military are clear. They will continue for some time in the future. In fact, Deputy Secretary of Defense Paul Wolfowitz recently told our committee that we could have a substantial military presence in Iraq for years. Assuming he is right, we need to do something now to make sure that our operational commitments do not overstretch our military to the breaking point.

What I think we should do is support our troops by ensuring that we have the additional manpower necessary to carry out the missions we ask of them. This is one way we can show support for our troops and recognize the sacrifices that they have made in the war on terrorism. I am personally committed to seeing that we have enough troops to do the job that our country asks of them.

I now yield to the gentlewoman from California (Ms. LORETTA SANCHEZ) for comments she might make.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I thank the ranking member of the House Committee on Armed Services for taking this hour to discuss what Democrats in particular have been doing for our troops.

The gentleman was so good in outlining the fact that our troops are now in over 120 countries in the world. We have about 161,000 troops deployed in Iraq and Kuwait. Almost 40 percent of those are Reservists and National Guardsmen. The fact of the matter is there has been stop-loss in these troops, which means that somebody who is ready to go out and has indicated that they are leaving the Armed Services are stopped from leaving because we need them to continue to serve.

Just recently, about 10 days ago, this administration said that it would call in the Individual Ready Reserve. Those are people who have already gotten out and are into their full-time lives and now are asked to continue back in.

So we really are at the risk of breaking the force. Too many tours, our families are hurting, they do not see their loved ones. Especially if you are a National Guardsman or Reservist and you have got your regular life going on, and all of a sudden you are plucked up and sent somewhere 6 months, then it turns into 12 months, then 18 months, and your family suffers because you may not get the same paycheck that you did in civilian life.

I know that Democrats on the committee, one of the things we have been doing something to try to make up that gap, so financially speaking, our families are made whole. Unfortunately, that is not included in this bill that goes to conference.

One thing that is included, however, is more troops to be trained for the future. We have 30,000 new positions that we have put into the bill for the Army and 10,000 new positions for the Marines. But, again, it takes time. That is over 3 years. It takes time to train these new members of the force to go and help us do the work that we have asked them to do.

There are so many things that we have actually done. Initially when we deployed into Iraq, not everybody had body armor, for example. I know in my own area, in Costa Mesa, California, we have one of the premier companies that makes ceramic armor, and we are working three shifts, seven days a week in the factory to try to get the armor to our people out in Iraq and Afghanistan.

I guess the last thing I would like to say is that our families, the families of the military, are hurting. I have been able now to go over to Korea and to Afghanistan and to Iraq and to Germany to see our families, and they ask, for how long? How much? Why do you bring my family member and take him back 2 weeks later? How long will he serve there? How long will she serve there? Why do you put them in Iraq for 6 months, and then tell them it is another 4 months, and pretty soon it is a year, and then you bring them back and you put them into Afghanistan.

So one of the things we are trying to do is make sure that the Pentagon and this administration makes better schedules, begins to plan better for our troops and for our families.

Mr. Speaker, I would just like to take the time to thank the gentleman from Missouri (Mr. SKELTON) for taking this time.

Mr. SKELTON. Mr. Speaker, I yield to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I would like to thank the gentleman from Missouri for organizing this special order and for yielding. I appreciate his leadership on the Committee on

Armed Services, and I am certainly proud to serve with him on that distinguished committee.

Tonight, Mr. Speaker, I join my colleagues to express our support and appreciation for our men and women in uniform who are doing an amazing job in Iraq, Afghanistan and throughout the world. The House Committee on Armed Services and this Congress have stood squarely behind them in their efforts and have endeavored to provide them with the resources and equipment they need to continue to be successful in the global war on terrorism.

As we travel through our districts, we encounter countless stories of appreciation of our men and women in uniform. However, their service often entails sacrifice. We hear from the families who spend extended periods of time away from their loved ones and often experience financial difficulties. We hear from employers who agree to rehire employees upon their return, but who struggle to fill the gaps until then.

□ 2015

We hear from representatives of our cities and towns who note that many of their first responders have been called up as part of the National Guard and Reserve. Our troops and all those in their lives are willing to make sacrifices for the defense of our Nation, but we must do our share to ease the burden wherever we can.

Last week, the Committee on Armed Services held a hearing on the next force rotation plans for Operation Iraqi Freedom and Operation Enduring Freedom. I am concerned that in an effort to meet needed troop levels, we will be employing strategies that will have adverse effects on our military in the long term. For example, despite widespread agreement that our National Guard and Reserve are shouldering a significant portion of the effort, we will actually be increasing their participation rates in the third rotation of Operation Iraqi Freedom to 43 percent of total forces, as compared to 25 percent in the initial deployments. Additionally, we are also calling up 5,600 members of the Individual Ready Reserve whose areas of expertise are sorely needed in Iraq.

I am concerned that such efforts, while allowing us to meet the needs of the coming year, will ultimately harm our military through lower recruiting and retention rates, particularly among the Guard and Reserve. The gentleman from Missouri (Mr. SKELTON) has led the charge for an increase in end-strength of our Armed Forces, and I look forward to working with him and the administration toward this vital goal.

At this time I would like to pay a special tribute to all of those who have made the ultimate sacrifice for their country. Rhode Island has mourned the loss of seven troops in Operation Iraqi Freedom, most recently Lance Corporal John J. Van Gyzen, IV, a brave

Marine who served with dignity and honor. I join his family and the people of Rhode Island in mourning this great loss.

On Monday, July 5, Lance Corporal Van Gyzen was killed by enemy fire during combat operations in the Al Anbar province of Iraq. Raised in Foster and West Warwick, Rhode Island, he later moved to Massachusetts and graduated from Dighton-Rehoboth High School in 2001, where he was a member of the track and field team. He followed in the footsteps of his grandfather, who served in the Navy in World War II, and enlisted in the Marines in October 2001. After completing boot camp at Parris Island, he joined K Company, Third Battalion, seventh Marine Regiment, as a rifleman. Those who knew him well recalled his sense of humor, his love of the outdoors, and his dedication to his family. I extend my deepest condolences to his parents, John and Dorothy; his stepmother, Jane; and his sisters, Bethany, Jessica, and Angel.

His loss causes us all to reflect on the bravery demonstrated by our men and women in uniform as they carry out their obligations in the face of great danger. When their Nation called them to duty to preserve freedom, liberty, and the security of their neighbors, they answered without hesitation. We remember those who have fallen, not only as soldiers but also as patriots who made the ultimate sacrifice for their country. May we keep them and their loved ones in our thoughts and prayers as they struggle to endure this difficult period and mourn the heroes America has lost.

Finally, let us all continue to hope for the safe return of all of our troops serving throughout the world and remember how truly fortunate and grateful we are for their service.

Mr. SKELTON. Mr. Speaker, I thank the gentleman from Rhode Island, the distinguished gentleman, a member of the Committee on Armed Services, for his remarks.

I yield to the gentleman from Florida (Mr. MEEK).

Mr. MEEK of Florida. Mr. Chairman, I thank the gentleman for yielding me this time. It is such an honor to be here on the floor once again with the great men and women of the Committee on Armed Services to get an opportunity to address the United States House of Representatives and also the American people.

First of all, I would like to say that I am both proud and humbled by what our troops have been able to accomplish under the circumstances. I also think that it is in proper order for us to give them uplift in a time that this very Congress, the other body, released a report, intelligence report showing that the intelligence, that there is a very strong possibility that it was manipulated, manipulated to the point that many Members of this House, many Members of the other body, and the public, were led to believe that the

circumstances were imminent as it relates to the threat to the United States of America, and that we had to forthwith go to war in Iraq with a preemptive strike.

I also think that the troops need uplift of the fact that the report, through the Department of Defense, said 25 percent of American lives could have been saved if we were prepared; not the troops, but this administration, with body Army and up-armor for their Humvees and vehicles.

I think they also need uplift to know that Democrats and some Republicans in this House are fighting for hearings to make sure that we have some level of accountability at the highest levels of the Defense Department and the administration, because we have men and women that have sacrificed not only their lives, but also many have sacrificed their freedom to be with their families.

I do not blame it on the troops, and I would not say that it is the troops' responsibility or fault about what is going on with the insurgency right now in Iraq. The troops will fight for 20 years if this country needs them to fight for 20 years. I think the bigger question comes down to in this democracy that we have, since we are traveling throughout the world trying to create new democracies and trying to create civilized governments, that there has to be some checks and balances, and it does not serve me any pleasure to say that right now in this effort in Iraq, I do not think the checks and balances are there.

I am glad that we were leader enough to come to the floor tonight to be able to share with the American people that we want our troops to know that there are Members of the Congress who will ask the "yes, but" question, that will ask the tough questions about equipment, that will ask the tough questions about intelligence and the fact that something happened between the CIA, what the Congress was told, and the role that the Bush administration played in it. This is not in any way being partisan; it is just laying the facts out the way we see them.

We also want the troops to know and their families to know that we want the situation to get to the point to where other countries will assist in Iraq, will assist in Afghanistan, and operations can get better, so hopefully Reservists and National Guardsmen that put their name on the dotted line, said they were willing to serve their country, that they will be able to come home in the very near future to be able to make a son or daughter's birthday, or to be able to see their families or loved ones or significant others.

Mr. Speaker, I think also it is very important for us to share with troop families that those of us in the Congress, I believe everyone in the Congress, that we feel for those wives and husbands and children when they are getting up to go to school in the morning, when they are getting ready to

now, this summer, to go to summer camp, and it goes over the TV. I have families in my district, they turn the TV off. I have one constituent who has two sons in the theater right now in Iraq, and they do not even watch the TV in the morning because they do not want to start the day off knowing that two or five or six troops were killed overnight, and they do not know if someone in a military uniform is going to knock on their door and tell them that it was their son, her son. I would say that there are Americans that cringe when they hear that, because it is quite personal.

So I want to say to those families that we appreciate their service. I want to say to those families that we will get to the bottom and the top of bad intelligence. We will make sure that our troops have what they need to have. But we need the opportunity to do so.

I implore, Mr. Speaker, as I close, the Republican leadership within our committee, the Republican leadership in this House, to allow the House Committee on Armed Services to do its work, to be able to have the witnesses that we need to have to ask the tough questions, to be able to know how much this effort in Iraq and also the lack of effort as it relates to, we just had a hearing on Afghanistan and the poppy plants being harvested earlier that is funding the Taliban to fight against our American troops, and it is the number one threat to this country and did have a connection to 9/11; asking those tough questions to people that had made the decision, not someone five tiers down within the Department of Defense, but at the very top of the Department of Defense, because the country's reputation is on the line.

Every veteran that suited up and went into war, need it be World War II, Korea, the Gulf War I, need it be when individuals went into theater in Granada, anytime that we got ourselves together in Vietnam, making sure that those veterans know that the rest of the world, we appreciate their service and that we will not allow individuals, because they want to make sure that other individuals do not take fault for what has taken place thus far with bad intelligence, going to war, not for the reasons why the country was told, and also losing so many lives in that process.

So I am proud that we are here. I hope that we can come to the floor even more. I hope that the American people understand that there are Members on this. And I do not want to even put partisanship on this, because I know that there are Republicans who feel the way that we feel on this floor, and we want to make sure that those voices rise to the top. For those individuals who may be standing in the door of oversight by this Congress, I hope that they do not take personally our quest and our need to be able to address some of the issues that are facing the needs of our troops in theater.

Mr. SKELTON. Mr. Speaker, I appreciate the comments of the gentleman from Florida. I might add that that is our job, the Committee on Armed Services and Congress, to have oversight of the military of the United States, to ask the tough questions, because we are the ones that give them the training, the education, the equipment, the materiel. That is what we do. If we do not ask the good, tough, honest, hard-hitting questions that come up from time to time, we are not doing our job.

So I thank the gentleman for raising that issue. It is not a partisan matter; it is a matter of constitutional duty that we ask questions and learn so we can be of even more help to those in uniform.

Mr. Speaker, I take great pleasure in yielding to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding, and I further thank him for scheduling this Special Order.

Mr. Speaker, our Armed Forces won an impressive victory in Iraq, but the Pentagon was poorly prepared for the aftermath. Three big assumptions proved wrong: one, that the Iraqi people would welcome us as liberators; two, that oil would soon pay for Iraq's rebuilding; and, three, that we have plenty of troops, weapons, and equipment for the postwar situation.

American troops were left to tackle tasks that they were not trained to handle, but let me tell my colleagues, they rose to the challenge. While the situation is still ours to win or lose, it would be far, far worse if it were not for their can-do attitudes and their courage. They are doing their best and have been doing their best to stabilize a God-forsaken country and put Iraq back in working order, and they are doing it under extremely difficult circumstances with all too little credit or attention given to their successes.

No one in the Bush administration thought that now, nearly 14 months after the end of major hostilities in Iraq, that we would have 161,600 U.S. troops deployed in Operation Iraqi Freedom, 130,800 in Iraq, and 21,800 in Kuwait. We are about to embark on the third rotation of troops for the war in Iraq, which so far has involved the movement of 277,000 troops. Currently, Guardsmen and Reservists account for 40 percent of the Iraqi Freedom force; and following the upcoming rotation, the Reserve component will make up 43 percent. These are men and women who leave their jobs and businesses, their farms, not to mention their families, and serve tours longer than any of them ever expected.

In the first Persian Gulf War, the question was whether the total force would work, whether active and Reserve forces could fight and maneuver side by side. In this war, there is no question. Without the Guard and Reserve, our active duty troops could hardly deploy.

Whether active duty or Reserve, our troops face a daunting challenge. Secu-

rity in Iraq is so bad that thousands of troops unfortunately, but probably, will have to stay for a long time to come to prevent this country from falling into a fractious, bloody civil war.

□ 2030

How did this happen? Poor assumptions, poor vision, poor planning. Ignoring State Department warnings, the Iraqi army was disbanded in May of 2003. With no other security forces on hand, U.S. military was left to confront, almost alone, an Iraqi insurgency and a crime rate that grew worse throughout the year, waged in part by soldiers of the disbanded army and in part by criminals who were released from prison.

The Army's Chief of Staff, Eric Shinseki, warned us that several hundred thousand troops would be needed to police post-war Iraq. What did he base that upon? Firsthand experience as the commander in chief of our multilateral force in Bosnia and Kosovo, several hundred thousand troops. Pentagon officials dismissed it the next day as wildly off the mark, fixing the figure closer to a hundred thousand. General Shinseki has been vindicated by what has happened.

Last August, our troops began training a new Iraqi army, a light infantry force of about 40,000 to be ready by this October, 2004. As of today, 7,000 to 9,000 have been trained, and when these troops are trained, it will still be far, far short of what is needed to maintain Iraqi security.

The situation in Iraq, unfortunately, differs dramatically from the rosy picture that was painted for us by expatriates before the war. During an interview with Meet the Press March 16, 2003, our Vice President, Mr. CHENEY, insisted that our troops would be welcomed as liberators. When asked what if we are viewed as conquerors instead, he said, "Well, I don't think it's likely to unfold that way, because I really do believe that we will be greeted as liberators."

What was his source? Well, he said, "I've talked with a lot of Iraqis in the last several months myself, had them over to the White House." While some Iraqis did greet our troops as liberators with open arms, many did not, and aliens like Abu Musab Zarqawi took advantage of open borders and infiltrated Iraq to begin waging guerilla war.

Since the Pentagon underestimated the number of troops required after the end of hostilities, we were not prepared to prevent looting or to guard hundreds of weapons dumps spread throughout the country. So the looting destroyed key components of the Iraqi infrastructure, and stolen munitions are being used today in attacks on coalition troops and Iraqi civilians.

Because this violence was not anticipated, thousands of troops were sent to Iraq without adequate body armor and without up-armored vehicles. They were to be greeted as liberators, but, in

Iraq, 882 have been killed so far, and 5,394 have been wounded. In Afghanistan, meanwhile, 130 have been killed, 332 have been wounded.

Our troops are the best-trained, the best-equipped, the best professionals, the finest fighting force the world has ever seen. More than 300,000 of them have served in Iraq during Operation Iraqi Freedom, and over 40,000 have taken part in the conflict in Afghanistan, and despite blunders from above, the can-do determination of our men and our women in uniform never ceases to amaze me.

I traveled to Iraq late last summer, and I met with the Coalition Provisional Authority, with the Iraqi Governing Council, with U.S. commanders and with our troops. North of Baghdad in Mosul, the 101st Airborne Division was in charge. Its able commander, General Petraeus, calls this region the most viable region in Iraq, and he never missed a chance to salute his own troops.

He told us privately, "I've seen our young soldiers endure tremendous hardship, overcome huge challenges, fight a tenacious, determined and even suicidal enemy, and demonstrate incredible innovativeness and compassion. It's just extraordinary," General Petraeus said.

The first 30 days of an occupation, everybody knows, are critical. General Petraeus spent the first 30 days training local security forces, fueling the economy by use of his commander's funds to create local jobs and to befriend Iraqis. In the 101st, troops were often dual-hatted as warfighters and peacekeepers, carrying a rifle in one hand and a wrench in the other, putting down insurgency on one front and winning hearts and minds on the other.

Let me give you another snapshot. Consider the 1st Infantry Division. Soldiers from the 1st Division delivered medical supplies, textbooks and journals to the Tikrit Hospital, the hometown of Saddam Hussein, and Tikrit University Medical School in particular. They delivered 150 boxes of textbooks donated by medical schools and medical students in the United States.

Prior to this restocking, the university has had to use photocopies from medical students and medical texts. Our contribution raised the library at that school to 50,000 volumes.

Another snapshot. Let me read a portion of an article by James Lacey, and I read it because there has been so much copy devoted to what is going wrong there, so much copy about the violence there and about the hopelessness of the situation, we really do need to look from time to time at the success stories and at the remarkable and aspiring examples of our troops.

Here is what Lacey, who was embedded with the 101st Airborne Division, wrote. "Bravery inspires men, but brains and quick thinking win wars. In one particularly tense moment, a company of U.S. soldiers were preparing to

guard the Mosque of Ali, one of the most sacred Muslim sites, when agitators in what had been a friendly crowd started shouting that they were going to storm the mosque. In an instant, the Iraqis began to chant and a riot seemed imminent. A couple of nervous soldiers slid their weapons into fire mode, and I thought we were only moments away from a slaughter. These soldiers had just fought an all-night battle. They were exhausted, tense, and prepared to crush any riot with violence of their own. But they were also professionals, and so when their battalion commander, Lieutenant Colonel Chris Hughes, ordered them to take a knee, point their weapons to the ground and start smiling, that is exactly what they did. Calm returned. By placing his men in the most nonthreatening posture possible, Hughes had sapped the crowd of its aggression. Quick thinking and iron discipline reversed an ugly situation and averted disaster."

Since then, Lacey writes, I have often wondered how we created an army of men who could fight with ruthless savagery all night and then respond so easily to an order to smile and relax your weapons.

Mr. Speaker, pride in our troops is not a partisan issue. Democrats and Republicans alike support our military personnel. For our troops, this is tough, dangerous duty. And though morale is satisfactory, as General Cody acknowledged in the New York Times just a week ago, the Army, among others, because they are doing most of the heavy lifting now, is absolutely stretched thin. That is why when the supplemental providing \$87 billion for Iraq and Afghanistan came before Congress, I proposed a package for the troops. Surely we could find a niche somewhere in an \$87 supplemental for the troops and their families.

I proposed that we increase imminent danger pay, separation pay, that we give them R&R tickets that would take them all the way home and not to their last duty base. I proposed extra funding for family assistance, because it is grossly underfunded.

I am sorry to say it, but the Republican leaders of the House would not let my package be offered on the House floor. Parts of it, fortunately, ended up in the conference report.

In May, when we had the defense authorization bill before us, I offered another amendment to that bill to ensure that every sailor, every soldier, every airman and marine in the combat zone has \$250,000 minimum life insurance paid for by the government itself and to fund several force protection measures, including the test and evaluation of new technologies that would neutralize these horrible devices called improvised electronic devices, roadside bombs, that have killed and maimed so many, I offered some money to boost that particular research. Once again, my amendment was not even made in order to be debated, at least debated on the House floor.

As costs mount, in lives and dollars, it is natural to second guess, but one lesson I hope we have learned is that the U.S. cannot go it alone in a policy that leaves American troops taking all the risk and American taxpayers paying all of the costs.

Our country, the United States of America, may be the world's largest economy and the world's only superpower, but we stretch ourselves dangerously thin by taking on commitments like Iraq with only a motley band of allies to share the burden.

The cost of the first Gulf War came to \$80 billion in today's money. Our allies picked up \$60 billion through cash contributions. \$16 billion was provided us in kind, petroleum and food and other things, mainly by Persian Gulf countries. That left us \$4 billion out of pocket for an \$80 billion war. This war so far has cost us \$125 billion and counting, because largely we decided to do it on our own, with only the United Kingdom as a paying, fully participating partner.

I may disagree with the administration over aspects of this war, and particularly going it alone, not building a broad-based coalition to support whatever we have done, but I want to tell you, Mr. Speaker, in closing, that I stand second to none in supporting our troops.

Because of that and because I recognize how stretched we are, I am all for an increase in Army end strength of at least 30,000 and in Marine end strength at least by 9,000.

But, you know, Mr. Chairman, the test of our support is not what we see but whether or not we pass legislation that backs up what we say, that gives our troops the tools they need to execute their mission successfully and gives their families the resources they need to have peace of mind and security. We owe them no less, for they make this country the land of the free and the home of the brave.

Mr. SKELTON. Mr. Speaker, in closing, let me thank the gentleman from South Carolina for his excellent contribution today, as well as his outstanding contributions in the committee. We are the grandest civilization ever known in the history of mankind. As the gentleman from South Carolina just mentioned, we are the best. We have the finest military, strongest economy, and all of us at this time should realize what we really need to have for success in this war, this guerrilla warfare in Iraq and the war against terrorism in Afghanistan.

To begin with, we need additional troops. We must do our very best to make sure they have the equipment and the training and the munitions, but, more than that, we must let them know we support them with our words as well as with the deeds that we do here in Congress. And I would be remiss if I did not say that we should also say a special word of thanks to those wonderful families who support them, who are here at home hoping to

hear from their loved one in Iraq or Afghanistan and praying for them every day.

So, with that, Mr. Speaker, I say thank you to those who are in uniform today who are supporting this country in the most difficult way and especially to their families and all of the great love and support that they have.

#### OIL-FOR-FOOD PROGRAM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Connecticut (Mr. SHAYS) is recognized for 60 minutes as the designee of the majority leader.

Mr. SHAYS. Mr. Speaker, at this time I would just introduce our remarks by saying I do not think I have done a special order this entire session, but I am doing one tonight because I feel very strongly about an issue, and that is the Oil-for-Food Program. And my subcommittee is working, as is the Committee on International Relations, on the whole issue of oil for food and the outrageous rip-off, probably the biggest rip-off in the history of rip-offs, the \$10 billion plus events over the course of many years that Saddam was involved in.

At this time I would like to recognize the gentleman from New Jersey (Mr. SMITH) for whatever time he would like to consume.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding and join him in this very strong concern about one of the biggest scandals known in history and thank him for his good work as chairman of the subcommittee in trying to get to the truth as to what happened.

□ 2045

Mr. Speaker, tonight, we are discussing the recent disclosures about problems with the U.N.'s Oil-for-Food program. As my colleagues know, in 1995 the U.S. worked with the U.N. to create a program to allow Saddam Hussein to sell his country's oil in what was purported to be a controlled manner in return for shipments of humanitarian goods for the Iraqi people. Tragically, we now know that this noble effort was grotesquely undermined by scandal. The GAO estimates that some \$10 billion in oil revenue was stolen from the people of Iraq.

The laudable purpose of the Oil-for-Food program was to alleviate massive human suffering by innocent Iraqi civilians whom Saddam Hussein was deliberately starving in order to generate international support and sympathy for lifting U.N. Security Council sanctions against Iraq. The system to be implemented by the U.N. and by member states was supposed to carefully monitor all sales of oil and make sure that these petrol dollars were placed in a trust fund at the French Bank, the PNB-Paribas.

The system was supposed to be transparent. It was supposed to be above

board. It was supposed to be open, but it was anything but. As the coverup and the lack of transparency crippled efforts that continue to this day, efforts to establish all of the facts and to hold the corrupt to account.

New York Times columnist William Safire noted in June of 2004 that there are some 5,000 Oil-for-Food file folders stored at BNP-Paribas storage facilities in New York and in my home State of New Jersey with documentation on the letters of credit, the notice of arrival documents, descriptions of the contracts; and yet the U.S. investigators are not being allowed access to these vital documents.

In theory, Mr. Speaker, the trust funds were supposed to be out of the Hussein regime's control and were to be used to purchase civilian consumer goods and basic infrastructure. The justified fear manifested in the 1990s by the United States and the United Kingdom was that Hussein's agents would try to misuse oil funds to purchase banned weaponry and luxury items for the regime. History has proven these fears to be well founded. Unfortunately, the United Nations apparently presided over a system that was rife with loopholes and opportunities for Hussein and his thugs to corrupt and bribe their way towards enrichment at the expense of the very people he was to feed, clothe, and provide health care for.

For example, the Clinton administration estimated in the year 2000 nearly \$2 billion of the Oil-for-Food assistance was diverted to build nine lavish palaces for Saddam Hussein and his Baath Party supporters, all of this while children went hungry and without medicines. The Congressional Research Service, Mr. Speaker, in April 2004 did an analysis of the various estimates to try to get a handle on the scale of the Iraqi sanctions cheating and the U.N. failure to stop them.

CRS notes said, "There are no authoritative figures for the value of illicit trade with Iraq. However, the most widely cited estimates come from a study released in May 2002 by the GAO. According to the GAO study, Iraq earned \$6.6 billion in illicit revenue from oil smuggling and surcharges during 1997 to the year 2001. Of that total, GAO estimates that \$4.3 billion was from illicit oil sales and \$2.3 billion from surcharges on oil and commissions from its contracts to buy civilian goods (kickbacks). The study estimated that during 2001, Iraq earned \$1.5 billion from illicit oil sales from Jordan, Syria, Turkey, and the Persian Gulf; and about \$700 million from surcharges and contract kickbacks."

Mr. Speaker, as we all know, Congress and the Bush administration are actively investigating allegations of large-scale U.N. corruption in complicity with Iraqi sanctions violations. But we have not been allowed the access to information that would make these efforts successful. One problem, Mr. Speaker, with the U.N. program,

and I would underscore this, is that it seems that the firm which signed the contracts with the U.N. to inspect the humanitarian aid shipments, Cotecna, appears to not have had enough inspectors at their posts to make sure that the transactions were handled properly.

According to internal U.N. audits, Cotecna overcharged the U.N. while understaffing the inspection positions. In other words, part-time work for full-time pay. This particular allegation was included in a report written by auditors from the Office of Internal Oversight at the U.N. This report, we are now told, is one of 55 that the U.N. auditors did on the Oil-for-Food program. Amazingly and shamefully, all 55 audits were kept from the U.N. membership, including the United States mission. This is just plain wrong; and to the best of my knowledge, no one in the Congress has seen the other 54 reports.

At the very least, these reports should be released immediately by the United Nations to the U.S. and other interested governments, and this stonewalling must end. I would point out to my colleagues that the distinguished chairman of the House Committee on International Relations, the gentleman from Illinois (Mr. HYDE), wrote to Secretary General Annan: "The U.S. Congress, which provides 22 percent of the U.N.'s budget and which has publicly requested copies of the 55 internal audits, should not be required to depend on media leaks for source documents."

The report on Cotecna, I would point out, was leaked and was placed on the Internet. If it were not for the bravery of one unnamed official, we would not even have this one report.

Mr. Speaker, let me just conclude by noting that while the United Nations looked the other way, or worse was complicit and corrupt, Saddam Hussein was underselling his oil in return for kickbacks and providing commercial favors to the companies from countries which did his bidding in his ongoing propaganda war against the United States. The scheme was rotten to the core. In my mind, it also raises some very serious questions about two of our Security Council countries which most adamantly opposed the U.S. multinational coalition military commitment, and they were France and Russia. They were among those getting the greatest sweetheart deals during the Oil-for-Food situation.

For example, the Russia diplomatic representatives, we are told, were instructed to do everything they could to push for contracts with Russian companies. There are hundreds of Russian companies dealing in Iraq. Some were even front companies for Iraqi officials steering the proceeds into offshore bank accounts. Some companies took open bribes. One Russian company, Lafia, paid bribes to Iraqi officials to get their contracts through; but when the contract fell apart, Lafia asked for

its bribe money to be paid back and even complained to the U.N. about the situation.

What did Benon Sevan, director of the U.N. office overseeing the Oil-for-Food program do about this? He notified Saddam's officials before he even told the U.N. about it.

Investigators are now hearing that the U.N. officials were open to bribes by suppliers if those vendors wanted their contracts to move up in priority for consideration there. They are hearing that U.N. officials would disclose the details behind the holes that U.S. officials were placing on contracts in return for the right amount of money. They are hearing that inspectors at Iraq's posts were also open for bribes and overfilling oil tankers beyond the contracted amount and then selling the extra oil and lining their pockets with the profits.

Under pressure, Mr. Speaker, as we all know, in April 2004 the U.N. appointed a commission headed by Paul Volcker, the former Chairman of the U.S. Federal Reserve, to independently investigate this massive scandal.

Mr. Volcker is currently assembling his staff and beginning his inquiry. That sounds good, because Mr. Volcker enjoys a great deal of respect. But even with the best of intentions, if he is not given all the tools to unearth the truth, the probe will fall short. I will point out to my colleagues that Mr. Volcker and his commission do not have subpoena power, a deficiency in his powers that will undoubtedly cripple his access to information. How is he going to compel U.N. officials to provide the hard evidence of corruption?

Let us face it, Mr. Speaker, corrupt officials are not going to voluntarily hand over boxes of files filled with incriminating evidence. Instead, those boxes are likely to be shredded or redacted. Without subpoena power, the U.N.'s internal investigation will be stymied and will likely raise more questions than it answers, and the hard truths about this mother of all scandals are likely to be lost and remain elusive.

Secretary General Kofi Annan says he will fire any U.N. employee who does not cooperate. Sounds good. Let us see. We will see. How do we define cooperate? How do we know what remains secret when we do not have that ability to compel evidence? Mr. Annan's own son may be involved in this scandal since he was Cotecna's consultant, and that raises serious questions as well.

These are tough questions, Mr. Speaker; and I understand that the answers will not come overnight, and under the current glideslope, perhaps they will never come.

Congress needs to demand real answers, as we are doing; and there needs to be real and meaningful reforms made at the United Nations.

Mr. Speaker, I am glad we organized this very important night to focus on this terrible scandal. I thank my good

friend, the gentleman from Connecticut (Mr. SHAYS), for yielding to me.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for a wonderful introduction and outline of the problem.

I now yield to the gentleman from Michigan (Mr. McCOTTER), a new member to Congress and one who is very active in this issue.

Mr. McCOTTER. Mr. Speaker, we are engaged in a great debate in a great and dangerous time. At the heart of this debate dwells the United Nations' scandalous Oil-for-Food program, for it constitutes not merely a matter of dollars and cents, but truly a matter of life and death.

I would like to quote to prove the point a copyrighted article by the writer Claudia Rosett, who is a Fellow at the Hudson Institute, in which she cites Claude Hankes-Drielsma, a British advisor to the interim governing council, in which he says of the scandal, "It is expected to demonstrate the clear link between those countries which were quite ready to support Saddam Hussein's regime for their own financial benefit at the expense of the Iraqi people and those that opposed the strict applications of sanctions and the overthrow of Saddam Hussein."

Clearly this proves the scandal not only has disgraceful fiscal consequence but has also had dire martial consequences.

The resolutions regarding the weapons of mass destruction that the U.N. passed and yet lacked the resolve to fully and fairly and truly enforce, that lack of resolve will remain a question in the minds of many as long as this scandal lingers; for we will have to ask ourselves, did the U.N. come to their decisions, come to their lack of resolve with clean hands or with the money of Saddam Hussein in them? How much better would intelligence have been had the U.N. been actively and forcefully trying to get Saddam Hussein and Iraq to comply with those sanctions rather than finding one excuse or another not to do so?

In terms of our U.S. coalition and the buildup to the war, how many other countries would have been willing to join us had not many in the U.N. undermined our efforts to enforce those resolutions? And again, we ask ourselves, Did those countries that undermined our efforts to build a coalition come to that with clean hands or with Saddam Hussein's Oil-for-Food money in those very hands?

As for our soldiers, we now have to ask ourselves, how much of the potentially \$10 billion that was skimmed, stolen, misplaced, misspent, gone, how much of that money wound up in the hands of contractors who were front groups, as the U.S. Treasury has just designated one, of contractors who did business under the Oil-for-Food scandal? How much of that money that was stolen is currently being used by Saddam's insurgents and terrorists to kill America's sons and daughters in Iraq?

So much of the debate that we have heard internally in this country cannot have a resolution or even properly be addressed until we determine the extent of the corruption, the venality and the moral bankruptcy that lurks at the heart of this scandal, especially because the great debate I mentioned in many quarters these days hinges on this.

There are those in this country who believe the United States should be more like the United Nations. I for one am not ashamed or abashed to say I believe the United Nations should be more like the United States. If they had been, perhaps the sanctions would have worked, perhaps the dictator would have been deposed through democracy and other soft means; but we were not given that chance to see that because we were not dealing with an ally at the United Nations. We were dealing with an adversary. We were dealing with an adversary bent on their own financial gain at the expense of the Iraqi people and democracy throughout the world.

Mr. SHAYS. I thank the gentleman very much. I want to say before yielding to the gentleman from California (Mr. OSE), who has been very active on our committee's investigation, the National Security Committee's investigation, that one of the intriguing things about the whole Oil-for-Food program was that while people knew it was a problem, it did not really catch the attention of the international community until a paper, *Al Mada*, printed the names of 270 people alleged to be involved in this program.

□ 2100

I smiled because this was an Iraqi newspaper, not an American newspaper, not a European newspaper, and they got their information from a government leak within the Iraqi Governing Council. As I think of Iraq emerging into democracy, I smile a bit thinking that this was one of the first attempts I think of this new Iraqi community to start to enjoy the incredible protection of a free press and a press that has the capability to print what needs to be said.

So they printed the names of 270 individuals. They included Kofi Annan's son. They included Benon Sevan, who ran this program, run by the United Nations, to make sure it was free of any corruption.

I think my colleague, the gentleman from California (Mr. OSE), would agree it is kind of hard to imagine how a program that basically was run in essence by Saddam Hussein but overseen by the U.N. would be a program that would be run well.

Saddam Hussein decided that he did not want to deal in U.S. dollars. So he decided that it would be in euros. So that is what it was. He decided who would buy and who would sell his products. He decided to undersell oil and get a kickback and overpay for commodities and get a kickback.

In the end, we estimate that approximately \$5.7 billion was smuggled out of the country through Jordan, through Turkey and primarily through Syria, and that 4.4 were oil surcharges and kickbacks and so-called humanitarian purchases and kickbacks.

There is no innocent explanation for how this could happen, and there is no question that people in the U.N. knew what was happening, and I think we can say, as I recognize now the gentleman from California (Mr. OSE), that there is no doubt that the Security Council knew, including the Americans, the Russians, the French, the British, the Chinese, or most people knew that this program was really not working properly, but it took a small paper, Al Mada, printed in Baghdad, to awaken the world to this horrendous scandal.

At this time, I yield to my colleague, the gentleman from California (Mr. OSE), for any comments he would like to make.

Mr. OSE. Mr. Speaker, I thank the gentleman from Connecticut for yielding.

Mr. Speaker, sometimes we work here in the hallowed halls of Congress, and we come upon things that almost come out of a Tom Clancy novel. I do not know of anything in my few years here that even begins to rival the complexity or the obvious opportunities that existed in this so-called Oil-for-Food Program set up by the United Nations.

I want to go back and just kind of visit as to the genesis of the Oil-for-Food Program. If my colleagues recall, after the Gulf War, we imposed sanctions on Iraq hoping that those sanctions, in fact, would bring the Hussein regime down. Over time, the caloric intake for the people of Iraq, men, women and children, still stuck there under the regime of Hussein was reduced to about 1,200 or 1,300 calories a day. The United Nations, in its wisdom, after significant input from any number of the member states, decided to undertake a program, the objective of which would be to raise the average daily caloric intake for the folks who lived in Iraq under the same regime.

Interestingly enough, the first time the U.N. proposed this, Iraq declined the opportunity. It was only after the second time that the U.N. proposed this that Iraq undertook to participate in this; and it was, frankly, a pretty clever scheme.

It took the oil that exists in surplus in Iraq relative to its domestic needs and put it on the market, directed the funds from that sale of the oil to an escrow account under the control of the United Nations from which food and medicine could be bought for delivery and/or distribution to the people of Iraq.

Lo and behold, a couple of years passed and all of a sudden the questions started rising as to whether or not there were surcharges, kickbacks, corruption and the like.

Well, the U.N. had actually set up a committee to examine or to make sure that this program proceeded according to the rules and regulations that it laid out in its resolutions, and that committee was called the 661 Committee, and the membership of the 661 Committee was composed of the five permanent members of the Security Council, plus the additional 10 revolving members of the Security Council who move in and out of those seats as the elections or the pattern allows.

Over the ensuing years from the Gulf War, the five permanent Security Council members sat on the 661 Committee and a revolving number of 10 additional States sat on that 661 Committee.

Now, the contracts, the way it worked was you had to get a contract for the purchase of oil. That had to be approved by the members of the 661 Committee, and then the transaction would be allowed to go forward, and upon delivery of the oil, there would be a third-party inspector in Iraq to ascertain the exact compliance with the contract. That person was supposed to send notification to New York so that in New York the escrow account could collect the funds from the buyer of the oil and disburse the funds for the purchase of food and medicine.

Well, keep in mind the name of this program, I just want to make this point, because the Oil-for-Food Program was about the most inaccurately named welfare effort of the United Nations as one can imagine. Let me tell you some of the things the Oil-for-Food Program managed to procure for the benefit of the Iraqi people. Keep in mind the purpose having been food and medicine.

The government of Iraq was able to persuade the United Nations' 661 Committee that the people of Iraq needed 1,500 ping-pong tables. I guess apparently they needed fiber. So one of the contracts called for the delivery of 1,500 ping-pong tables.

We heard earlier from the gentleman from New Jersey (Mr. SMITH) the testimony about the nine presidential palaces that were constructed by virtue of the money that was skimmed from the Oil-for-Food Program.

But in addition to the nine presidential palaces that were financed through the Oil-for-Food Program, there were also roughly 300 Mercedes that were purchased, again for the benefit of the people of Iraq and their food and medicine requirements. Now, 300 Mercedes Benz, what do you suppose they did with those? I have not figured that part out.

Here is a good one. This is actually close to using some dairy products. There were soft ice cream machines authorized for purchase under the Oil-for-Food Program.

There were overpriced dental chairs from China purchased in the Oil-for-Food Program. This is like a Tom Clancy novel. I am not making this stuff up. There was a warehouse full of

undelivered wheelchairs purchased under the Oil-for-Food Program, again for the benefit of the people of Iraq.

The one that I find is perhaps best, we are worried about infant mortality, infant survivability in some of these Third World countries. So one of the things that the United Nations undertook to provide was equipment for the medical needs of newborns. So they went and bought defective ultrasound machines from Algeria. Algeria rounded up all these ultrasound machines that did not work and sold them to the U.N. for premium dollars.

There was perfume. I guess the people, I do not know, they needed perfume in the Oil-for-Food Program.

Now, there were additional things that were in the Oil-for-Food Program or at least on the contracts it allowed for the purchase of water pumps, piping and other supplies; and, unfortunately, what we find 9 years in when we have to go into Iraq, we find that none of the water pipe for drainage systems or other things that are so essential to civil life here in the United States have been installed. In fact, those water pumps and pipes have basically been hijacked for use in Saddam's various palaces for water improvement.

Now, I want to go back to my friend from Connecticut because I know he has quite a bit to offer, but before I do I just want to remind the folks in this Chamber about the preamble for the United Nations, the purpose of the United Nations. In part it says, we the peoples of the United Nations determine to establish this is the first thing, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained; and to promote social progress and better standards of life in larger freedom; and, finally, to unite our strength to maintain international peace and security.

I would submit to my colleagues that the schemes that evolved from the original U.N. Oil-for-Food Program, that the scheme of corruption and apparent fraud basically served to undermine each of those three principles, and I hope to come back to that in the course of this evening's discussion.

Mr. SHAYS. Mr. Speaker, before yielding to the gentleman from Indiana (Mr. PENCE), who is on the Committee on International Relations, we heard from the gentleman from New Jersey (Mr. SMITH) of the Committee on International Relations and also the gentleman from Michigan (Mr. MCCOTTER) on the Committee on International Relations. I would like to recognize the gentleman from Indiana (Mr. PENCE) as well.

That committee, the full committee, is conducting its investigation of the Oil-for-Food Program. Our Subcommittee on National Security, Emerging Threats and International Relations of the Committee on Government Reform is doing that same investigation. We are working together. We

are comparing notes. We are trying not to be duplicative but trying to make sure that we are able to pierce the veil of what is truly the most outrageous scandal, certainly world scandal, that anyone to date has ever uncovered.

This again is a \$5.7 billion smuggling ring and a 4.4 oil surcharge and kickbacks on the sale of oil and the purchase of commodities that were overpaid for and then kickbacks were provided to Saddam.

What is really outrageous about this whole horrific exercise is that the U.N. was in charge to guarantee that it would be run properly, the U.N. comprised of member States like France and Germany and Russia and China, as well as the United States and Great Britain. At times, the United States and Great Britain voiced concern about this program, but the program continued, and it was not until, again, an Iraqi newspaper, *Al Mada*, really outed 270 people that the world started to think that they needed to pay attention to this issue.

Besides talking about the incredible rip-off, the U.N. was making legitimate dollars, billions of dollars running the program, and we understand why there was a reluctance to no longer have that opportunity. Then what we began to realize is people in the U.N. and member states were making billions of dollars in illegal activities.

It is hard pressed to know why particularly the Russians and the French were so involved in this program, but when you recognize how involved they were, it does give you some indication of their reluctance to want to confront Saddam since he knew so well their involvement in these illegal schemes, and it does suggest, I think, a very real motive for why France in particular and Russia and China were so reluctant to see this dictator's regime end.

If the French had stuck with us, as they had in December through January, instead of being the apologist for Saddam but had stuck with us, it is unlikely we would ever have had to go in because it is very likely and it is very clear Saddam knew we believed we were not going to come in and remove him because the French and the Russians and the Chinese were not with us.

□ 2115

That gave him the confidence to think he could continually stonewall us.

So besides the incredible rip-offs that have been mentioned by the gentleman from California (Mr. OSE), the gentleman from New Jersey (Mr. SMITH), and others, there is the whole issue of why there was not greater cooperation to force Saddam to do what was required in the 1991 signing of the ceasefire: Fully cooperate with the U.N. and demonstrate and prove that his programs of weapons of mass destruction had ended.

Mr. Speaker, I now yield to my colleague, the gentleman from Indiana (Mr. PENCE), and thank him for his work in this important investigation.

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

Mr. PENCE. Mr. Speaker, I rise tonight to join the gentleman from New Jersey (Mr. SMITH), and thank him as well as the gentleman from Connecticut (Mr. SHAYS), for their extraordinary efforts in bringing what is very likely the largest scandal in the history of the United Nations into the public domain.

Mr. Speaker, a very limited fan of the Larry King Live program would know that the gentleman from Connecticut (Mr. SHAYS) is one of the most eloquent and compelling Members of Congress in the national media, and I, for one, am grateful that the chairman is willing to dedicate so much of his energy to calling the Nation's attention to this issue and wish to commend him for doing that.

There seems to me to be an opposite impulse afoot in both the international community as well as here in our Nation's capital. Despite the fact that this multibillion dollar Oil-for-Food program, which operated from 1996 to 2003, resulted in billions of dollars lost in graft and payoffs, there seems to be an impulse among some quarters within our own diplomatic community here in Washington and even around the world to simply move on.

Clearly, I would be, as a strong supporter of Operation Iraqi Freedom, I would be the very first to say we ought not to let the mistakes of the past interfere with opportunities for alliances in the future. And I, for one, am extraordinarily encouraged to see the United Nations Security Council embracing a new role of partnership in the development of a free and stable and Democratic Iraq. But it seems to me to be all together consistent with the aims of a vital and important role of the United Nations on the world scene, especially in difficult areas like Iraq, or even in Sudan, of which we may well be talking in the near future, it seems to me we ought to always seek to defend the basic reputation of integrity of the United Nations.

As we gather here today, we reflect, Mr. Speaker, on this program, which was, as the gentleman from California (Mr. OSE) just said very eloquently, a program born of compassion. It was about trying to provide assistance, both food and medical supplies, to a beleaguered people in the difficult years that followed the first Persian Gulf War, and to no less extent the decades of oppression and abuse by the tyrannical dictator Saddam Hussein. It was to provide them with resources and assistance by letting the regime of Saddam Hussein sell oil, the payments for which would go into an escrow fund that would then purchase medical supplies and food stores to be then delivered back into Iraq.

Sounds like a pretty flawless arrangement, like a triangle, if you will. The only problem, and I believe hindsight is 20/20, and I understand why

these decisions were made, but as we learned in the Committee on International Relations, at the end of the day this Oil-for-Food program deferred to the principle of sovereignty of Saddam Hussein's government in Iraq. And why that was problematic, we believe, is because it permitted Saddam Hussein to choose who he would sell oil to and to choose who he would buy supplies from.

Allowing this deplorable dictator and his corrupt government to choose to pick the winners in this multibillion dollar Oil-for-Food program created an environment, the preliminary evidence of which created opportunities for graft on a global scale. And as Chairman SHAYS just suggested, the interrelationship between this program and some countries who were loathe to support our efforts militarily against Iraq is troubling and intriguing and bears fleshing out.

I believe that is what we are about here tonight, simply doing our part in this chamber, the people's House, to raise public awareness about this extraordinary scandal and an attempt by a dictator to siphon off an estimated \$10 billion from a program that was truly simply designed to help people.

A few brief points, and then I will yield back to my betters on this issue.

The role of Congress. I think what we are about tonight, Mr. Speaker, is an important role. It is to at least be that one quarter of the national government in the most powerful and freest Nation in the history of the world that says, yes, we do care what happened to the billions of dollars that went out of the Oil-for-Food program; we want to know who benefited through those illicit profits and kickbacks.

And let me hasten to add that I serve a heartland district in central Indiana where I grew up seeing the billboards that would read "get out of the U.N." This is not a "get out of the U.N. move" in the Congress. This is rather a move about saying, if we are not prepared to demand a full accounting of the resources that move through the United Nations in the programs that they are charged with governing, I think that is a greater threat to the long-term vitality of the United Nations as a legitimate forum for addressing grievances in the free world than any billboard or any accusation could ever be.

Congress, it seems to me, has a role, and there are a couple. Number one, to do everything in our power to strengthen the position of the chairman of the independent investigating committee, the former Federal Reserve Chairman, Paul Volcker; to do that by the means of the pocketbook in the Congress. And I am confident that we have done that and will continue to do that.

Secondly, it is to ensure that the Iraqi interim government and congressional investigators are able to conduct an effective and exhaustive investigation. We have heard tonight on the floor about some of the barriers that

the U.N. has not yet been willing to waive in contract arrangements that need and must be waived to permit our government and the Iraqi government to get to the bottom of the facts.

Lastly, something of what we are doing tonight is to push the State Department within the Bush administration to ensure that the Oil-for-Food scandal is thoroughly investigated. I understand, as I said before, and with this I close, I understand that we have bigger fish to fry, as we like to say on the Flat Rock River in Bartholomew County, and those fish to fry include moving forward in a multilateral way in Iraq and bringing the family of freedom-loving nations together in that project. But I hasten to add that I simply do not believe that demanding a strict accounting of the administration of the Oil-for-Food program that took place in the last decade in the United Nations is in any way inconsistent with bringing the United Nations and the countries represented on the Security Council more to bear on the challenges that we face in Iraq and elsewhere in the world.

If we can find out where the illicit profits went, and if in fact there were misdeeds done within the United Nations itself by United Nations personnel, we need to hold them accountable, create new systems whereby that kind of abuse is no longer as possible as it apparently was in the 1990s, and I think that will bolster world opinion for the United Nations and bolster the confidence in future programs, whether they be in Iraq or elsewhere around the world. So that when the United Nations says they are going to oversee a program that is designed to accomplish humanitarian aims, that it will accomplish those aims and it will not do so in a way that involves graft or the enrichment of individuals at the public expense.

So once again I commend Chairman SHAYS for his extraordinary leadership on the public stage on this issue. I commend him for being willing, as he candidly in his career frequently is, willing to swim upstream against what may be the current of the day, but to seek, as he so doggedly does, as the gentleman from California (Mr. OSE) does, and all of us I believe in our hearts do, to seek the truth, knowing that the truth is the only foundation upon which the international community should ever come together in the United Nations or in any project that faces us in the 21st century.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for his generous words, but also for his caring about the U.N. I think it is so important to reemphasize the fact that we want a better U.N., and it is absolutely essential that the U.N. do what it can in every way to cooperate. There will then be a redemption, and the U.N. will have greater impact and greater moral authority in the future. Failing to do that, I think the opposite is true.

I thank my colleague for being here, and at this time I wish to reengage my

colleague from California in regards to the Oil-for-Food program.

Mr. OSE. Mr. Speaker, I thank my colleague. It is interesting that the gentleman from Indiana (Mr. PENCE) was frankly very thorough in his remarks. One of the things that I continually try to do is bring to focus why this is important for my constituents. Because, frankly, the Oil-for-Food program, paid for by oil revenues from the sale of Iraqi oil, okay, big deal. We needed it.

But let me share why I think this is so important. First of all, in addition to the reasons elucidated by the gentleman from Indiana (Mr. PENCE), the money that was skimmed was supposed to go to the benefit of the Iraqi people for the purpose of purchasing food and medicine. In the absence of that money, somebody else must step in and fill that void. Somebody else must step in and buy the food or buy the medicine that the Iraqi people need. Now, is that the United States? Is that the United Nations? Is that Europe? Whoever it is, they are having to buy something that should have been funded by money that belonged to the people of Iraq by virtue of the sale of oil that had belonged to the people of Iraq.

That is a very important point, because if the United States is going to have to fill the gap created by the loss of these funds, then my colleagues and I are going to have to take it out of the Treasury of the United States. And that is important to each and every one of our constituents.

I want to return, Mr. Speaker, to what we are trying to accomplish here. If we look at current events around the world, we find that in addition to Iraq we have a burgeoning issue in Sudan, and we have them in various places at different times around the world. Today's event is Sudan, out by Darfur. If we cannot figure out how to run these programs under the auspices of the U.N., in a manner that is transparent and full of accountability, then at some point or another in the future we are going to lose our will or our interest to do it again, and that would be a problem. Because that would only compound the tragedy or tragedies of a future nature as they are now occurring in the Sudan.

Now, Mr. Speaker, I have asked for a couple of things. I think these are central to getting to a resolution in this matter. First of all, we need to know the contracts, and there are somewhere between 30,000 and 60,000 individual contracts. We need to have a listing of the contracts that were involved in the Oil-for-Food program. How much oil was sold at the point of embarkation in the ports of Iraq? How much money was then wired from the buyer of that oil to the escrow account under the control of the United Nations? And then from that escrow account, what were those funds used for, item by item, dollar amount by dollar amount, in purchasing goods for the people of Iraq?

□ 2130

Somebody earlier, I think the gentleman from New Jersey (Mr. SMITH), mentioned the 661 committee. We need to have a copy of the minutes of the various meetings of the 661 committee. As Members recall, the 661 committee was comprised of the five permanent members of the Security Council and the 10 rotating members of the Security Council. So day after day, week after week, month after month, the Security Council and the 661 committee were the same body. They had regular meetings to review these contracts. Undoubtedly there are minutes of those meetings. We have been told there are minutes of those meetings. We have also been told by the United Nations we may not have copies of the minutes of those meetings, either redacted or not. We are seeking copies of those minutes because in addition to the evidence we have available to us today that shows that the United States brought to the attention of the 661 committee in March of 2001 the potential allegation of fraud or corruption, we would like to know whether or not those allegations were brought to the attention of the 661 committee prior to that point in time and what was done about it. Interestingly enough, one of the previous speakers spoke about the office of internal oversight at the U.N. We have come to find out over the last week or 10 days that there were 55 separate audits of the performance of different contractors under the Oil-for-Food program, both the program as a whole and the individual components. We would like to get a copy of those audits. We have asked for a copy of those audits. We have been told that we may not have them. What we are looking for is a source for those audits. And, in fact, we have found one of those audits. In that audit's recommendations are a list of significant suggested improvements to the manner in which the program is run.

Mr. SHAYS. Mr. Speaker, our staff has been through some of the minutes of the U.N. 661 committee of the Security Council members responsible for the sanction monitoring and oversight of the Oil-for-Food program. Those minutes have told our staff a story of diplomatic obfuscation and an obvious purposeful unwillingness to acknowledge the program was being corrupted. Questions about oil or commodity contracts were dismissed as dubious media rumors beneath the dignity of the U.N. to answer while Saddam was given the undeserved benefit of every doubt. That is what is really striking about this whole program.

Bottom line. After the war in the gulf, after we got Saddam Hussein out of Kuwait, and I would say parenthetically, somehow he never thought we would seek to get him out of Kuwait, he had an obligation. His obligation was to cooperate with U.N. inspectors in terms of chemical, biological and nuclear program. He simply chose not

to. So the sanctions were put in place until he cooperated. The problem was Iraqis were starving and they were not getting their health care. What was obvious to us is Saddam did not care that his own people were dying. He was simply not going to cooperate. In a sense he kind of pushed the world community into doing its best to make sure that Iraqis did not starve and they got some medicine by saying that there would be this Oil-for-Food program that he basically would run with the supervision of the U.N. As has been pointed out, Saddam got to basically choose who could buy from him and he got to choose who he would buy from. He would undersell his oil and then get a kickback because there was so much money to be made in his undervaluing of oil by the parties that could give him a kickback. He would overbuy for commodities as the gentleman from California points out, commodities that were not even necessary, not related to Oil-for-Food. But he did more than that. In some cases he would buy so-called foodstuffs but they were animal stuffs, so they paid far more than would be logical for something that was for animals. In some cases he would purchase things that were never delivered.

One of the things that we are obviously aware of is the U.N. investigation by Mr. Volcker, and I believe he is going to put his heart and soul and is putting his heart and soul in this, he is only looking at the oil surcharges and kickbacks and the humanitarian purchases and only somewhat looking at the \$5.7 billion involved in the smuggling of oil through Syria, Turkey and Jordan.

The problem that we have is the following, and I would love to say this in a more lengthy way by first saying that I have been to Iraq five times since the end of the removal of Saddam. I was there a year ago April, in August, December, January, again in April, four times outside the umbrella of the military. I spoke with everyday Iraqis, literally hundreds of them. I went to an Iraqi wedding of over 400 men in attendance. I had a hard time finding the bride at that wedding. I went and met with religious leaders, community leaders, teachers, businessmen and some businesswomen. I met with the poorest of the poor in their homes. Almost every Iraqi told me thank you for ridding us of Saddam

and in the same breath they would say, and when are you leaving? It was said with a smile and it was said with this eagerness. They wanted us to go as quickly as possible. They had some criticisms of us and I think it is important to note, because the Oil-for-Food program relates to what we are talking about in Iraq. They were suspicious of us because we were the government. No hard feelings but they never had a government they could trust. Why would they trust us? They blamed us for telling them to rebel against Saddam but we left in place the Republican Guard that annihilated so many of their family members. They blamed us for the sanctions and the program of Oil-for-Food because they basically acknowledged the fact that their world was different after the Gulf War. They could not have commerce with other nations, at least legally. They could only get their food and their medicine from Saddam and he gave it out to the people he wanted to give it out to. So many people suffered not just in the early stages before the Oil-for-Food but continually. The Iraqi people were questioning why we broke apart the government and said to the Baathists they could not participate because many of the Iraqis I spoke to had family members that said, how else did you survive in Saddam's world in Iraq unless you could be part of the government, the police or the army? We disbanded all of them.

Mostly they wanted this to be an Iraqi revolution. I say that because I take tremendous satisfaction that this fledgling nation no longer having Saddam, they were the ones that forced the world community to address this issue. They are the ones that forced Kofi Annan to convince the Russians to allow for this investigation. They are the ones that have resulted in Mr. Volcker being hired with a budget and with personnel to do the jobs. The Iraqi people are demanding what happened to \$10.1 billion of their money. It is a good question for us as well, because we have put in far more than that. If they had \$10.1 billion right now, that would be \$10.1 billion we would not have to put into this country.

I am more than grateful that we have moved towards sovereignty for Iraq and I am hoping that when my subcommittee goes into Iraq this August and when we interact with this new Iraq government that we will get their

continued cooperation in helping us pull away the veil of this unbelievably obscene corruption that was managed by Saddam but basically protected and facilitated by the United Nations and many of its member states, particularly some of the biggest apologists for Saddam, particularly some of those that were most vociferous against our forcing Saddam to cooperate and against our removal of this hideous regime, a regime where hundreds of thousands of people lost their lives and can be found in killing fields all throughout Iraq. When you see an Iraqi clutching the clothes and bones of a loved one whom they can identify by the clothes and by the identifications in their pockets, you have to understand beyond a shadow of a doubt what a noble effort this has been on the part of the United States to have freed them from this regime and how important now it is for the United States to do whatever it can to facilitate this investigation.

I yield to my colleague for any remarks that he would like to make.

Mr. OSE. I thank the gentleman. I think his point about lessons learned, the implicit point that he makes, is an exceptional one, because we have learned here. We have learned that anything we do must be watched very carefully, because the purposes for which it was set up can be hijacked. We have learned that there are people in this world who wish to utilize our charitable efforts or our efforts at building the future prospects of different countries and the opportunity for people around this world to enjoy freedom, we have learned that people will take advantage of that.

One of the things I want to do tonight with permission of the Speaker is to enter into the RECORD the list that was printed in the newspaper in Iraq which I think the gentleman from Connecticut's point was what a remarkable thing that one of the first occasions for a free press to exist in the country of Iraq since the early seventies dug out a potential scandal. What better check and balance can you argue for than the fact that we have reestablished a free press in Iraq to hold the government there accountable. I would like to enter into the RECORD the list of alleged participants in the scheme that was set up by Saddam Hussein and implemented under the auspices of the United Nations.

Recipient	Country	Data	
		Barrels (MM)	Value (\$MM)
The Russian State .....	Russia .....	1,366	\$273.2
Zarubezhneft .....	Russia .....	175	34.9
Communist Party Companies .....	Russia .....	137	27.4
Al-Fayco (Russian Foreign Ministry) .....	Russia .....	129	25.8
Rusneft Ampex .....	Russia .....	87	17.4
Liberal Democratic Party (Zhirinovskiy) .....	Russia .....	80	16.0
LUKoil .....	Russia .....	63	12.6
Mastek (Fa'iq Ahmad Sharif) .....	Malaysia .....	57	11.4
Amircom (Unity Party/Ministry for Emerge) .....	Russia .....	57	11.4
Zan Gaz .....	Russia .....	49	9.8
Ibex .....	France .....	47	9.4
Mawlana Abd Al-Manan .....	Bangladesh .....	43	8.6
Mr. Juan .....	China .....	39	7.8
Mujahideen Khaig .....	United Kingdom .....	37	7.3
Rosneft Company .....	Russia .....	36	7.1
Peace and Unity Party .....	Russia .....	34	6.8

Recipient	Country	Data	
		Barrels (MM)	Value (\$MM)
Yatumin (Russian Foreign Ministry)	Russia	30	6.0
Zayn Al-Abideen Ardani	Turkey	27	5.4
Gasprom	Russia	26	5.2
Soyuzneftgaz (Yuri Shafrennik)	Russia	26	5.1
Slayneft	Russia	26	5.1
Nafta Moscow Company	Russia	25	5.0
Trafigura (Patrick Maugein)	France	25	5.0
Roberto Formigoni	Italy	25	4.9
Elkon [or Elcon]	Switzerland	23	4.6
Al-Huda	United Arab Emirate	23	4.6
Onaco Company	Russia	22	4.4
Socialist Party	Yugoslavia	22	4.4
Sidanco Company	Russia	21	4.2
Finar (Holdings)	Switzerland	21	4.2
Salvatore Nicotra	Italy	20	4.0
Romain (son of former ambassador to Ba	Russia	20	3.9
George Galloway/Nawwaf Zuraiqat	United Kingdom	19	3.8
Awadin Ammura	Syria	18	3.6
Noresco	China	18	3.5
Bassim Qagish	Spain	18	3.5
Muhammad Al-Hawny	Cyprus	17	3.4
Michel Grimard	France	17	3.4
Khaled Gamal Abd Al-Nasser	Egypt	17	3.3
Italian Party	Yugoslavia	16	3.2
Techfen	Turkey	16	3.1
Leith Shbeilat	Jordan	16	3.1
Franco-Iraqi Friendship	France	15	3.0
Alias Al-Gharzali	France	15	2.9
Belminal Company	Belarus	14	2.8
Ancom Co (Muhammad Shatta)	Egypt	14	2.8
Imad Al-Hida	Egypt	14	2.8
Hamad bin Ali Al-Thani	Qatar	14	2.8
Biorg	China	14	2.7
Nefta Petroleum	Cyprus	13	2.6
Zank Ronk	China	13	2.6
Nikolay Ryzhkov	Russia	13	2.6
Muhammad Aslan	Turkey	13	2.6
Russneft-Gazexport	Russia	13	2.5
Russian Association of Solidarity with Iraq	Russia	13	2.5
Fa'iq Ahmad Sharif	Malaysia	13	2.5
The Socialist Party of Bulgaria	Bulgaria	12	2.4
Beshara Nuri	Syria	12	2.4
Charles Pasqua	France	12	2.4
Glencore	Switzerland	12	2.4
Sevan	Panama	12	2.3
Abu Al-Abbas	Palestine	12	2.3
Ahmad Mani Sa'id Al-Utaiba	United Arab Empire	11	2.2
Riyadh Al-Tajer	Ireland	11	2.2
Chief of the President's Bureau	Belarus	6	1.2
Jean-Bernard Merimee	Russia	5	1.0
de Souza	France	11	2.2
Ghassan Shallah	France	11	2.2
Samir Vincent	Syria	11	2.2
Muhammad Othman Sa'id	U.S.A.	11	2.1
Fuad Sirhan	Kenya	11	2.1
Javier Robert	Brazil	10	2.0
Arthur Millholland	Spain	10	2.0
Left Party	Canada	10	1.9
Transneft	Yugoslavia	10	1.9
Al-Rashid International (Ahmad Al-Bashir)	Russia	9	1.8
Kokostancha Party	Jordan	9	1.8
Imvume Management (Sandy Majali)	Yugoslavia	9	1.8
Hamida Na'na	South Africa	9	1.8
Uralinvest (Stroyev)	Syria	9	1.8
Social Democratic Party	Russia	9	1.7
Caspian Investment	Ukraine	9	1.7
ADDAX	Russia	9	1.7
Sibneft	France	8	1.7
Taurus	Russia	8	1.6
Samasu	Switzerland	8	1.6
Abdullah al-Hourani	Sudan	8	1.6
Neftogas	Palestine	8	1.6
Megawati	Ukraine	8	1.6
Abd Al-Karim Al-Aryani	Indonesia	8	1.6
Raz Company	Yemen	8	1.6
Kamaneft Company	Nigeria	8	1.5
Jewan Oil	Russia	8	1.5
Hayson	United Arab Emirate	8	1.5
Abdallah Al-Sallawi	Nigeria	7	1.4
Hawala	Morocco	7	1.4
Zayyad Al-Ragheb	Malaysia	7	1.4
Shaker Al-Khaffaji	Jordan	7	1.4
George Tarkhanyan	U.S.A.	7	1.4
Shaher Abd Al-Haq	Lebanon	7	1.4
Muhammad Salah	Yemen	7	1.4
Mahmoud Mahdi Al-Ma'sarawi	Egypt	7	1.4
Madex Petroleum	Egypt	7	1.4
Shaker bin Zayd	Tunisia	7	1.3
Russian Committee of Solidarity with the P	Jordan	7	1.3
Mr. Feloni	Russia	7	1.3
Abd Al-Adham Manaf	Italy	7	1.3
Fawwaz Zuraiqat	Egypt	6	1.2
Vinafod	Jordan	6	1.2
Ghassan Zacharia	Vietnam	6	1.2
Ukraine Communist Party	Syria	6	1.2
Stroyneftgas	Ukraine	6	1.2
Liberal Party	Russia	6	1.2
Fakhri Qa'war	Belarus	6	1.2
Adel Al-Jablawi (I.N.M. Airways)	Jordan	6	1.2
Shukri Ghanem	Russia	6	1.2
Farras Mustapha Tlass	Libya	6	1.2
Arab Company limited	Syria	6	1.2
Nadhel Al-Hashemi	Egypt	6	1.2
Romanian Labor Party	Morocco	6	1.1
Biham Singh	Romania	6	1.1
Issa bin Zayed Al-Nahyan	India	6	1.1
Liberation Organization (Political Bureau)	United Arab Emirate	5	1.0
Shanfari Group	Palestine	5	1.0
Hugh Company (Sokolov)	Oman	5	1.0
Russian Orthodox Church	Ukraine	5	1.0
	Russia	5	1.0

Recipient	Country	Data	
		Barrels (MM)	Value (\$MM)
Khrozolit	Russia	5	1.0
Popular Front for the Liberation of Palestine	Palestine	5	1.0
Petrogas	Switzerland	5	1.0
Ministry of Energy (Jordan)	Jordan	5	1.0
Minister of Forestry	Myanmar Federation	5	1.0
Hungarian Interest Party	Hungary	5	0.9
Father Benjamin	Italy	5	0.9
Akht Neft Company	Russia	5	0.9
President Lehoud's son	Lebanon	5	0.9
Orshansky	Ukraine	5	0.9
October 8 Movement (Chavez)	Brazil	5	0.9
Muhammad Hilmi	Egypt	5	0.9
Trader Babar	Malaysia	4	0.8
Muhammad Amin Rayyis	Indonesia	4	0.8
Tokyo Sawele Holdings (MVL)	South Africa	4	0.8
The Duleimy Group	Qatar	4	0.8
Muhammad Me'moun Al-Sab'i	Syria	4	0.8
Surgut Neftegaz	Russia	4	0.8
Sultan bin Zayed Al-Nahyan	United Arab Emirate	4	0.8
Muhammad Saleh Al-Hourani	Jordan	4	0.8
Liberation Organization	Palestine	4	0.8
Mashhur Haditha	Jordan	4	0.8
IOTC (Claude Caspert)	France	4	0.8
Montega	South Africa	4	0.8
Mayudor	Tunisia	4	0.8
Belfarm Company	Balarus	4	0.8
Indian Congress Party	India	4	0.8
Pitmall Company	Malaysia	4	0.8
Comeback	Nigeria	4	0.8
Omni Oil	South Africa	4	0.8
Farnaco	Tunisia	4	0.7
Zuhair Al-Khatib	Lebanon	4	0.7
Zarabsneft (Gobkin University)	Russia	4	0.7
Wafa Tawfiq Sa'igh	Palestine	4	0.7
Muhammad Amar Nofel	Syria	4	0.7
Lid Guarantees	Syria	4	0.7
Moscow Science Academy	Russia	4	0.7
Salim Al-Toon	Syria	4	0.7
Zarbsneft & Gas (Mr	Russia	3	0.6
Makram Hakim	Indonesia	3	0.6
Osama Ma'rouf	Lebanon	3	0.6
Ali Al-Muslim Company	Bahrain	3	0.6
Nile & Euphrates Co	Egypt	3	0.6
Trader Nafta	Russia	3	0.6
Tojan Faisal	Jordan	3	0.6
Faisal Darniqa	Lebanon	3	0.6
Sy Bolt	Netherlands	3	0.6
Philippines Production Group	Philippines	3	0.6
Najah Company	Saudi Arabia	3	0.6
Chad Foreign Minister	Chad	3	0.6
Najah Wakim	Lebanon	3	0.6
Salem Al-Na'ass	Jordan	3	0.6
Russian National Democratic Party	Russia	3	0.6
International Company for Trade and Investment	Lebanon	3	0.6
Napex Company	Switzerland	3	0.6
Ozia	Turkey	3	0.5
Lutfi Fawzi	Syria	3	0.5
Lada Company	Belarus	2	0.4
Fadi Al-Alamiyya (International) 2 million	Lebanon	2	0.4
Darlink Med	Vietnam	2	0.4
Fazmash Ampex	Ukraine	2	0.4
Media	Switzerland	2	0.4
Maqdar Sarjeen	Turkey	2	0.4
F.T.D.	Ukraine	2	0.4
Netuna Oil	Indonesia	2	0.4
Asiss Company	Saudi Arabia	2	0.4
Megawati Sukarnoputri	Indonesia	2	0.4
Gulf Petroleum	Qatar	2	0.4
Samir	Turkey	2	0.4
Concrete Contracting Company	Bahrain	2	0.4
Laka	Switzerland	2	0.4
Nordvest Group	Russia	2	0.4
International Multaqa Foundation	Egypt	2	0.4
Zayyad Yaghmour	Jordan	2	0.4
Hawa Atlantic	Indonesia	2	0.4
Arak Paul	Bulgaria	2	0.4
Delta Service	Switzerland	2	0.4
Afro-Eastern	Ireland	2	0.4
Yukos	Russia	2	0.4
B.B. Energy	Lebanon	2	0.4
Anwar Al-Aqqad	Syria	2	0.4
Energy Resources	Ukraine	2	0.4
Petroleum Wells Maintenance	Qatar	2	0.4
Petrolina Oil	Qatar	2	0.4
Hassan Al-Kayal	Syria	2	0.4
Haitham Seidani	Lebanon	2	0.4
Socialist Party of Ukraine	Ukraine	2	0.4
Chechna Administration	Russia	2	0.4
Grand Resource	Jordan	2	0.4
Al-Hami Bashanti Foundation	Egypt	2	0.4
Muhtashem	Turkey	2	0.4
Kadherm Al-Darazi Company	Bahrain	2	0.4
Fal Petrol	United Arab Emirate	2	0.4
KCK Company	Turkey	2	0.3
Tawfiq Abd Al-Raheem	Yemen	2	0.3
Vinapco	Vietnam	1	0.2
Mishinoimport	Russia	1	0.2
Delta Petroleum	Turkey	1	0.2
Thai Rice Trader Jaiporn	Thailand	1	0.2
South Holken	China	1	0.2
A.A.G. Company (Nigerian Ambassador)	Nigeria	1	0.2
Tatneft	Russia	1	0.2
The Ukrainian House	Ukraine	1	0.2
Slovak Communist Party	Slovakia	1	0.2
Lufti Dughan	Turkey	1	0.2
Fim Oil Company	Lebanon	1	0.2
Plant [Blunt?] Petroleum	Lebanon	1	0.2
Sita	Turkey	1	0.2
Trans Isko	Ukraine	1	0.2
Tamam Shehab	Syria	1	0.2
Ali To'ma	Lebanon	1	0.2

Recipient	Country	Data	
		Barrels (MM)	Value (\$MM)
Delf Aderlink	Romania	1	0.2
Fidelity Turkovy	Ukraine	1	0.2
IPS (Italian Petroleum Assoc)	Italy	1	0.2
Al-Hilal Co (Adnan Al-Hanani)	Lebanon	1	0.2
Wamidh Hussein	Jordan	1	0.2
Siberia Oil & Gas company	Russia	1	0.2
Iblom	Switzerland	1	0.2
Sipol	Switzerland	1	0.2
Continental	Cyprus	1	0.2
Bony Fiol	United Arab Emirate	0	
West Petrol	Italy	0	
O.S.C.	Vietnam	0	
Hetralk	Italy	0	
Abu Abd Al-Rahman	Pakistan	0	
Millenium	United Arab Emirate	0	
Petroleum Prdoucts Co	Sudan	0	
Oil & Gas Group	Pakistan	0	
Sayyed Azzaz	Pakistan	0	
Belarus Communist Party	Belarus	0	
Grand Total		4,044	\$808.8

Finally, I want to close my portion of this by just reminding everybody that when the Security Council set this scheme up, they charged the Secretary-General with the responsibility of oversight. In fact, they said that the Secretary-General is "required to supervise the sale of Iraqi oil and to monitor the spending of the proceeds on specific goods and services for the benefit of the Iraqi people." Ladies and gentlemen, Congress is entitled to ask in response to these allegations, where was Kofi Annan when this was going on? Exactly what was he doing? What issue was he dealing with that was more important than the welfare of the Iraqi people that was to be funded from this program? The fact of the matter is, there was not anything else he was doing that was more important. There was nothing else he was doing that was more important. The danger in not addressing this situation and bringing transparency and accountability to it is that we will replay this over and over and over again to the detriment of the peoples of various other countries that struggle to make it in this world. I thank the gentleman from Connecticut.

Mr. Speaker, the following are excerpts from the U.N. Goals—Preamble:

We the peoples of the United Nations determined:

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

to unite our strength to maintain international peace and security

Mr. Speaker, the Oil for Food Program contradicted all of these principles stated in the United Nations preamble and tarnished the reputation of this important international organization. Throughout the past year, the scandal, corruption and deception that was blatantly ignored by the U.N. for over 7 years was finally exposed.

The U.N.'s Preamble mentions a goal of unifying countries in order to strengthen international peace and security. Mr. Speaker, we succeeded in strengthening Saddam's terror regime through this U.N. administered Oil for Food Program.

Lack of disclosure of documents, contracts, and audits, as well as lack of oversight of

Iraq's dictatorial, abusive and corruptive leader—Saddam Hussein—led to the most corrupt U.N. program in the history of the U.N.

Benon Sevan, executive director of the Iraq Program, reported to the U.N. 661 Committee in July of 2001 that the U.N. was doing its best to "cut costs in order to make additional funds available to the humanitarian program," with respect to the 2.2 percent oil export revenue the U.N. received for administrative and operational costs. However, audits reveal that the U.N. Iraq Program wasted funds by not charging the primary contractor, Cotecna, for office space, equipment, and medical services. The U.N. Oil for Food program paid Cotecna for staff that didn't show up to work and amassed fees for not paying bills on time.

Mr. Speaker, the U.N. Iraqi Program did not re-open the bidding process when contractors raised their costs to estimates equal to the second lowest bidders after contracts were awarded. The U.N. Board of Audit's 1997 report revealed that the first inspection contractor successfully added new inspection employees at \$1,275 per day versus the original contract price of \$770. No re-bid was required. A year later, in January 1998, Cotecna unilaterally increased its per-man-day fee by 20 percent from \$499 to \$600, the rate of the next lowest bidder. Despite the U.N.'s failure to keep costs down, they still received 2.2 percent for every recorded oil barrel Saddam sold.

Mr. Speaker, the U.N. lacks the accountability and transparency that is required to ensure faithful execution of its programs. In 1997, OIP hired Cotecna to verify and confirm the commodity, value, quantity and quality of supplies arriving in Iraq in accordance with the requirements of the 661 Sanctions Committee resolutions. The U.N. Board of Audit's 1998–2002 reports, the 2002 OIOS audit, and OIP field missions reported that Cotecna provided insufficient numbers of point-of-entry inspectors and failed to deliver, inspect, sample, verify and report goods imported into Iraq. Instead, Cotecna relied on suppliers for data and documents, such as cargo manifests.

Furthermore, neither Kofi Annan nor Cotecna bothered to declare a possible conflict of interest, considering the Secretary-General's son had worked for Cotecna.

In a statement made by Secretary-General Kofi Annan on the closure date of the Oil for Food Program, Mr. Annan stated that the Secretary General is, "required to supervise the sale of Iraqi oil, and to monitor the spending of the proceeds on specific goods and services for the benefit of the Iraqi people." Mr.

Speaker, where was Kofi Annan when Saddam scripted and carried out his scheme to skim off millions of dollars from oil sales and to buy junk instead of legitimate humanitarian goods from his cronies abroad?

Additionally, the 661 Commission, made up of members of the Security Council, was responsible for overseeing contracts, yet only the United States and Britain voiced concerns about potential fraud within the program. China, France and Russia remained silent in order to protect their interests in the extensive lucrative contracts that Saddam was offering them. We are not asking that the United Nations be dissolved, for we value cooperation and friendship among nations. However, we will not allow this organization which is supposed to be a beacon of "justice and respect for the obligations arising from treaties and other sources of international law," to turn a blind eye to the scandals of this failed program.

We respect the Volcker commission for their investigation but are skeptical that with the track record of U.N. inaccessibility and lack of disclosure with regard to this Oil for Food Program, they will be given full access to the information they need. Mr. Volcker does not have subpoena power over the U.N. Nor does he have subpoena power over the former Baathist regime or the thousands of contractors that may have participated in the fraud. Lastly, Mr. Volcker cannot subpoena the government or various involved companies from China, France and Russia. We are demanding full cooperation and disclosure of all relevant documents by the United Nations, U.S. agencies or any international organizations affiliated with the Oil for Food Program. Let's restore faith in the U.N. by restructuring the organization to include more accountability and transparency in order to prevent this type of scandal from occurring again.

In his 2001 speech to the U.N. 661 Committee, Sevan stated that given security concerns and the arduous lifestyle in Iraq, he found it odd hearing that "a mission to Iraq is one of the most cherished and sought-after assignments by the United Nations Secretariat staff." Well, Mr. Speaker, it may not have been so odd after all.

Mr. SHAYS. Mr. Speaker, with the 2 minutes or so I have left, I would just like to summarize. From its inception in 1996, the United Nations Oil-for-Food program was susceptible to political manipulation and financial corruption. Trusting Saddam Hussein to exercise

sovereign control over billions of dollars of oil sales and commodity purchases invited illicit premiums and kickback schemes now coming to light. But there is still much that is not known about the details for the Oil-for-Food transactions and that is why our committee and other committees of Congress are investigating.

This much we know, something went wrong. Saddam Hussein's regime reaped an estimated \$10.1 billion from this program, \$5.7 in smuggling oil and \$4.4 in oil surcharges and kickbacks on humanitarian purchases through the Oil-for-Food program. There was just simply no innocent explanation for this. We want the State Department and the intelligence community and the U.N. to know there has to be a full accounting of all Oil-for-Food transactions even if that unaccustomed degree of transparency embarrasses some members of the Security Council. I appreciate Kofi Annan's call to me to tell me that he wanted to restore faith in the ability of the U.N. to do its job and subsequent appointment of Paul Volcker to lead an independent panel.

□ 2145

But we know Mr. Volker has to depend on the goodwill of the U.N., and we do not have the kind of faith where we believe that some in the U.N. will cooperate, since they were so clearly involved in these illegal acts. But we also need to know more than just what happened at the U.N. We also need to know what happened at the U.S. mission, we need to know what our intelligence community knew and now knows. We need their cooperation as well.

#### A CRITIQUE OF RICHARD B. CHENEY, VICE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. BURNS). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes.

Mr. PALLONE. Mr. Speaker, almost immediately after Senator KERRY chose Senator EDWARDS of North Carolina as his Democratic running mate, the Republican attack dogs were out in full force. The most popular Republican attack was that JOHN EDWARDS does not have the experience to be vice president, and the second most popular, JOHN EDWARDS represents the interests of the trial lawyers.

Mr. Speaker, I ask the American people, has DICK CHENEY's experience paid off for them over the last 3 years? Tonight, I will try to highlight how Vice President CHENEY's experience in the corporate world has led to administration policies that benefit the corporate interests over the interests of all Americans.

I want to start by talking about Halliburton. After spending several decades in Washington here in the House and working for several Republican ad-

ministrations, DICK CHENEY went to Texas in 1995 to run Halliburton. On his watch, Halliburton conducted business with Iraq, Libya and Iran, three countries that at that time supported terrorism and were under strict sanctions from the United States. Despite these sanctions, CHENEY's Halliburton did business with all three countries.

During the 2000 campaign, CHENEY said, "I had a firm policy that we wouldn't do anything in Iraq, even arrangements that were supposedly legal." But while CHENEY was running Halliburton, two of its foreign subsidiaries sold millions of dollars worth of oil services and parts to Saddam Hussein's regime.

Vice President CHENEY ran a company that did businesses with companies that supported terrorism. Is the kind of experience Republicans are pointing to in lauding their vice president?

CHENEY continued to support his former company when he came to Washington as the vice president. We all know that the war in Iraq has been a financial windfall for Halliburton.

We also learned last month, Mr. Speaker, that in the months leading up to the war in Iraq, an undersecretary of defense had a meeting with members of the Bush administration, including the vice president's Chief of Staff, Lewis Libby, in which the undersecretary notified Libby and the others that Halliburton would be awarded a \$1.9 billion defense contract. This meeting contradicts a statement made by Vice President CHENEY last September on Meet the Press in which CHENEY said, "I don't know any of the details of the contract, because I deliberately stayed away from any information on that."

Yet, Mr. Speaker, his own Chief of Staff attended a meeting six months before the war in which secret contingency plans for the Iraqi oil industry that focused only Halliburton were discussed.

Does Vice President CHENEY want the American people to believe that his main staffer, his chief of staff, was at a meeting where contracts for Halliburton were discussed, but that he, the vice president, was never informed about them?

The primary reason Halliburton received billions in no-bid contracts from the Bush administration can be attributed clearly to the cozy relationship between CHENEY and Halliburton. And despite all the problems Halliburton has faced over the last year, the vice president continues to be an unyielding, positive spokesman for the company.

In 2002, CHENEY said, "Halliburton is a fine company and I am pleased that I was associated with the company." I wonder if Vice President CHENEY thought Halliburton was a fine company after it was forced to acknowledge knowledge that it accepted up to \$6 million in kickbacks in its contract work in Iraq? Or does the vice president think that Halliburton is a fine

company now, now that it is under scrutiny over allegations of overcharging the government \$61 million in Iraq? Or was the vice president pleased with his old company's conduct when it received several warnings from the Pentagon that the food it was serving U.S. troops in Iraq was dirty?

Perhaps the vice president overlooks these abuses of our troops and the American taxpayers because he continues to receive money from Halliburton.

Vice President CHENEY tried to squash a story when he appeared on Meet the Press last year. The vice president stated, "And since I left Halliburton to become George Bush's vice president, I have severed all my ties with the company, gotten rid of all my financial interests. I have no financial interests in Halliburton of any kind, and haven't had now for over 3 years."

But despite the vice president's claims, the Congressional Research Service issued a report earlier this year concluding that because CHENEY receives a deferred salary and continues to hold stock interests, he still has a financial interest in Halliburton. In fact, if the company were to go under, the vice president could lose the deferred salary, a salary he is expected to continue to receive this year and next year.

While losing around \$200,000 a year might not put a big dent in the vice president's wallet, he clearly still has a stake in the success of Halliburton.

And the vice president also neglects to mention that he continues to hold more than 433,000 stock options with Halliburton. The Congressional Research Service reports that these stock ties "represent a continuing financial interest in those employers which makes them potential conflicts of interest."

So the vice president misrepresented what he and his staff knew about the initial no-bid contract, as well as continued financial interests in Halliburton. And I ask again, Mr. Speaker, do we want a vice president who continues to benefit from a company that is essentially robbing the American taxpayers of millions of dollars? Is this the kind of leadership Republicans are touting when they praise CHENEY's leadership abilities?

I could go on. I would like to talk briefly, I see that my colleague from Washington is joining me tonight, I would like to talk a little bit about the link between al Qaeda and Iraq and the vice president's comments on that, because sometimes I think, Mr. Speaker, the Republicans admire Vice President CHENEY's tenacity for refusing to accept, despite all the evidence to the contrary, that there is a connection between al Qaeda and Iraq.

Last week, as we know, the Senate Intelligence Committee's report concluded that even though the CIA repeatedly told the White House it did not have any strong evidence linking Iraq to al Qaeda, CHENEY and the rest

of the Bush administration went ahead and characterized a close, well-documented relationship in an attempt to justify to going to war with Iraq. The Senate Intelligence Committee called such linkages murky and conflicting.

Of course, the 9/11 Commission previously went further, reporting last month there did not appear to be a collaborative relationship between Iraq and al Qaeda. Those things are pretty obvious.

Do we have any apology from Vice President CHENEY? No, not even close. The Vice President continues to be in denial. He went so far as to justify this denial by saying that he had reports that the 9/11 Commission did not have to prove the connection between Iraq and al Qaeda, but earlier this month the 9/11 Commission rebutted those claims, saying they had access to all the same intelligence that CHENEY had.

Do the American people want to stick with a Vice President who cannot finally admit he is wrong and remains in denial about something as critical as connections that led us down to war in Iraq?

So on the foreign policy front, again, I think the Vice President has been a complete failure. He erroneously sold Members of Congress on a war that did not need to be waged.

But what about domestic policy? Let us just talk a little bit about that as well. I would like to talk about energy policy and the Energy Task Force which the Vice President was so much involved with. The largest piece of domestic legislation that the Vice President had his fingerprints on clearly is the energy bill and his secret Energy Task Force.

Over the past 3 years, the Bush administration and Congressional Republicans have done nothing to help consumers struggling to pay higher gas prices. When I go home, it is one of the big things my constituents talk about, the higher gas prices. I would argue that essentially the Bush administration and the Vice President, because of their background, are essentially supporting oil and gas companies. They do not have a problem with the price increases.

Vice President CHENEY and Republicans have never been interested in lowering gas prices, and the reason is because high gas prices mean high profits for big oil and gas companies that worked in secret with Vice President CHENEY in crafting the Republican energy bill.

For 3 years now, the Vice President has done everything he can to keep the records of his Energy Task Force secret. This secret task force developed President Bush's energy policy, a policy that was then made into legislation here in Congress, and that legislation passed this House, but it is now stalled in the other body. But, nevertheless, the end result was bad energy policy.

There is no doubt that the energy industry succeeded with its influence during these secret, closed-door meet-

ings in crafting a policy that benefited them rather than benefiting Americans, and now Americans are paying the price the at the pump.

For 3 years, the Vice President has refused to let the American people know who made up in Energy Task Force. For 3 years now, the Vice President has refused to let the American people know how and why the task force came to the conclusions that it did.

What about Enron? Let me just take a few minutes to talk about that, and then I am going to yield to my colleague from Washington State.

Could it be that the Vice President wants to keep the records of his Energy Task Force secret because he wants to continue to distance himself from Enron? After all, you know, Enron has not been looking too good for the last few days, with what happened with their chairman Ken Lay in the last week.

According to a 2002 report by the Committee on Government Reform in the House, seven of the eight recommendations that then Enron chairman Ken Lay gave to Vice President CHENEY miraculously made their way into the final Energy Task Force report. So we know that Enron and Lay, they were very much involved in this report and ultimately the legislation that came out of it.

Back in January 2002, the San Francisco Chronicle released a memo given by Enron Chairman Lay to Vice President CHENEY at a meeting on April 17, 2001. Enron's memo contains recommendations in eight areas. In total, the White House energy plan adopts all or significant portions of Enron's recommendations in seven of these eight areas.

Enron representatives had six meetings with the White House Energy Task Force, including four meetings that occurred before the release of the final report. The White House has consistently refused to disclose what Enron requested during these meetings.

Despite all these meetings and the fact that Enron Chairman Ken Lay was President Bush's largest financial supporter, another reason the administration may want to keep these documents a secret is they do not want the American people to see more collaboration between the Bush administration and former Enron executives.

Now, I ask you, we talked about foreign policy, we talked about domestic policy. Does any of this seem to be a good record? Not only has his energy bill not gone anywhere, but Vice President CHENEY refuses to allow the American people and this Congress to see exactly who helped him craft this energy bill.

Again, I am not surprised, given what happened to Lay last week, that they are going to try to keep it secret. They refuse to open up in detail any of this information.

So, Mr. Speaker, CHENEY's 3 years as Vice President have been abysmal. Per-

haps that is the reason some Republicans in his own party are asking him, for the sake of the Republican Party, to step down.

I thought it was very interesting, with all these attacks that were taking place last week and even on this floor against JOHN EDWARDS, talking about lack of experience and all this other nonsense, that at the same time that EDWARDS was nominated, or asked by JOHN KERRY to be his running mate, we just kept getting more and more reports about how the Republicans might be trying to get rid of DICK CHENEY. It does not seem like that is likely, but it is no surprise, given CHENEY's record on both foreign and domestic policy.

With that, I would like to yield to my colleague here, I see we are joined by a couple of my colleagues, the gentleman from Washington.

Mr. MCDERMOTT. Mr. Speaker, I thank the gentleman very much. I think it is really commendable that the gentleman would get up here at this hour of the night and call this group together to talk about the President and Vice President of the United States.

You know, you think about him, and you realize this man is one heartbeat away from the Presidency. If something should happen to George Bush, he would be our President.

The legendary comedian George Carlin made famous the seven no-no words, and the Vice President has already used one in an exchange with one of his colleagues in the other body. Just picture the situation. Here are Members of the other body getting together for a group picture, kind of like college graduation or a wedding picture or whatever.

In the middle of that, there is an exchange of ideas about the fact that one Member of the other body did not think that the Vice President was being straightforward about the Halliburton issue. And the Vice President of the United States, now, this man is the man we are thinking about would be the next in line to deal with the world leaders, with the prime minister of Germany, with the prime minister of England, with all these people, and the only word that he can think of is a word that, when Bono said it on television at the Academy Awards, all the roof fell down. I mean, everybody was just outraged that this guy would be out on television using a four-letter word.

The Vice President does not even apologize. He says "I am glad I used it. I would use it again."

□ 2200

Obviously, there are different standards for people like Bono and the Vice President of the United States; he can do anything he wants, I guess. And he really has shown that characteristic through his whole behavior. It would really be good if he would come out and be honest and talk about the fact that he has been part of the deception that has gone on in this setting.

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

Mr. PALLONE. I yield to the gentleman from Ohio.

Mr. STRICKLAND. The Vice President uttered on the floor of the United States Senate a graphic, sexual obscenity that is, I think, beneath the office. And the gentleman is right, when he was asked about it, he indicated he was not sorry he said it; in fact, he said he felt better. Now, this chamber and in fact much of the country got terribly upset a few months ago when there was an incident during the half-time at the super bowl when Janet Jackson had part of her anatomy exposed. I did not see the super bowl, I did not see the half-time show, so I did not see that incident, but it has been described.

I guess I would ask this of the Vice President or of the American people: what is more harmful in terms of setting an example for the young people of this country, the children of our country, a momentary glimpse of a part of the human anatomy during an entertainment show on TV, or the Vice President of the United States on the floor of the United States Senate using a very graphic sexual obscenity directing it toward a United States Senator? And then I would further ask this question, all of us perhaps lose our tempers sometimes and say things that we should not say and are later sorry for. I know I do, I mean I think that is part of the human condition. But what I found most objectionable about the Vice President's behavior is that hours later, when he had had time to reflect upon his behavior and its possible influence upon the country, that he was asked on Fox News, and I was watching that show; in fact, I followed him on Fox News just a few moments after he had completed his interview, he was asked if he was sorry, and he said no, he had no regrets and, in fact, he felt better.

Now, this is the Vice President of the United States, a person who talks about values, about moral values, and I just think it is quite unfortunate that this incident happened, but I can understand that it happened. As I said, we are all human. We all get angry, perhaps, at times. I confess that I have been guilty of that kind of behavior. But what I found so objectionable was the Vice President's unwillingness, even after he had time to reflect upon it, to admit the error.

Mr. PALLONE. Mr. Speaker, I yield to the gentleman from Washington.

Mr. McDERMOTT. Mr. Speaker, my friend from Ohio is a psychologist, and I am a psychiatrist, and we know a little bit about human behavior, and it is true, we have occasionally gone beyond where we intended to be. But there is a pattern with the Vice President. He is never wrong. He is never wrong.

Now, the 9-11 Commission came out and said that there is no tie between al Qaeda and Iraq, and the Vice President said, I have information here that I never gave them. So they said, well,

give us the information. And he said, no, I am right, because I know what I have in my information here. I mean there is a pattern of behavior here that says, when I say something, it is right, and nobody can change it, nobody can challenge it.

The same is true with holding the meetings in his White House office. I mean when we have all, all the leadership, including Ken Lay, I mean this is the guy that took Enron into the ground and put enormous costs on people all over the west in this country because of the manipulation of what they did; when you have those people in your office and you have a meeting to design the energy policy for the United States and then do not even think you have to tell us who was there, much less what you talked about or what was decided. And then you have the gull to go all the way up to the Supreme Court. Oh, and of course, in order not to have there be any slippage, we will go hunting with one of the members of the Supreme Court, just so that they have a chance over a bottle of beer or, excuse me, a cup of coffee, to talk about what is coming up before the court. This man is never wrong. He is never wrong.

Now, he dismisses it all as just simply people who are unpatriotic or partisan; he has a whole series of things that he brands on people who question him. He cannot be questioned. I cannot wait for the debate between the Vice President and JOHN EDWARDS, a trial attorney. I think this is going to be fun, because even members of his own party have to stand by while he distorts the truth, and I think that he is going to be called to account, to some accountability in the debate which occurs, I think in Cincinnati or Cleveland in Ohio, is that right?

Mr. STRICKLAND. Cleveland, Ohio.

Mr. McDERMOTT. I mean, when we see what the State Department has done, and they tried, and I think Colin Powell actually made a genuine effort to tell the President what was what about Iraq. But the Vice President of the United States saw fit to go out to Langley, that is where the CIA is, out in Langley, Virginia, to go out there 5 times to tell them, look harder at that data. You are not coming up with the right answer.

Mr. STRICKLAND. Mr. Speaker, I just want to support what my friend from Washington State has said. I want to read something that the Vice President said on August 26, 2002 in a speech that he gave on that date. He said, "Simply stated, there is no doubt that Saddam Hussein has weapons of mass destruction. There is no doubt that he is amassing them to use against our friends, against our allies, and against us."

Now, the Vice President could have said, we have reason to believe, or I believe, or Saddam Hussein may have weapons of mass destruction, but the words he chose to use were the words "no doubt." There is no doubt. And as

a result of that thinking, we have lost nearly 900 American lives in Iraq. Many, many thousands of our soldiers have been terribly wounded because the Vice President and others in the administration were willing to say "there is no doubt" when, in fact, there was great doubt, significant doubt. And I believe that if the American people had been told that Saddam Hussein may have weapons of mass destruction, but we do not know for sure, I believe the American people would have supported letting the inspectors have a longer period of time, time that they requested, to make sure that we knew whether or not Saddam Hussein had these weapons of mass destruction before we sent our soldiers into harm's way.

Mr. PALLONE. Mr. Speaker, if I could just say, in addition to that, I am sure it would have influenced the vote here in the House. I did not vote for the resolution in part, in large part because of what the gentleman said, which is that I thought that there needed to be more of an effort to reach out to our allies and not act unilaterally. But I distinctly remember being on the floor that day and having Members come up to me and say that they were going to vote for the resolution to go to war because of the representations that were being made by the President. They said, the President is telling us he has this information, and we believe him, and that is why I am going to vote that way.

So I will say I have no doubt that it might have gone the other way on the resolution if, as the gentleman said, it had not been represented by this administration, both the President and the Vice President, that there was more than enough evidence to prove that the weapons of mass destruction were there.

I yield to the gentleman from Washington.

Mr. McDERMOTT. Mr. Speaker, I think one of the things the gentleman is saying gets to one of the things that is really troublesome about this. The American people do not know at a given time what the facts are. They assume that the President, that is his responsibility to do it. He is gathering information, he is gathering intelligence, he is making reasonable decisions. And basically, we put our trust in him.

Now, when you put your trust in someone, and then it is shown categorically that it is not true, as by the 9-11 Commission, you have a man who cannot accept reality. I mean the members on the Commission, they were not all Democrats, it was not all Republicans, it was not people who are far to the right or far to the left or anything else; it was a mixture of very well-qualified people to sit in judgment on these issues. And when they make a judgment and the Vice President says I do not believe it, I simply do not, how could somebody like that make decisions for us?

Mr. PALLONE. Mr. Speaker, the chairman of the Commission was the governor that I served under in the State legislature in New Jersey for 6 years, a staunch Republican who has actually been out there campaigning against me on occasion. So I mean you cannot ever convince me that Governor Kean was not doing what he thought was the right thing, and is a very knowledgeable and intelligent man, even though I disagree with him on a lot of issues, so the gentleman is absolutely right.

Mr. McDERMOTT. Mr. Speaker, if the gentleman will yield, the Vice President, not only on war issues, big issues, but let us get down to little issues like millions of dollars that he gets in residual payments from Halliburton. Here is a guy who says, I have no connection to those people. Yet the newspapers report that his assistant is there when they give the contract, the no-bid contract to Halliburton. Now, the ability to look into the camera and absolutely misrepresent the truth is a real skill. This guy is very qualified at this. I mean the facts are in the newspapers.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
The SPEAKER pro tempore (Mr. BURNS). Members are reminded not to make improper references to the Vice President such as accusations of dishonesty. The gentleman may proceed in order.

Mr. McDERMOTT. The question of what is in the paper, I suppose, is always a question of whether that is the truth or not, but the truth sometimes categorically is in opposition to what the Vice President says.

Now, of course, the people have to make their mind up about that. They can say, well, you know, we do not think he is telling the truth, or they can say well, maybe he forgot, but I do not know how you would forget that you were getting millions of dollars in residual payments from Halliburton. I do not know how one would say they forgot that one of your aids, your number one guy is the guy who was there explaining that they got the new contract. People will see that and, I think when they think about that, and they come into this election and then they say, do I trust him to take care of us? If the Cuban missile crisis came, would you want somebody who cannot accept reality?

One of the things that John Kennedy did, one of the really important things for us to understand is, he got us into the Bay of Pigs and when they confronted him with it, he said, the buck stops here. I was wrong. When it came to the Cuban missile crisis, he said to Bobby, go out and get everybody on both sides of this issue, on all sides of this issue. I want to hear people who are telling me that I am right, people who are telling me that I am wrong; I want to hear the whole thing. Now a man who knows it himself what the answer is, has the information in his own pocket here, and does not share it with

the 9-11 Commission, that does not sound like the kind of person one would want to trust with our youngsters.

I mean I had the experience during the Vietnam war of taking care of casualties, and I took care of casualties who were people who went to Vietnam believing something because they were told by their President, and they went there and found out it was not true.

□ 2215

And they came back really messed up by that experience, and you have had a report already coming out of the New England Journal of Medicine talking about the fact that 1 in 5 are going to come back from this war, because the leadership of this country would not tell them what really was happening, they are going to be messed up from this, and this President, this vice president, he just does not seem to be bothered by that. It is quite amazing when you think about it.

Mr. PALLONE. Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY) who is joining us now.

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman from New Jersey for coming down to the floor this late in the evening and giving the rest of us an opportunity to talk about what is a very important issue, and that is top leadership in our country. And something that I have thought about for a long time from the moment I received this holiday card from the Cheneys, one of the things about being in the United States Congress, I do not know that we are so popular necessarily, but we are on a lot of lists, and we get holiday cards from dignitaries, some from all over the world and am honored to get holiday cards from the top leadership in our country. And it is a lovely card. It shows the interior of the residence of the vice president and has a pleasant greeting that you might expect, "Our best wishes to you and your family in this holiday season and throughout the year ahead, Lynne Cheney and DICK CHENEY," and I thought that was really nice and getting ready to hang it up along with my others, and then I looked at the quote that is here.

And generally when there is a quote, it is something inspiring like "peace on earth, good will toward mankind," et cetera. And I read this quote, and it says, "And if a sparrow cannot fall to the ground without his notice," meaning God's notice, "is it probable that an empire can rise without his aid," speaking about God's aid.

I looked at that again, because I got a kind of shudder when I read it. "And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid?"

And what I read in this, and I do not know if I read it wrong, is that this notion of an empire rising with the assistance of God. And I was really upset by this, that this was not exactly this notion of peace on earth; but, rather,

this depicted this kind of view of building an empire and doing it with God on our side. And quite frankly, I found this troubling.

The vice president subsequently was questioned about it, and he just sort of offhandedly said that Lynne had picked out the quote and he had not really paid much attention to it, but I found it particularly, at the time that it was received while we were and have been engaged in this war in Iraq that many do feel is part of a vision of building an empire, to be a very, very chilling notion.

I wanted to also talk a little bit about the Halliburton connection, and of course all of us do that at some risk, because if we run into the vice president, we may be subject to some unpleasant language, as Senator LEAHY found on the floor of the Senate. But things that are undisputable that the vice president has said about Halliburton and his connection with Halliburton, "gets unfairly maligned simply because of their past association with me."

And then he said in January 22, 2004, "I would not know how to manipulate the government contract process if I wanted to."

And then also that same day, January 22, 2004, "I severed my ties with Halliburton when I became a candidate for vice president in August of 2000." In fact, however, the vice president received \$178,436 in deferred payment last year from Halliburton, and so that was not entirely accurate.

But perhaps more troubling are some of the issues that have been raised that really do question whether or not there was any connection between the vice president's office and the contracts with Halliburton, which it seems that U.S. officials have estimated that the Texas company's Iraq deals, Halliburton, from everything from oil repairs to meals for the troop would eventually total something like \$18 billion.

Now, \$18 billion, when I was in the State Legislature in Springfield, that was getting a little bit close to the budget for the State of Illinois, and I am sure that it is an amount of money that does exceed the budget of many States and certainly of many countries around the world. \$18 billion is a lot of money.

But what was found was that in fact in the fall of 2002, preparing for war, and this is the fall of 2002, we had not voted yet, or at least a decision had not been made yet to go to war, the President and the vice president at the time were still saying that this was not a done deal that we were going to war; but in making preparations, the Pentagon sought and received the assent of senior Bush administration officials, including the vice president's chief of staff, before hiring the Halliburton company to develop secret plans, secret plans, for restoring Iraq's oil facilities. That is what Pentagon officials told Congressional investigators.

So secret plans were being developed, and at that time Halliburton, after connecting with the vice president's office, the vice president's chief of staff, gets this relatively small contract. I think it was about a billion 4. That is all, just a billion 4 contract, kind of walking-around money.

These are, after all, the statements about the lack of connection with the vice president. It says on March 5, 2003, a Pentagon e-mail sent by a U.S. Army Corps of Engineer official said, the e-mail said, "Douglas Feith, who reports to Deputy Defense Secretary Paul Wolfowitz, approved arrangements for the contract to rebuild Iraq's oil industry, contingent on informing White House tomorrow that we anticipate no issues since action has been coordinated with the W.H. VP." That was an e-mail.

Now, we know that to be true. That is not a speculation. This is an e-mail. This is a document that we have that is suggesting people who have no reason to malign the vice president, that that kind of connection was made that suggests very strongly, to say the least, that the vice president of the United States, who was the former CEO of Halliburton, that before major multi-billion dollar contracts were awarded, that there was a checkoff.

Now, the vice president says they still stand by their statements that there is no connection.

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

Mr. PALLONE. I yield to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. We have read those stories. Can we think of any explanation for why the vice president would say that he has no contact with this in the face of that e-mail?

Mr. PALLONE. Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. The only thing one could think of is that for some reason, that the vice president's chief of staff did not tell him or something like that, but it seems to me if anyone feels the necessity to check with the vice president's office, whether or not he was involved directly in conversation, then I think the American people need to question that connection. Why would anybody need to do that or feel the need to do that? This is very important.

Let me just say this. We talk a lot about separation of church and State, but in some ways this lack of separation between corporations that are looking to make profits and the public interest, and what our mandate and the mandate of all elected officials is to protect the public interest. This blurring of those divisions is very, very troubling. Are the interests of private corporations going right up to the vice president's office? That is a worthwhile thing for Americans to know about.

Mr. PALLONE. Mr. Speaker, I yield to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Just recently, the Columbus Dispatch, the major newspaper in Ohio's capital city, had an editorial, and they pointed out that former Halliburton employees have made accusations that Halliburton housed some of their employees in hotel rooms that cost \$10,000 per night. \$10,000 per night, paid for, obviously, through these contracts, which ultimately are financed by the American taxpayer.

Mr. PALLONE. Mr. Speaker, reclaiming my time, could I ask what hotel charges \$10,000 a night?

Mr. STRICKLAND. I was amazed, but as I checked into it, it was not a misprint, \$10,000 per night. Apparently there are hotels that have those kinds of prices.

There were also accusations made that Halliburton was paying \$100 for one bag of laundry, and then there were further reports that when a contract with Halliburton to provide food to our troops was cancelled, that the cost of feeding our troops declined by 40 percent.

Now, this was information contained in an editorial in the Columbus Dispatch, and it was based upon information that was coming from a former Halliburton employee. And in that editorial there was a call for Halliburton and Vice President CHENEY to be forthcoming in explaining whatever relationship may have been involved in Halliburton's achieving this kind of contract. And the emphasis was made that when you have a contract that is a cost-plus contract, there is really no incentive to hold down the costs.

And so while we are struggling here in this country to meet the basic necessities of our citizens, we have senior citizens without adequate access to prescription drugs, we have children that are not being adequately educated, we have an infrastructure in our communities that is crumbling and falling apart while we cannot get a transportation bill passed, because the President is unwilling to spend money on the infrastructure needs in this country, while we are pouring money into Iraq, we have these outrageous contracts, which are enriching Halliburton and draining resources from our country. It is quite disturbing, and I do think the vice president, the administration owes the American people an explanation.

Mr. PALLONE. Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. I want to correct something. First of all, in that first small contract, and I was making a joke about \$1.4 billion, and I was wrong about that, it was only a \$1.4 million contract; but according to the General Accounting Office, the Pentagon acted improperly in tapping Halliburton company to plan the post-war repair of Iraq oil fields, a small-scale task order that opened the door to a much wider role for the company in Iraq, the General Accounting Office said in a report

released Monday. That was the middle of June of this year.

The contingency planning task was valued at only \$1.4 million but was significant, because it enabled the U.S. Army Corps of Engineers to award a no-bid contract to Halliburton to fulfill a larger mission of actually restoring Iraq's oil industry to pre-war capacity.

□ 2230

I think the fact that a number of these contracts too were no bid contracts, that some of which ended up with Halliburton actually paying fines of engaging as they did in the oil that they were importing and overcharging and overcharging for employees, that ultimately had to be either ended or fines were paid. But, nonetheless, the bottom line is that this is a company that it appears is making about \$18 billion overall in contracts in Iraq. And if this is in part at least the consequence of some kind of or benefited by a special relationship, then I think that the American people are entitled to know the full facts about that.

Mr. PALLONE. I appreciate the gentlewoman's information because I think that we have to deal with the facts and the gentlewoman is giving us some real factual information there about Halliburton, and how they benefited and the vice president's connection to it.

Mr. MCDERMOTT. May I take a minute to make a recommendation to my colleagues and anybody watching, there is a book called "The Imperial Hubris." It is written by anonymous. That means this is somebody who worked for CIA for a number of years and they are not allowed to put their name on here, but the subtitle is "Why the West is Losing the War on Terror."

What we are talking about tonight is the character of the leadership of Mr. CHENEY is clearly related to why we are having so much difficulty in Iraq. They will not listen to people. They give private contracts to the private industries and say, you guys do all of this stuff, and their friends are making money hand over fist, and yet our kids are dying over there.

Mr. PALLONE. And also they continue to deny the reality. I mean, after the CIA report came out, it was either today or yesterday, that the President, President Bush was out there saying that the war has resulted in the U.S. being in less danger of attack and terrorism is down, the whole thing. And the Democratic candidate, Senator KERRY dispute that and said, Where are the facts to back this up?

In the last few years we know that North Korea has more nuclear weapons than it had before, 3 or 4 times as many. There is no question that Iran is developing nuclear capability, I mean, the list goes on. Afghanistan, I think KERRY said, has basically been made into a sideshow. We do not even hear about what is going on there.

Ms. SCHAKOWSKY. I thought the suggestion that really takes the cake,

that even surprised me was that while we are being told that the world is safer than it was before, we are being told that plans are being considered to postpone the November elections. I never heard such a thing like that, that we should be so filled with fear that maybe even the November elections would have to be moved. I think all Americans ought to be up in arms about that.

Mr. PALLONE. Our colleague from Washington addressed that issue the other night in a special order, and he pointed out very effectively I thought, number one, that during the War of 1812 he was talking about President Madison, the Capitol was literally burning and the White House too I guess, and we have still had elections. And then he mentioned the Civil War, the Capitol was under siege, literally being bombarded and we had elections. What could be more threatening from a terrorist point of view than actually being under siege and yet we had elections.

Mr. STRICKLAND. I think you can go downstairs here in this Capitol building and look in the stairwell and actually see pock marks where bullets were fired during that period of time right here in this building, the Capitol building. And Abraham Lincoln in 1864 was really in danger of losing his presidency because the war was not going well. There had been some recent losses and there was wide spread criticism of President Lincoln as the President and some of his advisors were advising him to postpone the election. And this is what President Lincoln said on November 10, 1864, "We cannot have free government without elections and if the rebellion could force us to forego or postpone a national election, it might already fairly claim to have concurred or ruined us."

We are strong people. We can take a lot. The American people have backbone. They have got courage. There is nothing that terrorists can do that ought to have the power to interfere with our ability to have a national election on November 2 as planned, absolutely nothing. And I think to imply that those who wish us harm would have that kind of power to influence our national purpose and our national behavior in that way is giving greater credibility to the terrorists than they deserve.

We are going to have that election on November 2, I believe, but it does bother me, it truly bothers me that this would be something that would even be considered by this government. It really bothers me. If we did not cancel or postpone elections during the Civil War, if we did not cancel or postpone elections during World War II, why would we even contemplate the possibility of postponing this upcoming presidential election.

One more thing, if I can say this before I yield back, we all want to trust each other, but what kind of motivation may such a provision inspire?

What if it was 3 days before the election and the poll was taken and showed perhaps the party in power was not going to do very well, would there be incentive to perhaps indicate to the American people that there was a justification for postponing the election? I would hope not.

But even to have this as a consideration I find alarming, appalling, and as I said earlier tonight, I would just hope the President and every Member of this chamber, Republican and Democrat alike, would reaffirm to the American people that we intend to have our election on November 2 as planned, and that there is nothing that terrorists can do to interfere with that Democratic process.

Mr. PALLONE. I yield to the gentlewoman.

Ms. SCHAKOWSKY. Just on that point of the November 2 election, the gentleman was discussing what possible motivation, the last thing that we want to do is to create in people's minds a fear about voting on November 2. What our democracy is based on is the fullest possible participation and Americans have nothing to fear but fear itself. And what I worry about is that there is a fire being instilled that somehow that people, that something could happen and it would not be safe to vote. Quite the contrary.

This is the land of the free and the home of the brave. And the most important unit of our democracy is our vote. And to even imply that we would at a time when we want to declare and spread democracy around the world, even consider the postponement of an election is completely unacceptable.

I think that all of us have to, as leaders in this country, make sure that that notion is stamped out immediately, that no matter what happens that we will go forward with an election on November 2. And if there is some kind of a threat about that, if there is some specific threat, after all, we did not raise the color from yellow to orange, if there is some specific threat that is known, then share that with the American people. Let us know what people need to defend themselves against and protect themselves.

The spreading of a generalized fear and then connecting that to the election is as specious I think as connecting Saddam Hussein with al Qaeda over and over and over again, which now the 9/11 Commission and the Senate Intelligence Committee has said there is no connection. There is no connection. Everybody ought to plan to vote confidently on November 2.

Mr. PALLONE. I appreciate the gentlewoman's comments and I agree. If we do not enshrine democracy and say that is the main thing we are about, then we might as well forget it. I think that was my colleague from Ohio's point as well.

I think we have maybe a few minutes left. I want to say I started out tonight talking about elections in a sense because I became very upset last night

when I saw my Republican colleagues get up and basically malign Senator EDWARDS, the Democratic choice for Vice President, and the attack dogs were out in full force. And basically they kept saying that EDWARDS did not have the experience to be Vice President, and how he only represents the interests of the trial lawyers.

After I listened to everything that we collectively said this evening in our hour or so, it made me realize that Vice President CHENEY's life story and life experience certainly did not compare in any way to Senator EDWARDS.

I wanted to ask the question because I asked a few questions when I started, would you rather have a Vice President whose experience outside of Washington comes from running a corporate giant that was, during the time he was running it, doing business with the nations that engage in terrorist activities or all the other things that we have talked about here tonight, or would you rather have a Vice President like EDWARDS who worked to defend the little guy against the corporate giant?

Every time they bring up lack of experience or the trial lawyer experience of JOHN EDWARDS, all I keep thinking is that he spent his time as a trial lawyer looking to defend the little guys against the very corporate giants that the Bush and CHENEY administration essentially come from. And unlike CHENEY, EDWARDS spent decades fighting for families and children hurt by the indifference and negligence in many case of these large corporations. And he was standing up against the powerful insurance industry and their lawyers in a sense. And he was always helping families to overcome the challenges.

I could give you some examples but I am not going to do that tonight. But I just, it just really riles me when I hear the Republicans stand up for these guys for this team, the Bush-Cheney team, who obviously come from the oil industry, always out there with the corporate interests, certainly based on what we said tonight in CHENEY's case continues to march to the tune, if you will, of these corporate interests including the company that he was in charge of for so many years.

Then we have got Senator EDWARDS who on the other hand was always out there fighting for the little guy. Needless to say, I think it is time for a change and if you are ever going to put the experience of these two candidates for Vice President against each other, there is no way that you are going to do anything but vote for Senator EDWARDS.

With that I wanted to thank my colleagues again. I thought they were really great tonight, and I appreciate the comments that they made, particularly those concluding comments about our democracy being at stake which is the thing that we cherish the most.

## THE STATE OF AMERICA

The SPEAKER pro tempore (Mr. BURNS). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes.

Mr. SMITH of Michigan. Mr. Speaker, after listening to the previous speakers, Mr. Speaker, I think of Ronald Reagan's words, There you go again.

Every 4 years we sort of experience the spinning and the demagoguery that takes place in this chamber using these podiums and C-SPAN to criticize the sitting President. Of course, Republicans did it 4 years ago and 8 years ago.

When I first came into office and was elected in 1992, the Democrats in this Chamber were using this forum to criticize the first President Bush, all the things that went wrong. But I think of what the criticisms were of President Reagan when he came into office. When President Reagan came to office America was demoralized. President Carter had spoken about our malaise in Watergate, and our defeat in Vietnam had all shaken our self-confidence.

□ 2245

We had given up the Panama canal. The Shah of Iran and supporters of the Ayatollah Khomeini held 52 of our Americans hostage for more than a year at our embassy in Tehran. The military rescue mission, of course, failed in the desert, and we lost eight of our servicemen in that venture.

Communism was on the march, and after South Vietnam fell, Cambodia followed. The Sandinistas took control of Nicaragua and Communist insurgencies were underway in Ethiopia, Angola, and certainly the Soviets invaded Afghanistan in 1979 and were suppressing the solidarity movement in Poland.

Our economic situation was very dire in 1980, and President Reagan came in and actually renewed our faith. America, in most American's minds, no longer seemed to be special, and we needed that kind of determined leadership.

The point I want to make, in reacting to some of the Democrats' criticism of this administration, was the criticism that President Reagan received when he believed we should stand up to the Soviet Union and we ended up doing that.

It was President Reagan's resolve that repulsed communism in the Caribbean and Central America and repulsed it also in Afghanistan. It was Reagan's resolve that nurtured solidarity in Poland and gave heart to the dissidents of the Soviet bloc, and it was Reagan's faith in American ideals that toppled the Berlin Wall. All of this time he was being criticized as being a trigger happy President that might push the red button for a World War III with the Soviet Union.

When he went to Berlin, and he was writing a speech for Berlin, he started

out writing in that he wanted to include "Mr. Gorbachev, tear down this wall," and all of his advisers and his speech writers said, no, do not do that; it will anger the American people and the world. They will think you are too bold; they will think you are too challenging. That might end up in war. You should just try to get along and make peace. But he insisted it go in despite that criticism, and that leads me to what historians are going to say 30 years from now in analyzing the decision and the determination of this President to go into Iraq.

Most everybody in this chamber and the Senate had the same kind of intelligence information that the President and the administration had. Some of that intelligence information, we have now discovered, was very inaccurate in some regards.

## IRAN

Mr. SMITH of Michigan. Mr. Speaker, I want to tell my colleagues and the audience, Mr. Speaker, about the new threat and the fact that some Democrats are saying, look, you have got to do something about Iran. Iran was one of the several countries after 9/11 that we knew were developing weaponry, that we knew that was a country being led by a tyrant dictator that was not trustworthy in terms of the threats and the blackmail. Iran today is becoming increasingly active in its drive not only to derail Iraq democracy but to lead the Islamic radical movement into the future.

In recent months, we have seen a series of provocations in Iraq that could be considered acts of war, that may make a coalition response necessary.

Iran appears to have financed and encouraged the Shiite cleric Muqtada al Sadr's Mehdi Army in their resistance and which was behind the April uprising in Sadr City and Najaf. Al Sadr continues to denounce the new Iraqi government. How much of this is coming from Iran? We now know that some is.

We held a recent hearing in our Committee on International Relations, and we found out that border patrols have captured at least 83 Iranians trying to cross illegally into Iraq, and there are several reports of brief incursions of the Iranian troops into Iraq along the borders.

Also in June, Iranian military forces hijacked a small British navy vessel in the Shatt al-Arab waterway with eight crew members aboard. The relief crew members say they were hijacked in Iraqi territorial waters before being escorted into Iran.

On July 5 American-Iraqi joint patrols, along with U.S. special operations teams, captured two men with explosives in Baghdad who identified them as Iranian intelligence officers, and I am relating now to the problems in Iran because it was one of several countries that intelligence says was developing mass weaponry and that was using that weaponry to blackmail its neighbors and threaten the world.

In addition, Iran has been working actively to produce chemical, biological and nuclear weapons, along with ballistic missiles for delivery. The Under Secretary of State John Bolton testified before our Committee on International Relations: The recently apprehended Pakistani proliferator Dr. A.Q. Khan has confessed to having shared nuclear technology with Iran. North Korea has provided missile technology, including the SCUD B, the 300 kilometer range missiles; and the SCUD C, the 500 kilometer range missiles. Iran's Shahab-3 missile is thought to be based on North Korea's so-called No Dong missile design.

The International Atomic Energy Agency inspectors say that Iran is in violation of its commitments as a signatory of the non-proliferation treaty. Iran is engaged in prohibited uranium enrichment activities, is in the process of constructing a heavy water reactor designed specifically to produce large quantities of plutonium usable for weapons and is seeking to produce polonium-210 which is used as a weapon initiator.

Iran failed to announce any of these activities as required by the non-proliferation treaty, and they go well beyond any conceivable, peaceful nuclear program. Iran has responded to these charges by threatening to end inspections and withdraw from the non-proliferation treaty.

My point is, Mr. Speaker, that we are facing a new challenge, somewhat unlike the challenge of the Cold War with the Soviet bloc, but every bit as challenging, every bit as dangerous.

The State Department continues to recognize Iran as the world's foremost State sponsor of terrorism. Iran's links to Hezbollah, Hamas, Palestinian Islamic Jihad, the Popular Front For the Liberation of Palestine, the al Aqsa Martyr's Brigade and the al Qaeda, has been directly implicated in the 1983 bombing of the U.S. marine barracks in Beirut, a series of bombings in 1986 in Paris, the 1992 bombing of the Israeli embassy in Buenos Aires and the 1996 Khobar Towers in Saudi Arabia.

In recent weeks, two Iranian diplomats assigned to the U.N. in New York were ejected for spying. The diplomats were said to be photographing sensitive sites.

Iran is clearly one of the most dangerous countries in the world and appears to be stepping up its efforts against a free Iraq. The West and the United States, we are working with allies to try to contain these threats. It cannot be just the United States.

## IRAQ

Mr. Speaker, again realize that the U.N. is made up of some of these tyrant dictators. The U.N. is made up of individuals representing some of these countries with very selfish motivations.

When we look at the 13th and 14th resolution of trying to convince other nations to join with us in countering what was happening in Iraq with their

total disregard for the 13 resolutions, saying that there has to be inspectors, with Iraq kicking these inspectors out, it was countries like France and Germany and Russia that had deals with Saddam that were going to lose money if there was an invasion of Iraq. They were trying to actually lift the embargo on Iraq at that time because they could profit by it.

The chairman of sort of the counterpart for the Committee on International Relations from the Duma, the Soviet Union in Moscow, came before our Committee on International Relations, and he was talking about and mentioned that Iraq and Saddam Hussein owed Russia between \$9 and \$12 billion. One of us said, well, if the United States guaranteed that you would get that paid back, would that make a difference in how you would vote in the United Nations on the Iraq resolutions? He said, well, of course.

Here again, my point is that these countries are looking out for their self-interests, and if the United States is willing to spend its money, it is easy for some of these countries to stand back that might lose by going into Iraq, other countries that might lose by having to contribute finances at a time when their budgets are under the same kind of pressures ours are, and so I come back to how historians will look on our action after 9/11, going into Afghanistan and going into Iraq to try to counter the terrorist threat that is now facing the new free world.

I cannot help but criticize those individuals that try to play partisan politics to the extent of showing their exuberance in criticizing this administration for actions that most of that side of the aisle, certainly most of this side of the aisle, voted on when we voted to give the President the authority to militarily go into Iraq.

#### DELAYING NOVEMBER ELECTION

Mr. Speaker, there has been discussion, that I just want to comment on, about criticizing this administration for suggesting that we might delay the election. Every Republican I know in this Chamber and in the Senate have said no way are we going to postpone the election.

If there is any agreement that needs to be made in terms of potential terrorist disruption of the election, it is an agreement by the Republicans and the Democrats that we are going to have the election; that we are going to count the votes; and whatever the votes are is going to determine who is going to be the next President of the United States.

#### SOCIAL SECURITY

Mr. Speaker, I am going to talk a little bit about Social Security this evening, but also it is partisan politics and demagoguery that I would suggest has been the reason why we have not proceeded with a solution on Social Security. We have known Social Security is going bankrupt, and we have known that for the last 14 years.

In fact, I wrote my first Social Security bill when I was chairman of the

senate finance committee in the State of Michigan, and I brought it to Congress and I introduced it. I have introduced five Social Security bills, all of which have been scored by the Social Security Administration to keep Social Security solvent, and I have considered this one of my priorities in Congress because not solving this problem of keeping Social Security solvent and putting it off means that there is going to be much more drastic solutions that will have to be made in the future to keep Social Security solvent.

In terms of the demagoguery, it is easy to criticize anybody's suggestion on solving Social Security or Medicare or Medicaid, some of the overpromising we have done in those areas, because, for example, in Social Security, we have 80 percent of all of the retirees that are very heavily dependent on Social Security for their retirement income. So you can understand that it is very easy to frighten these people by saying, well, look, that Republican or this Republican wants to jeopardize your Social Security benefits.

□ 2300

And, boy, they want to privatize it; and the snake oil salesmen are going to lose it; and you will end up not having Social Security. Of course, I am paraphrasing, but you can understand that it is easy to scare seniors rather than coming together. And it has to be a coming together, Republicans and Democrats, to solve Social Security.

On this chart, Mr. Speaker, it is a pie chart of how we are spending money this year. As you see, the biggest piece of pie, the biggest, largest expenditure of the Federal Government, is Social Security, at 21 percent. The domestic discretionary programs represent 16 percent. We spend most of the year in our 12 appropriation bills, outside of defense, arguing about how we are going to spend that 16 percent of the total Federal spending.

Most of it is entitlement programs on automatic pilot. Even interest over here is essentially on automatic pilot. But I think it is important also to mention the dangers that are facing our kids and our grandkids in terms of increasing the debt of this country. Fourteen percent of the total Federal budget is used servicing the debt, or paying interest on the debt that we owe. That represents over \$300 billion a year, and this is at a time when interest rates are relatively low.

We saw Greenspan and the Fed raised interest rates a little bit a few weeks ago. Probably another two times, maybe three times the rest of this year there might be another quarter. Maybe one of these times, depending on inflation, they might go up as much as a half. But the fact is, interest rates are going up. That means this piece of the pie is going up simply to pay interest on the outstanding debt, which is now \$7 trillion.

And we are adding to that debt by our annual deficit spending. Now, defi-

cits mean how much we overspend in 1 year. Debt is the adding up or the sum of all those annual overspendings. And as I mention, that is now \$7 trillion. But we are increasing the debt by over \$500 billion a year.

How do you put that in perspective? I think about the fact that we are a 228-year-old country, and it took the first 200 years of this country to get up to the first \$500 billion of debt. Now we are going deeper into debt \$500 billion a year. For lack of a better word, it is unconscionable for Washington to be so egotistical that they think our problems today justify taking the money from our kids and our grandkids that they have not even earned yet. What I am saying is this huge burden of the debt is going to be placed on future generations.

And the debt is only part of it. Overpromising. There is no question a politician that goes home and promises new services, new benefits coming from government probably gets on television or on the front page of the paper. And politicians that take home the pork barrel projects, that are seen cutting the ribbon probably are more likely to get elected. So we have been overspending and overpromising.

The green eyeshade people, our economists, call the overpromising unfunded liabilities. Unfunded liabilities mean that we do not have enough money coming in to accommodate those promises. This chart shows how much we are going to have to take out of the general fund to accommodate Social Security and Medicare and Medicaid. And by 2020, it is going to take 28 percent of the general fund budget, added to our payroll tax, our 15.2 percent payroll tax, to accommodate the shortfall, or the shortage between what we have promised in these programs and the extra money needed to keep those promises. If you go up to 2030, it is going to take over 50 percent of the general fund budget.

Are we going to take 50 percent of the general fund budget? No. That means tax increases. Or, if we do not have the guts, if we do not have the intestinal fortitude in Congress and in the White House, it means maybe adding to borrowing, which is going to add to the burden of interest.

After I voted against the prescription drug bill, Tom Savings, one of the actuaries, came to my office and said, these are my calculations of the unfunded liability, of what it is going to take in these programs over and above the money coming in from the payroll tax. Medicare part A, which is mostly hospitals, is going to be almost \$22 trillion unfunded. Medicare Part B is going to be \$23 trillion unfunded. Medicare part D, the new drug program, adds \$16.6 trillion of unfunded liability. Social Security is \$12 trillion unfunded liability.

Again, that means that that \$73.5 trillion would have to be put into some kind of a savings account or investment account that is going to have a

return of at least inflation to accommodate the money that is needed over the next 75 years to pay for the benefits that have now been promised in those programs. I mean huge amounts of money, an almost inconceivable \$73.5 trillion, that we would have to come up with today. But our total Federal budget, back to that pie chart, our total Federal spending only comes to approximately \$2.4 trillion in 1 year. So total Federal spending is \$2.4 trillion in 1 year.

This is a quick snapshot of the problems with Social Security. A very short-term surplus. What happened with the Greenspan Commission in 1983, they reduced benefits and increased taxes. A huge jump in taxes. So the huge jump in taxes, they figured if that was invested in a proper way, it could accommodate a longer-term solvency. But their expectations did not culminate the way they thought it would. And the fact is that starting in 2017, we simply go into the red from there on out, and that is sort of representing the unfunded liability in that program.

I think it is important to briefly describe how Social Security works. Benefits are highly progressive based on earnings. That means that if you are a lower income, you get 90 percent back. Ninety percent of what your wages were you will get back in Social Security benefits for that every month. So if you had \$1,000 coming in for Social Security over a month's period, you would get \$900 back in Social Security benefits for that month.

At retirement, all of a worker's wages up to the tax ceiling are indexed to present value using wage inflation. Indexed to present value means that if a job as a farmer, a boot maker, or anything else paid X amount 20 years ago, then that is going to be what you would pay that profession now. As far as wage inflation, that would be what you are given and assumed. So that just because you worked for a low wage 20 years ago, it would be put on the books and added up and calculated to determine benefits based on what that job would be paying today.

□ 2310

The best 35 years of earnings are averaged. The annual benefit of those retiring in 2004 equals 90 percent of the earnings up to \$7,344, thirty-two percent of the earnings between the \$7,344 and the \$44,000 and then 15 percent of the earnings above \$44,000.

What I do in my Social Security bill, I add another so-called bend point of 5 percent which has the effect of saving money by reducing the increase in benefits for high-income retirees. And then early retirees receive an adjusted benefit so if you decide to retire at 62 or 63, it is going to be less than if you decide to retire at 65 or 66 or 67.

I put this on because so many people in the maybe 250 speeches I have given on Social Security complain about somebody abusing Social Security with

supplemental security income. And so I wanted to put this on my chart that SSI does not come out of the Social Security, it comes out of the general fund even though it is administered by the Social Security Administration.

We do a lot of talk about this word privatizing. Privatizing is a negative word. I, nor any other Member of this body or the Senate, has done anything except have a percentage of your wages go into a fund that is dedicated to your name. So government still controls it. What you invest in is limited to safe funds, so you do not have the option of saying, well, gee, this sounds like a really good deal so I'm going to invest in this new energy substitute. In my legislation, we limit investments to index bonds, index stocks, index cap funds.

It is interesting that when Franklin Roosevelt created the Social Security program over six decades ago, he wanted it to feature a private sector component to build retirement income. Actually when the Senate passed their Social Security bill in 1933, the Senate said these savings accounts are actually going to be owned by the worker but they can't take any money out till they retire. The House, and again this was after the Great Depression, said, well, we better have government handle all of these Social Security funds coming in and not really have any of the Social Security benefits in an individual's name. When they went to conference, the House won out and we have the program that we have today with the government taking all the money and if there is any surplus coming in from the FICA tax, from the payroll tax, then what Congress and the White House does is spend that surplus on other government programs. So for a start, let us get some real return on that extra investment from the surpluses coming in and let us not simply use it up by spending it on other programs. That is part, I think, of every bill that I have seen introduced.

The system is stretched to its limits. Seventy-eight million baby boomers begin retiring in 2008. Social Security spending exceeds tax revenues in 2017. Social Security trust funds go broke in 2037. But it is worse than that, because all the money is spent and there is only IOUs, that government owes this money back. If government follows the pattern that has been traditional for the last 50 years, then every time they have come short of money, they do a combination of reducing benefits and increasing taxes. When you consider that about 78 percent of American workers today pay more in the payroll tax than they do the income tax, I think it should be out of the question because it is significantly reducing the chances that workers can become wealthy if we continue to increase the tax on them like that.

Insolvency is certain. We know how many people there are and when they will retire. We know that people will live longer in retirement. I chaired the

Social Security bipartisan task force. The medical futurists came in and predicted that within 25 years, anybody that wanted to live to be 100 years old would have that option and within 30 years with our new medical technology, with nanotechnology and what is happening in our research, anybody that had the money and wanted to live to be 120 years old would have that option. Already companies are coming in and saying we are paying retirees now, we are paying retirement benefits longer than they actually worked for us. You can see the predicament of the life span. That is the demography of the situation that now faces us in a sort of pay-as-you-go program where we depend on existing workers to pay their taxes in that immediately goes out to pay the benefits of existing retirees. As the birthrate goes down and as our medical technology allows people to live longer, it makes that kind of pay-as-you-go program unworkable. And so some changes have to be made. Almost every State now has made a transition from a fixed benefit to a fixed contribution type program. For the long run, we have got to move in that direction. Part of that movement is getting a real return on some of this money that American workers are sending in so that it can be their own individual account. A good persuasion is the fact that the Supreme Court now on two decisions has said that there is no connection between the taxes you pay in for Social Security and your entitlement to benefits. Taxes are just another tax bill, a tax on your payroll, and benefits are simply another benefit program and they are separate and there is no entitlement simply because you pay into Social Security all your life. It seems like that is a good argument, Madam Speaker, that says, look, let's have some of this in our open accounts so that if we die before we are eligible for Social Security it goes into our estate and it passes on to our heirs.

Here is sort of the picture of the demographic problem. In 1940, there were 28 workers paying in their Social Security taxes to accommodate every one retiree. By the year 2000, with people living longer and the birthrate going down, it got down to three people having to pay increased taxes when it is just the three people paying in to accommodate every retiree. Of course, all this time we are increasing our benefits for retirees. By 2025, the estimate is that there is only going to be two people working for every one retiree. Talking to the National Association of Manufacturers and some of the business groups, I have suggested that if they do not help in explaining the problems of Social Security, then we could be facing the kind of situation of being forced to pay higher and higher payroll taxes that would put our businesses at a competitive disadvantage.

Take a guess what the payroll tax equivalent is in France. It is over 50 percent. Over 50 percent of their payroll in France goes to accommodate

their senior programs. Germany just went over 40 percent. No wonder that they are complaining about their competitive disadvantage in terms of trying to compete with the rest of the world. It is so important that we move ahead trying to solve this problem now of insolvency rather than just simply looking the other way and putting it off because it does two things. It puts an extra burden on our kids and our grandkids and future generations. Secondly, it is going to be much more difficult to solve the longer we put off the solution. That is because of the little blip where we have surpluses coming in now and pretty soon we are going to have to reach into other funds to accommodate our promises on benefits.

Economic growth will not fix Social Security. I have heard some people say, actually from the other side of the aisle, look, if we can get a President that creates a strong economy. First of all, a President or this Congress does not create a strong economy. It is our system that we have in this country. It is a wonderful system that we devised back in our Constitution when we structured it so as to encourage hard work and effort.

□ 2320

So we have a Constitution and system in America that those that work hard, that save, that try and invest, that go to school and use that education, end up better off than those that do not.

Now we are sort of floundering a little bit in an ambition of some to divide the wealth, taking from the people that have made it and giving to the people that have not made it. So if a young couple decides, look, we are going to work double shifts so I can have more money and do better for my family, we not only tax them more, but we tax them at a higher rate.

So we have got to be very careful that we do not discourage the kind of policies that have made this country grow better and faster and stronger with a higher standard of living than any other country in the world by continuing to say if you are successful, we are just going to really hit you with larger taxes.

When the economy grows, workers pay more in taxes, but also will earn more in benefits when they retire. Growth makes the numbers look better now, but leaves a larger hole to fill later.

The administration uses some of these figures, and I have met with both President Clinton, who tried to move ahead with Social Security reform, and President Bush, who has tried to move ahead with Social Security reform.

But here is my guess: Whether it is Mr. KERRY or Mr. Bush, I think that it is very important that we move ahead with Social Security reform next year. The first year in a 4-year cycle for the President is the only real opportunity for a President to push for the kind of agreement between Democrats and Re-

publicans that is going to be able to solve the Social Security problem. If there is not bipartisan support for some way to solve the problem, then we are going to be faced with a future of reducing benefits.

Some people have suggested if government would keep their hands off the surplus and not spend it for other government programs, keep their hands off the money in the trust fund, that Social Security would be okay. I have this bar chart to show you the difference between what is needed and how much is in the trust fund.

The trust fund, or the IOUs, where there is no money there, is \$1.4 trillion. The unfunded liability, in other words, what is needed to go into a savings account that will earn interest at the rate of inflation, is \$12 trillion. So what is in the trust fund is not nearly enough to accommodate a solution for the problem. We have got to pay it back, and we will; but will we borrow money, or increase taxes to come up with that \$1.4 trillion to pay back?

The biggest risk is doing nothing at all. Social Security has a total unfunded liability of over \$12 trillion. The Social Security trust fund contains nothing but IOUs, and to keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent or benefits will have to be cut by 30 percent. A dire prediction, a real problem for seniors 20 years from now and for our kids and our grandkids that are going to have to put up with our overspending and our overpromising.

The real return to Social Security, this chart is supposed to show that Social Security is not a good investment. The real return on Social Security is less than 2 percent for most workers, and shows a negative return for some, compared to the 7 percent that the market has shown us over the last 100 years.

The first chart is minorities. If you are a black male, your average age of death is 62 and you end up with negative return on the money that goes into Social Security. It is interesting that back in 1934, in fact from 1934 up until the start of World War II, the average age of death in America was 62 years old. But benefits, even when we started, you could not draw Social Security benefits until you were 65. So if you die on average at 62, the program worked very well, because most people never collected any benefits.

The average return, again, is 1.7 percent. The tall blue graph on the right shows what the Wilshire 5000 index earned, and that was 11.86 percent after inflation, and that was for the last 10 years, including the last three down years.

This is how long you have got to live after you retire if you are going to break even on Social Security benefits. If you retire in 2005, you are going to have to live 23 years after you retire to break even on Social Security. As you see, in the earlier years, if you happen

to retire in 1980, you only have to live 4 years after you retire. That is because you paid much less in relation to what you are going to take out as we have reduced benefits and increased taxes.

This is the increased taxes. So every time we have gotten into problems we have said, well, let us increase the taxes on workers. In 1940, we raised it from 1 percent to 2 percent of the first \$3,000. In 1960 we raised it to 6 percent of the first \$4,800. In 1980, we raised it to 10.16 percent of the first \$26,000. In 2000, we raised it to 12.4 percent of the first \$76,200. In 2004, the rate did not go up, 12.4 percent for Social Security, but the base was increased to \$87,900. \$89,000 is now the base that we tax the 12.4 percent on for Social Security.

Madam Speaker, 78 percent of working families now pay more in payroll taxes than income taxes.

These are the six principles that I sent to the House and Senate Members suggesting maybe at least we can agree on some of the principles.

One, protect current and future beneficiaries.

Two, allow freedom of choice on whether you want to stay in the existing program or whether you want to go into a program where you would have some of the money dedicated to your own account that you own.

Preserve the safety net. In other words, I do not use all of the trust fund to make the transition into a program that starts putting money in these personal savings accounts.

Make Americans better off, not worse off.

Next I say investing, allowing some of the investment to go into mutual funds, index funds. That is the seed corn for our business and industry to do the research, to make the kind of improvements to increase their efficiency and competitive position within the world trade we are now facing.

Create a fully funded system.

And no tax increases.

Just briefly, I am going to finish up by going through the Social Security bill that I just introduced, and that is a bill that is sponsored by both Republicans and some Democrats. It is scored by the Social Security Administration to keep the program solvent. There is no increases in the retirement age, no changes in the COLA, the cost of living index, depending on inflation, where we increase benefits every year, and that there is no change in the benefits for seniors or near-term seniors. Solvency is achieved through higher returns from worker accounts and slowing the increase in benefits for the higher-income retirees.

The Social Security trust fund continues. Voluntary accounts would start at 2.5 percent of income and would reach 8 percent of income by 2075. So it is a gradual transition into a personal savings account, and it is important we do it gradually.

The other option we are looking at is you could issue bonds and make the

transition to start at a higher rate, such as 5 percent of your income would go into your personal retirement account quicker, but that means in effect borrowing more money to accommodate the transition costs.

Investments would be safe, widely diversified, and investment providers would be subject to government oversight. And the government would supplement the accounts of workers earning less than \$35,000 to ensure that they build up significant savings.

This was an idea that President Clinton had that said for the lower incomes, so that low income workers can retire more like millionaires, we need to add a little money, I think President Clinton called it a "golden savings account." But what I do in my legislation is say we are going to assume that everybody can at least have the 2.5 percent to start with, and then it goes up, of \$35,000, that goes in their personal retirement savings account to accumulate and to have the magic of compound interest.

□ 2330

And that is what it is all about.

Just as a footnote, Madam Speaker, I am still going to suggest to not depend on some kind of a magic solution. Every person under 50 years old; in fact, every person, should make a very strong, dedicated effort to start putting money aside for your retirement. Start figuring out what you are going to need. If you are going to end up living 40 years after you retire, how much money are you going to have to start putting aside. And the magic of compound interest and those figures, which maybe deserve a whole hour of briefing on encouraging savings, but let me just say that it is so important for everyone, for everybody from the age of 16 to the age of 60, to start setting aside as much as you can now and let the magic of compound interest help with the retirement benefits.

In conclusion, accounts are voluntary, and participants would receive benefits directly from the government along with their accounts. Government benefits would be offset based on the money deposited into their accounts, not on the money earned, and workers could expect to earn more from their account than from traditional Social Security. In fact, what we do in our bill is we guarantee an individual worker that decides that they want to go into the personally-owned account system, and that is optional, that they will get at least as much as they would from the fixed Social Security system that exists today. So we can guarantee that, since they only earn 1.7 percent on Social Security.

If anybody would like to review my charts, then they are on my website. If you go to one of the search engines and you type in "Congressman NICK SMITH," you can get to my website. You can get to these charts that display my particular proposal for solving Social Security and, again, this pro-

posal has been scored by the Social Security Administration to keep Social Security solvent. I have gone to the White House. The White House feels very strongly that it is important next year to start working aggressively to get some kind of a compromise between the Democrats and the Republicans in the House and in the Senate to move ahead with a solution for Social Security that is going to make sure that we keep this program solvent for the long run.

OMISSION FROM THE CONGRESSIONAL RECORD OF MONDAY, JULY 12, 2004, AT PAGE H5494

The CHAIRMAN: All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 4755 is as follows:

H.R. 4755

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—LEGISLATIVE BRANCH  
APPROPRIATIONS  
HOUSE OF REPRESENTATIVES  
SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, \$1,044,281,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, \$18,678,000, including: Office of the Speaker, \$2,708,000, including \$25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, \$2,027,000, including \$10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, \$2,840,000, including \$10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, \$1,741,000, including \$5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, \$1,303,000, including \$5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, \$470,000; Republican Steering Committee, \$881,000; Republican Conference, \$1,500,000; Democratic Steering and Policy Committee, \$1,589,000; Democratic Caucus, \$792,000; nine minority employees, \$1,409,000; training and program development—majority, \$290,000; training and program development—minority, \$290,000; Cloakroom Personnel—majority, \$419,000; and Cloakroom Personnel—minority, \$419,000.

MEMBERS' REPRESENTATIONAL ALLOWANCES INCLUDING MEMBERS' CLERK HIRE, OFFICIAL EXPENSES OF MEMBERS, AND OFFICIAL MAIL

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, \$521,195,000.

COMMITTEE EMPLOYEES

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by House resolutions, \$114,299,000: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2006.

COMMITTEE ON APPROPRIATIONS

For salaries and expenses of the Committee on Appropriations, \$24,926,000, includ-

ing studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2006.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, \$160,133,000, including: for salaries and expenses of the Office of the Clerk, including not more than \$13,000, of which not more than \$10,000 is for the Family Room, for official representation and reception expenses, \$20,534,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than \$3,000 for official representation and reception expenses, \$5,879,000; for salaries and expenses of the Office of the Chief Administrative Officer, \$116,034,000, of which \$7,500,000 shall remain available until expended; for salaries and expenses of the Office of the Inspector General, \$3,986,000; for salaries and expenses of the Office of Emergency Planning, Preparedness and Operations, \$1,000,000, to remain available until expended; for salaries and expenses of the Office of General Counsel, \$962,000; for the Office of the Chaplain, \$155,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and \$2,000 for preparing the Digest of Rules, \$1,673,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, \$2,346,000; for salaries and expenses of the Office of the Legislative Counsel of the House, \$6,721,000; for salaries and expenses of the Office of Interparliamentary Affairs, \$687,000; and for other authorized employees, \$156,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, \$205,050,000, including: supplies, materials, administrative costs and Federal tort claims, \$4,350,000; official mail for committees, leadership offices, and administrative offices of the House, \$410,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, \$199,600,000; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, \$690,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (2 U.S.C. 2112), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. (a) REQUIRING AMOUNTS REMAINING IN MEMBERS' REPRESENTATIONAL ALLOWANCES TO BE USED FOR DEFICIT REDUCTION OR TO REDUCE THE FEDERAL DEBT.—Notwithstanding any other provision of law, any amounts appropriated under this Act for "HOUSE OF REPRESENTATIVES—SALARIES AND EXPENSES—MEMBERS' REPRESENTATIONAL ALLOWANCES" shall be available only for fiscal year 2005. Any amount remaining after all payments are made under such allowances for fiscal year 2005 shall be deposited in the Treasury and used for deficit reduction (or, if there is no Federal budget deficit after all such payments have been made,

for reducing the Federal debt, in such manner as the Secretary of the Treasury considers appropriate).

(b) REGULATIONS.—The Committee on House Administration of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) DEFINITION.—As used in this section, the term “Member of the House of Representatives” means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

SEC. 102. NET EXPENSES OF TELECOMMUNICATIONS REVOLVING FUND. (a) There is hereby established in the Treasury of the United States a revolving fund for the House of Representatives to be known as the Net Expenses of Telecommunications Revolving Fund (hereafter in this section referred to as the “Revolving Fund”), consisting of funds deposited by the Chief Administrative Officer of the House of Representatives from amounts provided by legislative branch offices to purchase, lease, obtain, and maintain the data and voice telecommunications services and equipment located in such offices.

(b) Amounts in the Revolving Fund shall be used by the Chief Administrative Officer without fiscal year limitation to purchase, lease, obtain, and maintain the data and voice telecommunications services and equipment of legislative branch offices.

(c) The Revolving Fund shall be treated as a category of allowances and expenses for purposes of section 101(a) of the Legislative Branch Appropriations Act, 1993 (2 U.S.C. 95b(a)).

(d) Section 306 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 117f) is amended—

(1) by striking subsection (b) and redesignating subsection (c) as subsection (b); and

(2) in subsection (b) (as so redesignated), by striking “subsections (a) and (b)” and inserting “subsection (a)”.

(e) Section 102 of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 112g) is amended by adding at the end the following new subsection:

“(e) This section shall not apply with respect to any telecommunications equipment which is subject to coverage under section 103 of the Legislative Branch Appropriations Act, 2005 (relating to the Net Expenses of Telecommunications Revolving Fund).”

(f) This section and the amendments made by this section shall apply with respect to fiscal year 2005 and each succeeding fiscal year, except that for purposes of making deposits into the Revolving Fund under subsection (a), the Chief Administrative Officer may deposit amounts provided by legislative branch offices during fiscal year 2004 or any succeeding fiscal year.

SEC. 103. CONTRACT FOR EXERCISE FACILITY. (a) IN GENERAL.—The Chief Administrative Officer of the House of Representatives shall enter into a contract on a competitive basis with a private entity for the management, operation, and maintenance of the exercise facility established for the use of employees of the House of Representatives which is constructed with funds made available under this Act.

(b) USE OF FEES TO SUPPORT CONTRACT.—Any amounts paid as fees for the use of the exercise facility described in subsection (a) shall be used to cover costs incurred by the Chief Administrative Officer under the contract entered into under this section or to otherwise support the management, operation, and maintenance of the facility, and shall remain available until expended.

SEC. 104. SENSE OF THE HOUSE. It is the sense of the House of Representatives that Members of the House who use vehicles in traveling for official and representational purposes, including Members who lease vehi-

cles for which the lease payments are made using funds provided under the Members’ Representational Allowance, are encouraged to use hybrid electric and alternatively fueled vehicles whenever possible, as the use of these vehicles will help to move our Nation toward the use of a hydrogen fuel cell vehicle and reduce our dependence on oil.

#### JOINT ITEMS

For Joint Committees, as follows:

##### JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, \$4,139,000, to be disbursed by the Secretary of the Senate.

##### JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, \$8,433,000, to be disbursed by the Chief Administrative Officer of the House of Representatives.

For other joint items, as follows:

##### OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including: (1) an allowance of \$2,175 per month to the Attending Physician; (2) an allowance of \$725 per month each to four medical officers while on duty in the Office of the Attending Physician; (3) an allowance of \$725 per month to two assistants and \$580 per month each not to exceed 11 assistants on the basis heretofore provided for such assistants; and (4) \$1,680,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, \$2,528,000, to be disbursed by the Chief Administrative Officer of the House of Representatives.

##### CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

For salaries and expenses of the Capitol Guide Service and Special Services Office, \$3,844,000, to be disbursed by the Secretary of the Senate: *Provided*, That no part of such amount may be used to employ more than 58 individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than 120 days each, and not more than 10 additional individuals for not more than 6 months each, for the Capitol Guide Service.

##### STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the second session of the 108th Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, \$30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

##### CAPITOL POLICE

###### SALARIES

For salaries of employees of the Capitol Police, including overtime, hazardous duty pay differential, and Government contributions for health, retirement, social security, professional liability insurance, and other applicable employee benefits, \$203,440,000, to be disbursed by the Chief of the Capitol Police or his designee.

###### GENERAL EXPENSES

For necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, security equip-

ment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, the awards program, postage, communication services, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and not more than \$5,000 to be expended on the certification of the Chief of the Capitol Police in connection with official representation and reception expenses, \$28,888,000, of which \$700,000 shall remain available until expended, to be disbursed by the Chief of the Capitol Police or his designee: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 2005 shall be paid by the Secretary of Homeland Security from funds available to the Department of Homeland Security.

###### ADMINISTRATIVE PROVISIONS

###### (INCLUDING TRANSFER OF FUNDS)

SEC. 1001. TRANSFER AUTHORITY. Amounts appropriated for fiscal year 2005 for the Capitol Police may be transferred between the headings “SALARIES” and “GENERAL EXPENSES” upon the approval of the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 1002. RELEASE OF SECURITY INFORMATION. (a) AUTHORITY OF BOARD TO DETERMINE CONDITIONS FOR RELEASE.—Notwithstanding any other provision of law, any information in the possession of the United States Capitol Police (whether developed by the Capitol Police or obtained by the Capitol Police from another source) that relates to actions taken by the Capitol Police in response to an emergency situation, or to any other counterterrorism and security preparedness measures taken by the Capitol Police, may be released by the Capitol Police to another entity only if the Capitol Police Board determines, in consultation with other appropriate law enforcement officials and experts in security preparedness, that the release of the information will not jeopardize the physical security and safety of the facilities and properties under the jurisdiction of the Capitol Police.

(b) RULE OF CONSTRUCTION REGARDING REQUESTS FOR INFORMATION FROM CONGRESS.—Nothing in this section may be construed to affect the ability of the House of Representatives and the Senate (including any Member, officer, or committee thereof) to obtain information from the Capitol Police regarding the operations and activities of the Capitol Police that affect the House of Representatives and Senate.

(c) REGULATIONS.—The Capitol Police Board shall promulgate regulations to carry out this section, with the approval of the Committees on Appropriations of the House of Representatives and Senate.

(d) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 1003. SOLE AND EXCLUSIVE AUTHORITY OF BOARD AND CHIEF TO DETERMINE RATES OF PAY. (a) IN GENERAL.—The Capitol Police Board and the Chief of the Capitol Police shall have the sole and exclusive authority to determine the rates and amounts for each of the following for members of the Capitol Police:

(1) The rate of basic pay (including the rate of basic pay upon appointment), premium pay, specialty assignment and proficiency pay, and merit pay.

(2) The rate of cost-of-living adjustments, comparability adjustments, and locality adjustments.

(3) The amount for recruitment and relocation bonuses.

(4) The amount for retention allowances.

(5) The amount for educational assistance payments.

(b) NO REVIEW OR APPEAL PERMITTED.—The determination of a rate or amount described in subsection (a) may not be subject to review or appeal in any manner.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect—

(1) any authority provided under law for a committee of the House of Representatives or Senate, or any other entity of the legislative branch, to review or approve any determination of a rate or amount described in subsection (a);

(2) any rate or amount described in subsection (a) which is established under law; or

(3) the terms of any collective bargaining agreement.

(d) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 1004. (a) AUTHORITY TO SETTLE CLAIMS UNDER FEDERAL TORT CLAIMS ACT.—For purposes of section 2672 of title 28, United States Code (relating to the administrative adjustment of claims), the United States Capitol Police shall be considered a Federal agency and the Capitol Police Board shall be considered the head of the agency.

(b) RULES OF CONSTRUCTION.—Nothing in this section may be construed—

(1) to affect any authority relating to the payment of claims under title 31, United States Code; or

(2) to affect the payment of any award or settlement under the Congressional Accountability Act of 1995.

(c) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 1005. DEPLOYMENT OUTSIDE OF JURISDICTION. (a) REQUIREMENTS FOR PRIOR NOTICE AND APPROVAL.—The Chief of the Capitol Police may not deploy any officer outside of the areas established by law for the jurisdiction of the Capitol Police unless—

(1) the Chief provides prior notification to the Committees on Appropriations of the House of Representatives and Senate of the costs anticipated to be incurred with respect to the deployment; and

(2) the Capitol Police Board gives prior approval to the deployment.

(b) EXCEPTION FOR CERTAIN SERVICES.—Subsection (a) does not apply with respect to the deployment of any officer for any of the following purposes:

(1) Responding to an imminent threat or emergency.

(2) Intelligence gathering.

(3) Providing protective services.

(c) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 1006. LEGAL COMPLIANCE SYSTEM. The Capitol Police General Counsel, in conjunction with the Capitol Police Employment Counsel for employment and labor law matters, shall be responsible for implementing and maintaining an effective legal compliance system with all applicable laws, under the oversight of the Capitol Police Board.

SEC. 1007. (a) IN GENERAL.—None of the funds made available for the Capitol Police for any fiscal year in any Act may be used for a mounted horse unit.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act and shall apply with respect to the fiscal year in which such date occurs and each succeeding fiscal year.

#### OFFICE OF COMPLIANCE

##### SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995

(2 U.S.C. 1385), \$2,421,000, of which \$305,000 shall remain available until September 30, 2006: *Provided*, That the Executive Director of the Office of Compliance may, within the limits of available appropriations, dispose of surplus or obsolete personal property by interagency transfer, donation, or discarding.

##### ADMINISTRATIVE PROVISION

SEC. 1101. (a) The Executive Director of the Office of Compliance may, in order to recruit or retain qualified personnel, establish and maintain hereafter a program under which the Office may agree to repay (by direct payments on behalf of the employee) all or a portion of any student loan previously taken out by such employee.

(b) The Executive Director may, by regulation, make applicable such provisions of section 5379 of title 5, United States Code, as the Executive Director determines necessary to provide for such program.

(c) The regulations shall provide the amount paid by the Office may not exceed—

(1) \$6,000 for any employee in any calendar year; or

(2) a total of \$40,000 in the case of any employee.

(d) The Office may not reimburse an employee for any repayments made by such employee prior to the Office entering into an agreement under this section with such employee.

(e) Any amount repaid by, or recovered from, an individual under this section and its implementing regulations shall be credited to the appropriation account available for salaries and expenses of the Office at the time of repayment or recovery.

(f) This section shall apply to fiscal year 2005 and each fiscal year thereafter.

#### CONGRESSIONAL BUDGET OFFICE

##### SALARIES AND EXPENSES

For salaries and expenses necessary for operation of the Congressional Budget Office, including not more than \$3,000 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, \$34,790,000.

#### ARCHITECT OF THE CAPITOL

##### GENERAL ADMINISTRATION

For salaries for the Architect of the Capitol, and other personal services, at rates of pay provided by law; for surveys and studies in connection with activities under the care of the Architect of the Capitol; for all necessary expenses for the general and administrative support of the operations under the Architect of the Capitol including the Botanic Garden; electrical substations of the Capitol, Senate and House office buildings, and other facilities under the jurisdiction of the Architect of the Capitol; including furnishings and office equipment; including not more than \$5,000 for official reception and representation expenses, to be expended on the certification of the Architect of the Capitol; for purchase or exchange, maintenance, and operation of a passenger motor vehicle, \$79,581,000, of which \$1,500,000 shall remain available until September 30, 2009.

##### CAPITOL BUILDING

For all necessary expenses for the maintenance, care and operation of the Capitol, \$18,185,000, of which \$4,000,000 shall remain available until September 30, 2009.

##### CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, \$7,033,000, of which \$527,000 shall remain available until September 30, 2009.

##### HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office

buildings, \$65,130,000, of which \$27,103,000 shall remain available until September 30, 2009.

##### CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, the Union Station complex, the Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, \$56,139,000, of which \$630,000 shall remain available until September 30, 2009: *Provided*, That not more than \$4,400,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 2005.

##### LIBRARY BUILDINGS AND GROUNDS

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, \$34,783,000, of which \$18,110,000 shall remain available until September 30, 2009.

##### CAPITOL POLICE BUILDINGS AND GROUNDS

For all necessary expenses for the maintenance, care and operation of buildings and grounds of the United States Capitol Police, \$4,883,000.

##### BOTANIC GARDEN

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, \$5,932,000: *Provided*, That this appropriation shall not be available for construction of the National Garden.

##### MANAGEMENT AND OPERATION OF CAPITOL

##### POWER PLANT

SEC. 1201. (a) CONTRACT WITH PRIVATE ENTITY FOR MANAGEMENT AND OPERATION OF THE CAPITOL POWER PLANT.—

(1) IN GENERAL.—Not later than 1 year after the Committees on Appropriations of the House of Representatives and Senate notify the Architect of the Capitol that the Committees approve the implementation plan submitted under subsection (b), the Architect shall enter into a contract with a private entity for the management and operation of the Capitol Power Plant.

(2) REQUIREMENTS FOR CONTRACT.—The contract entered into under this subsection—

(A) shall be awarded on a competitive basis;

(B) shall include such terms and conditions as the Architect of the Capitol deems necessary to ensure that the Capitol Power Plant will continue to provide lighting, heating, power, and air conditioning services to the United States Capitol, Senate and House office buildings, the Supreme Court Building, and the other facilities served by the Plant;

(C) shall be carried out in a manner consistent with the implementation plan submitted under subsection (b), as approved by the Committees on Appropriations of the House of Representatives and Senate; and

(D) if the contract is a multiyear contract, shall meet the requirements described in paragraph (3).

(3) SPECIAL RULES FOR MULTIYEAR CONTRACT.—The Architect may enter into a contract under this subsection which is a multiyear contract subject to the following conditions:

(A) The Architect determines that—

(i) the need for the services provided will continue over the period of the contract;

(ii) the use of a multiyear contract will yield substantial cost savings; and

(iii) the use of a multiyear contract will not eliminate the ability of small businesses to compete for and enter into the contract.

(B) For the first fiscal year for which the contract will be in effect, there are sufficient funds available for payments of the costs of the contract during the year, including any termination and cancellation costs. Amounts available for paying termination and cancellation costs shall remain available until the costs associated with the termination and cancellation of the contract are paid.

(C) The period covered by the contract is not longer than 10 years.

(b) IMPLEMENTATION PLAN.—

(1) SUBMISSION TO COMMITTEES.—Not later than 270 days after the date of the enactment of this Act or 270 days after the date of the completion of the West Refrigeration Plant (whichever occurs later), the Architect of the Capitol shall submit to the Committees on Appropriations of the House of Representatives and Senate an implementation plan for carrying out the requirements of this section.

(2) CONTENTS OF PLAN.—The implementation plan shall include the following elements:

(A) A description of the steps the Architect shall take to minimize the cost and ensure the effectiveness of the operation of the Capitol Power Plant.

(B) A description of how the Architect will administer the competition for the contract entered into under subsection (a) for the management and operation of the Capitol Power Plant, including the key logistic milestones that will affect the competition.

(C) A description of the budgetary impact of the contract and the proposed schedule of the appropriations that will be required to cover the costs of the contract.

(D) The actions to be taken by the Architect to ensure effective performance of the contractor, including a description of the management systems the Architect will use to monitor and oversee the contractor's efforts, the anticipated performance standards that the contractor will be measured against (including the levels of plant capacity, efficiency of fuel and deliveries of steam and chilled water, and emission levels) and such other standards that in the Architect's judgment are needed to ensure the efficient operation of the Plant.

(E) The steps to be taken to ensure system operations and reliability by maintaining adequate levels of facility maintenance and staffing.

(F) The specifications of security measures to be taken to ensure the safety and protection of the Plant, including its utility distribution systems, and the steps that will be taken to coordinate these efforts with the United States Capitol Police.

(G) The steps to be taken to continue the multi-use fuel capability of the Plant.

(H) A description of a plan to manage the transition to the contractor for the management and operation of the facility, including steps to be taken to mitigate the effect of the contract on the Plant's existing employees.

(I) An analysis of the cost and feasibility of incorporating a combined steam and elec-

trical power generation system for the Plant.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit the authority of the Architect of the Capitol to procure any services under any other authority.

#### LIBRARY OF CONGRESS

##### SALARIES AND EXPENSES

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Library's catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog records and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, \$373,225,000, of which not more than \$6,000,000 shall be derived from collections credited to this appropriation during fiscal year 2005, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150) and not more than \$350,000 shall be derived from collections during fiscal year 2005 and shall remain available until expended for the development and maintenance of an international legal information database and activities related thereto: *Provided*, That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than \$6,350,000: *Provided further*, That of the total amount appropriated, \$12,481,000 shall remain available until expended for acquisition of books, periodicals, newspapers, and all other materials including subscriptions for bibliographic services for the Library, including \$40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further*, That of the total amount appropriated, not more than \$12,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Overseas Field Offices: *Provided further*, That of the total amount appropriated, \$250,000 shall remain available until expended, and shall be transferred to the Abraham Lincoln Bicentennial Commission for carrying out the purposes of Public Law 106-173, of which \$10,000 may be used for official representation and reception expenses of the Abraham Lincoln Bicentennial Commission: *Provided further*, That of the total amount appropriated, \$11,026,000 shall remain available until expended for partial support of the National Audio-Visual Conservation Center: *Provided further*, That of the total amount appropriated, \$2,795,000 shall remain available until expended for the development and maintenance of the Alternate Computer Facility.

#### COPYRIGHT OFFICE

##### SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, \$53,518,000, of which not more than \$26,981,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 2005 under section 708(d) of title 17, United States Code: *Provided*, That the Copyright Office may not obligate or expend any

funds derived from collections under such section, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That not more than \$6,496,000 shall be derived from collections during fiscal year 2005 under sections 111(d)(2), 119(b)(2), 802(h), 1005, and 1316 of such title: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than \$33,477,000: *Provided further*, That not more than \$100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further*, That not more than \$4,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute and for copyright delegations, visitors, and seminars.

#### CONGRESSIONAL RESEARCH SERVICE

##### SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, \$96,385,000: *Provided*, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate.

#### BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

##### SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), \$60,187,000, of which \$22,210,000 shall remain available until expended.

#### ADMINISTRATIVE PROVISIONS

SEC. 1301. INCENTIVE AWARDS PROGRAM. Of the amounts appropriated to the Library of Congress in this Act, not more than \$5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

SEC. 1302. REIMBURSABLE AND REVOLVING FUND ACTIVITIES. (a) IN GENERAL.—For fiscal year 2005, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed \$106,985,000.

(b) ACTIVITIES.—The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

(c) TRANSFER OF FUNDS.—During fiscal year 2005, the Librarian of Congress may temporarily transfer funds appropriated in this Act, under the heading "LIBRARY OF CONGRESS" under the subheading "SALARIES AND EXPENSES" to the revolving fund for the FEDLINK Program and the Federal Research Program established under section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (Public Law 106-481; 2 U.S.C. 182c): *Provided*, That the total amount of such transfers may not exceed \$1,900,000: *Provided further*, That the appropriate revolving fund account shall reimburse the Library for any amounts transferred to it before the period of availability of the Library appropriation expires.

SEC. 1303. NATIONAL DIGITAL INFORMATION INFRASTRUCTURE AND PRESERVATION PROGRAM. The first proviso under the heading "LIBRARY OF CONGRESS—SALARIES AND EXPENSES" in chapter 9 of division A of the Miscellaneous Appropriations Act, 2001, as enacted into law by section 1(a)(4) of the Consolidated Appropriations Act, 2001 (Public Law 106-554; 114 Stat. 2763A-194), as amended by section 1303 of the Legislative Branch Appropriations Act, 2003, is amended—

(1) by striking "other than money" and inserting "other than money and pledges"; and

(2) by striking "March 31, 2005" and inserting "March 31, 2010".

GOVERNMENT PRINTING OFFICE  
CONGRESSIONAL PRINTING AND BINDING  
(INCLUDING TRANSFER OF FUNDS)

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semi-monthly and session index to the Congressional Record, as authorized by law (section 902 of title 44, United States Code); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, \$38,800,000: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under section 906 of title 44, United States Code: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years: *Provided further*, That notwithstanding the 2-year limitation under section 718 of title 44, United States Code, none of the funds appropriated or made available under this Act or any other Act for printing and binding and related services provided to Congress under chapter 7 of title 44, United States Code, may be expended to print a document, report, or publication after the 27-month period beginning on the date that such document, report, or publication is authorized by Congress to be printed, unless Congress reauthorizes such printing in accordance with section 718 of title 44, United States Code: *Provided further*, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

OFFICE OF SUPERINTENDENT OF DOCUMENTS  
SALARIES AND EXPENSES  
(INCLUDING TRANSFER OF FUNDS)

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, \$32,524,000: *Provided*, That amounts of not more than \$2,000,000 from current year appropriations are authorized for producing and disseminating Congressional serial sets and other related publications for fiscal years 2003 and 2004 to depository and other designated libraries: *Provided further*, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Print-

ing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

GOVERNMENT PRINTING OFFICE REVOLVING  
FUND

The Government Printing Office may make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: *Provided*, That not more than \$5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of not more than 12 passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: *Provided further*, That the revolving fund and the funds provided under the headings "OFFICE OF SUPERINTENDENT OF DOCUMENTS" and "SALARIES AND EXPENSES" together may not be available for the full-time equivalent employment of more than 2,889 workyears (or such other number of workyears as the Public Printer may request, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate): *Provided further*, That activities financed through the revolving fund may provide information in any format: *Provided further*, That not more than \$10,000 may be expended from the revolving fund in support of the activities of the Benjamin Franklin Tercentenary Commission established under the Benjamin Franklin Tercentenary Commission Act (Public Law 107-202).

ADMINISTRATIVE PROVISION

SEC. 1401. DISCOUNT AUTHORITY OF SUPERINTENDENT OF DOCUMENTS. Section 1708 of title 44, United States Code, is amended by striking "of not to exceed 25 percent may be allowed to book dealers and quantity purchasers" and inserting "may be allowed as determined by the Superintendent of Documents".

GENERAL ACCOUNTING OFFICE  
SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not more than \$12,500 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with section 3324 of title 31, United States Code; benefits comparable to those payable under sections 901(5), (6), and (8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), (6), and (8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries, \$473,500,000: *Pro-*

*vided*, That not more than \$5,000,000 of payments received under section 782 of title 31, United States Code, shall be available for use in fiscal year 2005: *Provided further*, That not more than \$2,500,000 of reimbursements received under section 9105 of title 31, United States Code, shall be available for use in fiscal year 2005: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of either Forum's costs as determined by the respective Forum, including necessary travel expenses of non-Federal participants: *Provided further*, That payments hereunder to the Forum may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

PAYMENT TO THE OPEN WORLD  
LEADERSHIP CENTER TRUST FUND

For a payment to the Open World Leadership Center Trust Fund for financing activities of the Open World Leadership Center, \$6,750,000.

TITLE II—GENERAL PROVISIONS

SEC. 201. MAINTENANCE AND CARE OF PRIVATE VEHICLES. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 202. FISCAL YEAR LIMITATION. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 2005 unless expressly so provided in this Act.

SEC. 203. RATES OF COMPENSATION AND DESIGNATION. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 (46 Stat. 32 et seq.) is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: *Provided*, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 204. CONSULTING SERVICES. The expenditure of any appropriation under this Act for any consulting service through procurement contract, under section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued under existing law.

SEC. 205. AWARDS AND SETTLEMENTS. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of the Congressional Accountability Act of 1995 (2 U.S.C. 1415(a)) to pay

awards and settlements as authorized under such subsection.

SEC. 206. COSTS OF LBFMC. Amounts available for administrative expenses of any legislative branch entity which participates in the Legislative Branch Financial Managers Council (LBFMC) established by charter on March 26, 1996, shall be available to finance an appropriate share of LBFMC costs as determined by the LBFMC, except that the total LBFMC costs to be shared among all participating legislative branch entities (in such allocations among the entities as the entities may determine) may not exceed \$2,000.

SEC. 207. LANDSCAPE MAINTENANCE. The Architect of the Capitol, in consultation with the District of Columbia, is authorized to maintain and improve the landscape features, excluding streets and sidewalks, in the irregular shaped grassy areas bounded by Washington Avenue, SW on the northeast, Second Street SW on the west, Square 582 on the south, and the beginning of the I-395 tunnel on the southeast.

SEC. 208. TRANSFER OF FUNDS. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 209. eTRAVEL SERVICE. Notwithstanding any other provision of law, no entity within the legislative branch shall be required to use the eTravel Service established by the Administrator of General Services for official travel by officers or employees of the entity during fiscal year 2005 or any succeeding fiscal year.

SEC. 210. VOLUNTARY SEPARATION INCENTIVE PAYMENTS. (a) AUTHORITY TO OFFER PAYMENTS.—Notwithstanding any other provision of law, the head of any office in the legislative branch may establish a program under which voluntary separation incentive payments may be offered to eligible employees of the office to encourage such employees to separate from service voluntarily (whether by retirement or resignation), in accordance with this section.

(b) AMOUNT AND ADMINISTRATION OF PAYMENTS.—A voluntary separation incentive payment made under this section—

(1) shall be paid in a lump sum after the employee's separation;

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

(B) an amount determined by the head of the office involved, not to exceed \$25,000;

(3) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this section;

(4) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

(5) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation; and

(6) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

(c) PLAN.—

(1) PLAN REQUIRED FOR MAKING PAYMENTS.—No voluntary separation incentive payment may be paid under this section with respect to an office unless the head of the office submits a plan described in paragraph (2) to each applicable Committee described in paragraph (3), and each applicable Committee approves the plan.

(2) CONTENTS OF PLAN.—A plan described in this paragraph with respect to an office is a plan containing the following information:

(A) The specific positions and functions to be reduced or eliminated.

(B) A description of which categories of employees will be offered incentives.

(C) The time period during which incentives may be paid.

(D) The number and amounts of voluntary separation incentive payments to be offered.

(E) A description of how the office will operate without the eliminated positions and functions.

(3) APPLICABLE COMMITTEE.—For purposes of this subsection, the “applicable Committee” with respect to an office means—

(A) in the case of an office of the House of Representatives, the Committee on House Administration of the House of Representatives; and

(B) in the case of any other office, the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.

(4) EXCLUSION OF CERTAIN OFFICES.—This section shall not apply—

(1) to any office of the Senate or to any employee of such an office; or

(2) to any office which is an Executive agency under section 105 of title 5, United States Code, or any employee of such an office.

(e) ELIGIBLE EMPLOYEE DEFINED.—

(1) IN GENERAL.—In this section, an “eligible employee” is an employee (as defined in section 2105, United States Code) or a Congressional employee (as defined in section 2107, United States Code) who—

(A) is serving under an appointment without time limitation; and

(B) has been currently employed for a continuous period of at least 3 years.

(2) EXCLUSIONS.—An “eligible employee” does not include any of the following:

(A) A reemployed annuitant under subchapter III of chapter 83 or 84 of title 5, United States Code, or another retirement system for employees of the Government.

(B) An employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 of title 5, United States Code, or another retirement system for employees of the Government.

(C) An employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance.

(D) An employee who has previously received any voluntary separation incentive payment from the Federal Government under this section or any other authority.

(E) An employee covered by statutory re-employment rights who is on transfer employment with another organization.

(F) Any employee who—

(i) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379 of title 5, United States Code, or any other authority;

(ii) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753 of such title or any other authority; or

(iii) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754 of such title or any other authority.

(f) REPAYMENT FOR INDIVIDUALS RETURNING TO GOVERNMENT EMPLOYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), an employee who has received a voluntary separation incentive payment under this sec-

tion and accepts employment with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to repay the entire amount of the incentive payment to the office that paid the incentive payment.

(2) WAIVER FOR INDIVIDUALS POSSESSING UNIQUE ABILITIES.—(A) If the employment is with an Executive agency (as defined by section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment required under this subsection if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(B) If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment required under this subsection if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(C) If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment required under this subsection if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) TREATMENT OF PERSONAL SERVICES CONTRACTS.—For purposes of paragraph (1) (but not paragraph (2)), the term “employment” includes employment under a personal services contract with the United States.

(g) EFFECTIVE DATE.—This section shall take effect July 1, 2005, and shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 211. COMPENSATION LIMITATION. None of the funds contained in this Act or any other Act may be used to pay the salary of any officer or employee of the legislative branch during fiscal year 2005 or any succeeding fiscal year to the extent that the aggregate amount of compensation paid to the employee during the year (including base salary, performance awards and other bonus payments, and incentive payments, but excluding the value of any in-kind benefits and payments) exceeds the annual rate of pay for a Member of the House of Representatives or a Senator.

SEC. 212. CAPITOL GROUNDS ENCLOSURE. None of the funds contained in this Act may be used to study, design, plan, or otherwise further the construction or consideration of a fence to enclose the perimeter of the grounds of the United States Capitol.

This Act may be cited as the “Legislative Branch Appropriations Act, 2005”.

The CHAIRMAN. No amendment to the bill shall be in order except those printed in House Report 108-590. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON-LEE of Texas (at the request of Ms. PELOSI) for today on account of official business.

Mr. SAXTON (at the request of Mr. DELAY) for today on account of meetings with Federal disaster officials with respect to the flood in his district.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. PEARCE) to revise and extend their remarks and include extraneous material:)

Mr. CHOCOLA, for 5 minutes, today.

Mr. AKIN, for 5 minutes, today.

Mr. PEARCE, for 5 minutes, today.

Mr. MCCOTTER, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, July 14.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. KIND, for 5 minutes, today.

#### ADJOURNMENT

Mr. SMITH of Michigan. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 33 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 14, 2004, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9024. A letter from the Acting Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Army, Case Number 03-03, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

9025. A letter from the Director, United States Holocaust Memorial Museum, transmitting in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108-199, and the Office of Management and Budget Memorandum 04-07, the Museum's report on competitive sourcing efforts; to the Committee on Government Reform.

9026. A letter from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting information regard-

ing the activities of the Northwest Atlantic Fisheries Organization for 2003, pursuant to 16 U.S.C. 5601 et seq.; to the Committee on Resources.

9027. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Country of Origin Codes and Revision of Regulations on Hull Identification Numbers [USCG-2003-14272] (RIN: 1625-AA53) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9028. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments [USCG-2004-18057] (RIN: 1625-ZA02) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9029. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Anchorage Area; Madeline Island, WI [CGD09-03-284] (RIN: 2115-AA01) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9030. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; San Francisco Bay, San Francisco, CA and Oakland CA [COTP San Francisco Bay 03-009] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9031. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone Regulations; Seafair Blue Angels Air Show Performance, Lake Washington, WA [CGD13-04-002] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9032. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Professional Golfer's Association Championship Tour, Sheboygan, WI; Lake Michigan [CGD09-04-001] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9033. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety And Security Zones; New York Marine Inspection Zone and Captain of the Port Zone [CGD01-03-020] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9034. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Outer Continental Shelf Facility in the Gulf of Mexico for Green Canyon 608 [CGD08-04-004] (RIN: 1625-AA84) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9035. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA [COTP San Francisco Bay 03-026] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9036. A letter from the Chief, Regulations and Administrative Law, USCG, Department

of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Chincoteague Channel, VA [CGD05-04-118] (RIN: 1625-AA09) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9037. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Turner Cut, Stockton, CA. [CGD 11-04-005] received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9038. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal, NY. [CGD01-04-047] received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9039. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Newtown Creek, Dutch Kills, English Kills, and their tributaries, NY. [CGD01-04-048] received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9040. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Hutchinson River, NY. [CGD01-04-033] received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9041. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Harlem River, Newtown Creek, NY. [CGD01-04-019] (RIN: 1625-AA09) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9042. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Harlem River, NY. [CGD01-04-021] (RIN: 1625-AA09) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9043. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Chelsea River, MA. [CGD01-04-027] (RIN: 1625-AA09) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9044. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Mianus River, CT. [CGD01-00-228] (RIN: 1625-AA09) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9045. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Palm Beach County Bridges, Atlantic Intracoastal Waterway, Palm Beach County, Florida [CGD07-04-010] (RIN: 1625-AA09) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9046. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations: Mystic River, CT. [CGD01-03-115] (RIN: 1625-AA09) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9047. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Holdrege, NE [Docket No. FAA-2004-17425; Airspace Docket No. 04-ACE-25] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9048. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BURKHART GROB LUFT — UND RAUMFAHRT GmbH & CO KG Models G103 TWIN ASTIR, G103A TWIN II ACRO, and G103C TWIN III ACRO Sailplanes [Docket No. 2003-CE-35-AD; Amendment 39-13676; AD 2003-19-14 R1] (RIN: 2120-AA64) received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9049. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-11 and -11F Airplanes [Docket No. 2003-NM-76-AD; Amendment 39-13677; AD 2004-12-16] (RIN: 2120-AA64) received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9050. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes [Docket No. 2003-NM-63-AD; Amendment 39-13680; AD 2004-12-19] (RIN: 2120-AA64) received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9051. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200 Series Airplanes [Docket No. FAA-2003-16646; Directorate Docket No. 2003-NM-177-AD; Amendment 39-13678; AD 2004-12-17] (RIN: 2120-AA64) received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9052. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes [Docket No. 2003-NM-96-AD; Amendment 39-13679; AD 2004-12-18] (RIN: 2120-AA64) received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9053. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dowty Aerospace Propellers Type R321/4-82-F/8, R324/4-82-F/9, R333/4-82-F/12, and R334/4-82-F/13 Propeller Assemblies [Docket No. 2001-NE-50-AD; Amendment 39-13681; AD 2004-13-01] (RIN: 2120-AA64) received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9054. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce (1971) Limited, Bristol Engine Division Model Viper Mk.601-22 Turbojet Engine [Docket No.

FAA-2004-18024; Directorate Identifier 2003-NE-39-AD; Amendment 39-13684; AD 2004-13-03] (RIN: 2120-AA64) received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9055. A letter from the Chairman and Vice Chairman, U.S.-China Commission, transmitting the Commission's second annual report, pursuant to Pub. L. 106-398, as amended by Division P of Pub. L. 108-7; jointly to the Committees on International Relations and Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMAS: Committee on Ways and Means. H.R. 4418. A bill to authorize appropriations for fiscal years 2005 and 2006 for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes: with an amendment (Rept. 108-598, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. KOLBE: Committee on Appropriations. H.R. 4818. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108-599). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3632. A bill to prevent and punish counterfeiting of copyrighted copies and phonorecords, and for other purposes; with an amendment (Rept. 108-600). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. S. 2363. An act to revise and extend the Boys and Girls Clubs of America (Rept. 108-601). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. House Resolution 712. Resolution providing for consideration of the bill (H.R. 4759) to implement the United States-Australia Free Trade Agreement (Rept. 108-602). Referred to the House Calendar.

### DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII, the Committee on the Judiciary discharged from further consideration. H.R. 4418 referred to the Committee of the Whole House on the State of the Union.

### TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII, the following action was taken by the Speaker:

H.R. 4418. Referral to the Committee on the Judiciary extended for a period ending not later than July 13, 2004.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. JOHN:

H.R. 4819. A bill to provide funding for the operations and maintenance by the Corps of

Engineers of essential waterways; to the Committee on Transportation and Infrastructure, 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. DOGGETT (for himself, Mr. PLATTS, Mr. WAXMAN, Mr. MEEHAN, Mr. STARK, Mr. LEVIN, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. MCNULTY, Mr. BECERRA, Mrs. JONES of Ohio, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Mr. ANDREWS, Ms. BALDWIN, Mr. BELL, Mr. BERMAN, Mr. BLUMENAUER, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. CAPUANO, Mr. CONYERS, Mr. CROWLEY, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Mr. DEFAZIO, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. EMANUEL, Ms. ESHOO, Mr. EVANS, Mr. FARR, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GREEN of Texas, Mr. GRJALVA, Mr. GUTIERREZ, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOFFFEL, Mr. HOLT, Mr. HONDA, Ms. HOOLEY of Oregon, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK, Mr. KIND, Mr. KUCINICH, Mr. LAMPSON, Mr. LANGEVIN, Mr. LANTOS, Ms. LEE, Mr. LIPINSKI, Ms. LOFGREN, Mr. LYNCH, Mrs. MALONEY, Mr. MARKEY, Mr. MATHESON, Mrs. MCCARTHY of New York, Ms. MCCARTHY of Missouri, Mr. MCGOVERN, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. NADLER, Mrs. NAPOLITANO, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. RODRIGUEZ, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. RYAN of Ohio, Ms. LINDA T. SANCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SERRANO, Mr. SHERMAN, Ms. SLAUGHTER, Mr. SNYDER, Ms. SOLIS, Mrs. TAUSCHER, Mr. TIERNEY, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Ms. VELAZQUEZ, Mr. VISCLOSKEY, Ms. WATERS, Ms. WATSON, Mr. WEINER, Ms. WOOLSEY, and Mr. WU):

H.R. 4820. A bill to amend the Internal Revenue Code of 1986 to deter the smuggling of tobacco products into the United States, and for other purposes; to the Committee on Ways and Means, 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. GORDON:

H.R. 4821. A bill to amend the Internal Revenue Code of 1986 to allow certain agricultural employers a credit against income tax for a portion of wages paid to nonimmigrant H-2A workers; to the Committee on Ways and Means.

By Mr. SAM JOHNSON of Texas (for himself, Mr. NORWOOD, and Mr. CRANE):

H.R. 4822. A bill to amend title XVIII of the Social Security Act to clarify the right of Medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined

by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. LOFGREN:

H.R. 4823. A bill to amend the Immigration and Nationality Act to permit foreign media representatives to gain admission as visitors coming temporarily to the United States for business; to the Committee on the Judiciary.

By Mr. MARKEY (for himself, Ms. MCCARTHY of Missouri, Mr. GRIJALVA, Mr. CASE, Mr. OWENS, Ms. LEE, Mr. TIERNEY, Ms. JACKSON-LEE of Texas, and Mr. GONZALEZ):

H.R. 4824. A bill to direct the Secretary of Homeland Security to issue regulations concerning the shipping of extremely hazardous materials; to the Committee on Transportation and Infrastructure.

By Mr. OWENS:

H.R. 4825. A bill to amend the Internal Revenue Code of 1986 to impose an additional tax on taxable income attributable to contracts with the United States for goods and services for the war in Iraq; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mr. UDALL of New Mexico, and Mr. TANNER):

H.R. 4826. A bill to assist in the conservation of rare felids and rare canids by supporting and providing financial resources for the conservation programs of nations within the range of rare felid and rare canid populations and projects of persons with demonstrated expertise in the conservation of rare felid and rare canid populations; to the Committee on Resources.

By Mr. WALDEN of Oregon (for himself and Mr. POMBO):

H.R. 4827. A bill to amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area; to the Committee on Resources.

By Ms. WATSON (for herself and Mr. BURTON of Indiana):

H.R. 4828. A bill to direct the Consumer Product Safety Commission to issue a rule banning children's toys containing mercury; to the Committee on Energy and Commerce.

By Mr. PENCE (for himself, Ms. BERKLEY, and Ms. ROS-LEHTINEN):

H. Res. 713. A resolution deploring the misuse of the International Court of Justice by a majority of the United Nations General Assembly for a narrow political purpose, the willingness of the International Court of Justice to acquiesce in an effort likely to undermine its reputation and interfere with a resolution of the Palestinian-Israeli conflict, and for other purposes; to the Committee on International Relations.

By Mr. GEORGE MILLER of California (for himself, Ms. PELOSI, Mr. KILDEE, Ms. JACKSON-LEE of Texas, Mrs. MCCARTHY of New York, Mr. PAYNE, Mr. HOLT, Mr. PETERSON of Minnesota, Mrs. JONES of Ohio, Mr. GRIJALVA, Mr. WEXLER, Mr. VAN HOLLEN, Mr. CROWLEY, Mr. OWENS, Mr. FROST, Mr. MENENDEZ, Mr. HINOJOSA, Mr. MORAN of Virginia, Mr. WAXMAN, Mr. MCDERMOTT, Mr. FARR, Mrs. DAVIS of California, Mr. WU, Mr. NADLER, Mrs. MALONEY, and Mr. RYAN of Ohio):

H. Res. 714. A resolution honoring Sandra Feldman on the occasion of her retirement from the presidency of the American Federation of Teachers for her tireless efforts to improve the quality of teaching and learning; to the Committee on Education and the Workforce.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

385. The SPEAKER presented a memorial of the General Assembly of the State of Colorado, relative to House Joint Resolution No. 04-1006 supporting the efforts of The Stand in the Gap Project, Inc; to the Committee on Armed Services.

386. Also, a memorial of the General Assembly of the State of Colorado, relative to House Joint Resolution No. 04-1064 memorializing the President and Congress of the United States to take action to ensure that federal programs providing financial assistance for the educational needs of children of migrant workers include children of migrant workers in all sectors of our economy; to the Committee on Education and the Workforce.

387. Also, a memorial of the General Assembly of the State of Colorado, relative to House Joint Resolution No. 04-1085 memorializing the Congress of the United States to improve the rules to implement privacy of health information under the federal "Health Insurance Portability and Accountability Act of 1996"; to the Committee on Energy and Commerce.

388. Also, a memorial of the Legislature of the State of Arizona, relative to House Concurrent Memorial 2011 memorializing the Congress of the United States to authorize a land trade within accident potential zones of Luke Air Force Base and outside the boundaries of Yuma Army Proving Ground; to the Committee on Resources.

389. Also, a memorial of the Legislature of the State of Arizona, relative to Senate Concurrent Memorial 1003 memorializing the Congress of the United States propose to the people an amendment to the Constitution of the United States that provides certain rights to crime victims; to the Committee on the Judiciary.

390. Also, a memorial of the General Assembly of the State of Colorado, relative to House Joint Resolution No. 04-1022 memorializing the United States Congress to pass the "English Language Unity Act of 2003" (H.R. 997), which would establish English as the official language of the United States; jointly to the Committees on Education and the Workforce and the Judiciary.

391. Also, a memorial of the General Assembly of the State of Delaware, relative to House Substitute No. 1 for House Concurrent Resolution No. 46 memorializing the President and Congress of the United States to strengthen trade relations with Taiwan by a Free Trade Agreement and to support the participation of Taiwan in the United Nations and the World Health Organization; jointly to the Committees on Ways and Means and International Relations.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 58: Mr. GERLACH.  
H.R. 784: Mr. TERRY.  
H.R. 918: Mr. BISHOP of Georgia, Mr. HYDE, Mr. MOORE, Mr. ISSA, and Mr. WAXMAN.  
H.R. 1043: Mr. BOSWELL and Mr. BURR.  
H.R. 1057: Mr. SHAW and Mr. GREEN of Wisconsin.  
H.R. 1242: Mr. MILLER of North Carolina.  
H.R. 2241: Mr. MCDERMOTT.  
H.R. 2377: Mr. MILLER of North Carolina.  
H.R. 2387: Ms. WATSON.  
H.R. 2442: Mr. NEY, Mr. ENGLISH, Mrs. BIGGERT, Mr. LEWIS of Georgia, and Ms. LORRETTA SANCHEZ of California.  
H.R. 2681: Mr. VAN HOLLEN.

H.R. 2747: Mr. BISHOP of Georgia.  
H.R. 2790: Mrs. NAPOLITANO.  
H.R. 2868: Mr. MARSHALL.  
H.R. 2929: Mr. BRADLEY of New Hampshire.  
H.R. 3066: Mr. CAMP.  
H.R. 3085: Ms. BORDALLO.  
H.R. 3090: Mr. HINCHEY.  
H.R. 3178: Mr. MCHUGH.  
H.R. 3313: Mr. MANZULLO, Mr. ROGERS of Alabama, and Mr. TOM DAVIS of Virginia.  
H.R. 3474: Mr. CARSON of Oklahoma.  
H.R. 3480: Ms. WATERS.  
H.R. 3634: Mr. KENNEDY of Rhode Island and Mr. PRICE of North Carolina.  
H.R. 3662: Mr. FILNER.  
H.R. 3756: Ms. ESHOO, Mrs. LOWEY, Mr. NEAL of Massachusetts, Mr. VAN HOLLEN, and Mr. THOMPSON of Mississippi.  
H.R. 3780: Ms. BORDALLO.  
H.R. 3799: Mr. GOODE and Mr. BROWN of South Carolina.  
H.R. 3847: Mr. MEEK of Florida.  
H.R. 3953: Mr. CALVERT.  
H.R. 3965: Mr. GORDON.  
H.R. 4026: Mr. GONZALEZ.  
H.R. 4036: Mr. RANGEL.  
H.R. 4057: Mr. SCOTT of Georgia and Mr. PRICE of North Carolina.  
H.R. 4110: Mr. BISHOP of Georgia and Mr. SAXTON.  
H.R. 4116: Mr. PRICE of North Carolina, Mr. CUMMINGS, Mr. MEEHAN, Mr. GONZALEZ, Mr. LAHOOD, Mr. LINDER, Mr. YOUNG of Alaska, Mr. NUNES, Mr. LUCAS of Kentucky, Mr. GRAVES, Mrs. KELLY, Mr. GINGREY, Mr. BUYER, Mr. HAYES, Ms. ROS-LEHTINEN, Mr. REHBERG, Mrs. JO ANN DAVIS of Virginia, and Mr. KOLBE.  
H.R. 4126: Mrs. MUSGRAVE.  
H.R. 4209: Mr. BEAUPREZ.  
H.R. 4354: Mr. GREEN of Texas.  
H.R. 4356: Ms. ESHOO.  
H.R. 4361: Mr. PALLONE, Ms. SCHAKOWSKY, and Mr. GONZALEZ.  
H.R. 4391: Mr. FOLEY and Mr. CALVERT.  
H.R. 4400: Ms. MCCOLLUM and Mr. PALLONE.  
H.R. 4423: Mr. OBERSTAR.  
H.R. 4430: Mr. KNOLLENBERG and Mr. BARTLETT of Maryland.  
H.R. 4431: Mr. GORDON.  
H.R. 4445: Mr. OWENS, Mr. TOWNS, Ms. WATERS, Ms. MILLENDER-MCDONALD, and Mr. MEEKS of New York.  
H.R. 4476: Mr. FATTAH, Mr. MCDERMOTT, Ms. LEE, and Mr. HOEFFEL.  
H.R. 4530: Mr. WICKER.  
H.R. 4555: Mr. FILNER and Mrs. CAPPS.  
H.R. 4605: Mr. SMITH of Washington.  
H.R. 4621: Mr. RAHALL.  
H.R. 4627: Mr. PORTER.  
H.R. 4628: Mr. JOHN, Mr. SCHIFF, and Mr. BISHOP of Georgia.  
H.R. 4694: Mr. MCDERMOTT.  
H.R. 4706: Ms. BORDALLO, Ms. WOOLSEY, and Mr. FILNER.  
H.R. 4712: Mr. OTTER, Mr. BARRETT of South Carolina, Mr. WICKER, Mr. MILLER of Florida, and Mr. SAM JOHNSON of Texas.  
H.R. 4758: Mr. FROST.  
H.R. 4769: Ms. WATSON, Mr. POMEROY, Mr. MENENDEZ, and Mr. HOEFFEL.  
H.R. 4772: Mr. LIPINSKI, Mr. COOPER, Ms. DELAURO, Mr. BISHOP of New York, Mr. ENGEL, Mr. MCGOVERN, Mr. RANGEL, Mr. WEINER, Mr. POMEROY, Mr. ACKERMAN, Mr. GREEN of Texas, and Ms. BORDALLO.  
H.R. 4797: Mr. CLAY.  
H.R. 4806: Mr. PEARCE.  
H. Con. Res. 218: Mr. KUCINICH.  
H. Con. Res. 298: Mr. OXLEY.  
H. Con. Res. 369: Mr. LEWIS of Kentucky.  
H. Con. Res. 371: Mr. MCHUGH.  
H. Con. Res. 390: Ms. JACKSON-LEE of Texas and Mr. CRANE.  
H. Con. Res. 431: Mr. TERRY.  
H. Con. Res. 435: Ms. SLAUGHTER and Mr. KILDEE.  
H. Con. Res. 467: Mr. OBERSTAR, Mr. COSTELLO, Ms. WOOLSEY, Mr. VAN HOLLEN,

Mr. LANTOS, Mr. WEXLER, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. FALEOMAVAEGA, Mr. PITTS, Mr. BELL, Mr. ABERCROMBIE, Ms. PELOSI, Mr. MCDERMOTT, Mr. PRICE of North Carolina, and Mr. CARDOZA.

H. Con. Res. 469: Mr. SESSIONS, Mr. FROST, and Mr. ISRAEL.

H. Res. 705: Mr. HOUGHTON and Mrs. JOHNSON of Connecticut.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3575: Mr. SNYDER and Mr. ROSS.

H.R. 4634: Mr. GREEN of Texas.

H. J. Res. 37: Mr. HILL.

H. J. Res. 66: Mr. HILL.

#### PETITIONS, ETC.

Under clause 3 of rule XII,

92. The SPEAKER presented a petition of the California State Lands Commission, relative to a Resolution petitioning the President, the Department of Energy, and the Congress of the United States to focus on renewable energy development and continue the moratorium on oil and gas leasing off of California; which was referred to the Committee on Resources.

#### AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4766

OFFERED BY MR. TANCREDO

AMENDMENT NO. 15: At the end of the bill (before the short title), insert the following new section:

SEC. \_\_\_\_ None of the funds made available in this Act under the Heading "Food Stamp Program" may be expended in contravention of 8 U.S.C. 1183a.

H.R. 4766

OFFERED BY: MR. FLAKE

AMENDMENT NO. 16: Add at the end (before the short title) the following:

SEC. 7 \_\_\_\_ None of the funds made available by this Act may be used to pay the salaries and expenses of employees of the Department of Agriculture who make payments from any appropriated funds to tobacco quota holders or producers of quota tobacco pursuant to any law enacted after July 1, 2004, terminating tobacco marketing quotas under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 and related price support under sections 106, 106A, and 106B of the Agricultural Act of 1949.

H.R. 4766

OFFERED BY: MR. BACA

AMENDMENT NO. 17: In title I, under the heading "OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS", insert after the dollar amount the following: "(increased by \$250,000)".

In title I, under the headings "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE-RESEARCH AND EDUCATION ACTIVITIES", insert after the first dollar amount, and after the dollar amount relating to Hispanic-serving Institutions, the following: "(increased by \$1,500,000)".

In title I, under the headings "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE-EXTENSION ACTIVITIES", in-

sert after the first dollar amount, and after the dollar amount relating to Indian reservation agents, the following: "(increased by \$1,000,000)".

In title I, under the headings "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE-OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS", insert after the dollar amount the following: "(increased by \$750,000)".

In title III, under the heading "RURAL DEVELOPMENT—SALARIES AND EXPENSES", insert after the dollar amount the following: "(reduced by \$3,500,000)".

H.R. 4766

OFFERED BY: MR. WEINER

AMENDMENT NO. 18: Page 5, line 15, insert "(decreased by \$19,667,000)" after the dollar amount.

Page 18, line 9, insert "(increased by \$19,667,000)" after the 1st dollar amount.

H.R. 4818

OFFERED BY: MR. DEAL OF GEORGIA

AMENDMENT NO. 1: At the end of the bill (before the short title), insert the following: GOVERNMENTS THAT DO NOT PERMIT CERTAIN EXTRADITIONS

SEC. 576. None of the funds made available in this Act may be used to provide assistance to the government of any country that does not permit the extradition to the United States, for trial or sentencing in the United States, of individuals suspected of committing criminal offenses for which the maximum penalty is life imprisonment without the possibility of parole, or a lesser term of imprisonment.

H.R. 4818

OFFERED BY: MR. DEAL OF GEORGIA

AMENDMENT NO. 2: At the end of the bill (before the short title), insert the following: GOVERNMENTS THAT DO NOT PERMIT CERTAIN EXTRADITIONS

SEC. 576. None of the funds made available in this Act may be used to provide assistance to the government of any country with which the United States has an extradition treaty and which does not permit the extradition to the United States, for trial or sentencing in the United States, of individuals suspected of committing criminal offenses for which the maximum penalty is life imprisonment without the possibility of parole, or a lesser term of imprisonment.

H.R. 4818

OFFERED BY: MR. EMANUEL

AMENDMENT NO. 3: At the end of the bill (before the short title), insert the following: DESIGNATION OF REPUBLIC OF POLAND AS A PROGRAM COUNTRY UNDER THE VISA WAIVER PROGRAM

SEC. \_\_\_\_ Congress—

(1) recognizes the importance of designating the Republic of Poland as a program country for purposes of the visa waiver program established under section 217 of the Immigration and Nationality Act; and

(2) urges the Secretary of Homeland Security and the Secretary of State to assist Poland in reducing its nonimmigrant visa refusal rate so that Poland may qualify for such designation.

H.R. 4818

OFFERED BY: MR. EMANUEL

AMENDMENT NO. 4: At the end of the bill (before the short title), insert the following: PROHIBITION OF PROFITEERING

SEC. \_\_\_\_ (a) PROHIBITION.—(1) Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1038. War profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq

"(a) PROHIBITION.—

"(1) IN GENERAL.—Whoever, in any matter involving a contract or the provision of goods or services, directly or indirectly, in connection with the war, military action, or relief or reconstruction activities in Iraq, knowingly and willfully—

"(A) executes or attempts to execute a scheme or artifice to defraud the United States or Iraq;

"(B) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

"(C) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; or

"(D) materially overvalues any good or service with the specific intent to excessively profit from the war, military action, or relief or reconstruction activities in Iraq; shall be fined under paragraph (2), imprisoned not more than 20 years, or both.

"(2) FINE.—A person convicted of an offense under paragraph (1) may be fined the greater of—

"(A) \$1,000,000; or

"(B) if such person derives profits or other proceeds from the offense, not more than twice the gross profits or other proceeds.

"(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(c) VENUE.—A prosecution for an offense under this section may be brought—

"(1) as authorized by chapter 211 of this title;

"(2) in any district where any act in furtherance of the offense took place; or

"(3) in any district where any party to the contract or provider of goods or services is located."

(2) The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"1038. War profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq."

(b) CIVIL FORFEITURE.—Section 981(a)(1)(C) of title 18, United States Code, is amended by inserting "1038," after "1032,".

(c) CRIMINAL FORFEITURE.—Section 982(a)(2)(B) of title 18, United States Code, is amended by striking "or 1030" and inserting "1030, or 1038".

(d) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting the following: ", section 1038 (relating to war profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq)," after "liquidating agent of financial institution,".

H.R. 4818

OFFERED BY: MR. EMANUEL

AMENDMENT NO. 5: At the end of the bill (before the short title), insert the following:

PAYMENTS TO STATE AND LOCAL GOVERNMENTS FOR INFRASTRUCTURE AND SOCIAL SERVICES NEEDS

SEC. \_\_\_\_ (a) PAYMENTS TO STATE AND LOCAL GOVERNMENTS.—(1) The Secretary of the Treasury shall, in accordance with the provisions of this section, make payments to States and local governments to coordinate budget-related actions by such governments with Federal Government efforts to stimulate economic recovery.

(2) There is authorized to be appropriated to the Secretary of the Treasury for fiscal year 2005 for payments under this section an amount equal to at least the total amount appropriated for fiscal year 2003 under the heading "Iraq Relief and Reconstruction Fund" in the Emergency Wartime Supplemental Appropriations Act, 2003, and any amounts appropriated for such Fund in any

subsequent appropriation Act. Such amounts shall be in addition to, and not in lieu of, other amounts appropriated for payments to States and local governments.

(3) Not less than one-third of the amount appropriated pursuant to the authorization in paragraph (2) shall be made available to local governments under the applicable laws of a given State.

(b) ALLOCATION.—The Secretary of the Treasury shall establish a formula, within 30 days after the date of the enactment of this Act, for determining the allocation of payments under this section. The formula shall give priority weight to the following factors:

(1) The unemployment rate in relation to the national average unemployment rate.

(2) The duration of the unemployment rate above such average.

(3) Median income.

(4) Population.

(5) The poverty rate.

(c) USE OF FUNDS BY STATE AND LOCAL GOVERNMENTS.—(1) Funds received under this section may be used only for priority expenditures. For purposes of this section, the term “priority expenditures” means only—

(A) ordinary and necessary maintenance and operating expenses for—

(i) primary, secondary, or higher education, including school building renovation;

(ii) public safety;

(iii) public health, including hospitals and public health laboratories;

(iv) social services for the disadvantaged or aged;

(v) roads, transportation, and water infrastructure; and

(vi) housing; and

(B) ordinary and necessary capital expenditures authorized by law.

(2) The Secretary of the Treasury may accept a certification by the chief executive officer of a State or local government that the State or local government has used the funds received by it under this section only for priority expenditures, unless the Secretary determines that such certification is not sufficiently reliable to enable the Secretary to carry out this section. The Secretary shall prescribe by rule the time and manner in which the certification must be filed.

H.R. 4818

OFFERED BY: MR. NETHERCUTT

AMENDMENT NO. 6: At the end of the bill (before the short title), insert the following:

LIMITATION ON ECONOMIC SUPPORT FUND ASSISTANCE FOR CERTAIN FOREIGN GOVERNMENTS THAT ARE PARTIES TO THE INTERNATIONAL CRIMINAL COURT

SEC. \_\_\_\_\_. None of the funds made available in this Act in title II under the heading “ECONOMIC SUPPORT FUND” may be used to provide assistance to the government of a country that is a party to the International Criminal Court and has not entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

H.R. 4818

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 7: At the end of the bill (before the short title), insert the following:

REDUCTION OF DISCRETIONARY APPROPRIATIONS

SEC. \_\_\_\_\_. Total appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by \$193,860,000.



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 150

WASHINGTON, TUESDAY, JULY 13, 2004

No. 96

## Senate

The Senate met at 9:45 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.

O Lord and Ruler, Your name is wonderful and Your glory can be seen in the heavens.

We thank You for this deliberative process of lawmaking with its challenges and opportunities. As our Senators debate the issue of marriage, give them wisdom and courage. Let them be fully persuaded in their minds about the course that will best bless America. Deliver them from a reluctance to respect honest differences, as they remember their ultimate accountability to You.

Bless them with divine insights as they grapple with the complexities that require hard choices. Make it their ultimate goal to serve You by doing what is best for our Nation.

We pray this in Your strong 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.

### RESERVATION OF LEADER TIME

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

### MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with the first half of the time under the control of the minority lead-

er or his designee and the second half of the time under the control of the majority leader or his designee.

### RECOGNITION OF THE ASSISTANT MINORITY LEADER

The PRESIDENT pro tempore. The Chair recognizes the acting Democratic leader.

### SENATE SCHEDULE

Mr. REID. Mr. President, the majority leader will be coming at a later time. I simply wanted to say that we renew our request on this issue which people feel so strongly about relating to marriage, that we move forward and vote on Resolution 40 that is now before the Senate. We have indicated, through our leader, Senator DASCHLE, and again yesterday, that we would be willing to move to that resolution posthaste. We would be willing to cooperate with the majority, have whatever debate time they wanted on the resolution itself. But we on this side are disappointed. Yesterday morning we were told the majority had another constitutional amendment they wanted to vote on relating to marriage, making it two. Then later in the day, we were told they still had a third one, which is certainly a recipe for having no vote on anything.

If there is no vote on the substance of this marriage amendment, it will lie at the feet of the majority. They have the ability to have an up-or-down vote on this resolution as soon as they want it. It is not good for the process to have an open season on amendments. What would happen is we would move to the marriage amendment and then, by simple majorities, one could attach whatever one wanted to it. The majority realizes we would never have an up-or-down vote on a marriage amendment because it would be filled with all kinds of other things.

This reminds me of the same thing that took place last week on something

some Members also felt very strongly about—class action. On that, there was a sufficient number of Democrats, I am told, who would have been able to move forward with this legislation. But instead of moving forward on it, the majority again decided they didn't want to. They wouldn't allow a limited number of amendments. Therefore, we did nothing.

We have wasted 2 weeks. This will be the second week. I am told that when we finish the marriage amendment, which will be very shortly, if the procedures are as indicated—the majority leader filed cloture last night and we would move to the matter Wednesday to vote on it—the majority has indicated they want to move to the Australian free-trade agreement.

Now, I know Australia has been a good ally of this country, but, for Heaven's sake, we have so many more important things to do and we are going to take valuable Senate time away from the appropriations bills, one of which is on the floor, the one relating to homeland security.

The Presiding Officer has indicated that, with certain limitations, he would be willing to move forward on that bill. While we may not accept those limitations, we would certainly be willing to work with the chairman of the Appropriations Committee to move forward on that legislation.

We had a briefing last week on homeland security. We are having another one tomorrow dealing with the emergency evacuation of this Capitol complex. There are things we need to do rather than have another free-trade agreement.

I hope the majority will see the light and allow us to vote on the marriage amendment tomorrow, or whenever they choose, if they want more time to debate it. I think it would be good for the people of this country if they knew how people stood on the constitutional amendment before this body.

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



Printed on recycled paper.

S7943

I suggest the absence of a quorum and ask unanimous consent that the first half hour of morning business run against our side.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Will the Chair announce the morning business hour? I don't believe it has been done.

The PRESIDENT pro tempore. The Chair did announce that.

Mr. REID. Under the Democratic time, the first 15 minutes will be for Senator LAUTENBERG. The next 10 minutes will be for Senator HARKIN. The time for Senator LAUTENBERG has already started to run. I ask unanimous consent that be the case.

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

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

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

The legislative clerk proceeded to call the roll.

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

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

#### ORDER OF BUSINESS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that I have 15 minutes to make my presentation in morning business, and if my time extends beyond the time allocated, that it be equally available to the Republican side as well.

The PRESIDENT pro tempore. On behalf of the Senate leadership, the Chair objects until we are so informed that they have cleared that process. The Senator's time is running.

Mr. LAUTENBERG. Mr. President, I was unaware of that. Be that as it may, may I ask from the Parliamentarian or the Chair, what is the business that follows immediately after morning business?

The PRESIDENT pro tempore. The Senate will resume consideration of S.J. Res. 40, which is the marriage amendment.

Mr. LAUTENBERG. I just want to be sure. We are going to be discussing whether we put into the Constitution a ban on gay marriage. As a consequence, we are not going to be able to discuss issues that affect Halliburton or this war or the condition of our country. I assume that is correct, Mr. President.

The PRESIDENT pro tempore. The Chair is not in a position to debate with the Senator.

Mr. LAUTENBERG. It is no debate; it is a question of what is generally ap-

propriate and available on the floor of the Senate, and when courtesies are extended.

The PRESIDENT pro tempore. The Senator's time is running.

#### HALLIBURTON CONTRACT

Mr. LAUTENBERG. Mr. President, I rise to discuss unanswered questions regarding the no-bid contract that the administration awarded Halliburton last year to operate Iraq's oil infrastructure.

As my colleagues know, I have been outspoken in my criticism of this no-bid contract awarded by the Bush administration to the company that the Vice President led for 5 years as CEO. This one contract alone has cost the U.S. taxpayers \$2.2 billion. That is \$2.2 billion in public funds that were given to a company through a contract on which no other companies were allowed to bid.

Recognizing this condition, we had a unanimous vote one night in the Senate, when it was decided that we would no longer ever, in connection with the Iraq war, issue any no-bid contracts. We forced that out into the open, even though it was the intention of the Republican majority to keep it from being discontinued, the no-bid contract business.

To make matters worse, the Vice President maintains a continuing financial relationship with Halliburton, even as the company reaps the benefit of multibillion-dollar contracts from the Bush-Cheney administration. I believe it is ethically inappropriate, but the Vice President's response to criticism has been to dismiss the concerns with questionable statements.

For example, on September 14, 2003, the Vice President was asked about his relationship with Halliburton and the no-bid contract on "Meet the Press." Vice President CHENEY told Tim Russert:

I've severed all of my ties with the company, gotten rid of all of my financial interest. I have no financial interest in Halliburton of any kind and haven't had, now, for over three years.

The problem with that statement is that when he said it, he held over 400,000 Halliburton stock options and continues to receive deferred salary from the company.

But that is not all the Vice President said that day. Look at his other statement on this placard:

[A]s Vice President, I have absolutely no influence of, involvement of, knowledge of in any way, shape or form of contracts led by the [Army] Corps of Engineers or anybody else in the Federal Government.

September 14, 2003.

Mr. REID. Will the Senator yield for a unanimous consent request?

Mr. LAUTENBERG. I will.

Mr. REID. We have 5 extra minutes. Mr. President, I yield that time to the Senator from New Jersey, Mr. LAUTENBERG.

Mr. LAUTENBERG. Mr. President, I appreciate that very much because

they want to shut down the debate on Halliburton, whose receivables were \$161 million larger than the Pentagon wanted to pay because they knew there were overcharges, but they do not want to let that debate happen here. I thank the Senator from Nevada for those extra 5 minutes.

For months, the Vice President's allies pointed to this statement saying that he made it clear that he stays out of all issues relating to Halliburton's contracts. But now an e-mail from March 2003 has become public, and it seriously challenges Vice President CHENEY's claim of a hands-off policy. In fact, the e-mail message suggests that the Vice President's office had an active role in Halliburton's no-bid contract.

Look at this e-mail:

Feith—

Feith was Under Secretary of the Department of Defense.

Feith approved, contingent on informing the WH tomorrow. We anticipate no issues since action has been coordinated with the VP's office. Expect PA press release and Congressional coordination tomorrow AM and declass action to us early in PM. . . .

They are saying go ahead, fellows, don't worry about anything, this is cleared with the Vice President's office, perhaps even including the knowledge that maybe there would be some overcharges, but so what. What about profiteering during the war? We have lost over 800 people in Iraq, but the fact that the taxpayers are being cheated in the process, well, that is kind of normal business, and they don't want that aired on this floor of the Senate.

This e-mail tells a very different tale than what the Vice President has been saying. The date of this e-mail is a mere 3 days before Halliburton was given the no-bid contract. The e-mail says that Under Secretary of Defense for Policy, Douglas Feith, approved, giving the no-bid contract to Halliburton contingent upon the White House giving the green light. Browning then says that he or she "anticipates no issues" because the awarding of the contract has been "coordinated with the Vice President's office."

This is damning information. Despite the signs of misconduct, the Senate has done nothing to investigate this matter. I have written to Attorney General Ashcroft asking for a special counsel to be appointed, similar to that action taken in the Valerie Plame case. Several laws may have been broken in the awarding of the Halliburton contract, including the Competition in Contracting Act and criminal conspiracy. I have also asked the chairman of the Governmental Affairs Committee to issue subpoenas to the Pentagon and the Vice President's office regarding communication between those two offices on Halliburton contracts.

In my view, the credibility of this institution is at stake, not that anybody seems to care. Here we are seeing the

top level of the executive branch arranging sweetheart billion-dollar procurement deals for the former employer of the Vice President, an employer with whom the Vice President has a continuing financial interest. Are we not even going to look into it? I guess, based on what I have seen this morning, it does not seem we are going to be permitted to do so, but we are going to continue to bring this to the public. They deserve to know, even if our colleagues on the other side are not interested in hearing it.

The Vice President has a financial interest in Halliburton, and it is, indeed, significant. The Vice President holds 433,000 unexercised Halliburton stock options, and even though most of the exercised prices are above the current market price, the majority of the options extend to 2009.

In addition to the stock options, Vice President CHENEY continues to receive deferred salary from Halliburton, and it is a significant sum. In fact, the Vice President's salary rivals his Government pay. He is looking at salaries that are very competitive to his Government salary. The Government salary is \$186,000, going to \$198,000 over a period of time, and the Halliburton salary is \$205,000. It starts out almost \$20,000 higher, and then it sinks to \$30,000 in the middle but creeps back to where it is a \$20,000 differential. Not much when we are talking about the kind of moneys Halliburton has paid the Vice President.

With these revelations concerning the Vice President's involvement in the no-bid contract, it is time for this Senate to act. In the last administration, someone would sneeze and it would be investigated around here. Remember Whitewater? That was a \$203,000 investment 15 years before President Clinton took office. Not only was there nothing to the charges, but it had nothing to do with Government conduct. Yet here we are talking about \$2.2 billion in taxpayer funds that were possibly illegally awarded, and we have done nothing to investigate it.

I urge my colleagues to uphold our constitutional duties and investigate this critical issue.

What does it say to the public at large if you want to overcharge the Government and you have the right connections, perhaps you can do it or perhaps you can arrange it. The fact is, people out there are sweating to make a living, sweating to pay their bills, sweating to educate their kids, and sweating to pay the prices that prescription drugs now cost. But when we have an item such as a \$160 million overcharge, in wartime, that is called profiteering, and in the war I served in a long time ago, World War II, profiteering would hold you out for scorn across this country. It never would be tolerated. It would be brought to the courts, it would be brought to the Congress, and it would be shut down promptly.

Halliburton's \$85,000 maintenance plan: Needed an oil change but bought

a new truck; \$85,000 was spent because they did not want to take the time out to change the oil in the truck. So they went ahead and bought a new one. What the heck, the taxpayers are paying for it, and no one is going to get excited here. It is obvious, as we see this morning and every day.

It is with regret that I bring this to our attention, but I think it must be done. I am not doing this for political reasons; I am doing this because the citizens of the United States are entitled to a fair break. I will tell you, if it were in the local hardware store, or something such as that, and they were overcharging you and not telling you the price in advance, we would hear about it in our offices. But, no, after all, this is only a \$2.5 billion contract; what is there to get excited about?

I thank my colleagues for the attention they have given me this morning, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

I ask the minority leader, is he using leader time?

Mr. DASCHLE. I will be using my leader time.

#### MANY ISSUES NEED SENATE DEBATE

Mr. DASCHLE. Mr. President, I come to the floor again not to pose a unanimous consent request, because we attempted that again last night, but to remind my colleagues that we have proposed to our colleagues on the majority that we would be happy to agree to a unanimous consent that would allow us an up-or-down vote on the amendment that is now the subject of a motion to proceed. We had said we were prepared to do that last Friday. We had said that it is important for us to have a good, vigorous debate about the amendment, but now there is a debate among the majority apparently about several versions of the amendment they want to use.

Usually, when someone is in the majority, they come to the floor with a majority draft, hopefully a draft that has been passed out of the committee with careful consideration and thoughtful debate. That has not happened in this case. This amendment never came out of the committee. It was simply put on the calendar and now it is the subject of a debate on the motion to proceed.

Even with all of that, we said if they want to have a debate on that amendment, that is fine. Unfortunately, because the majority cannot agree among itself and because it has several versions that it now wants to present to the Senate, versions all to amend

the U.S. Constitution, and because, of course, we cannot be limited just to those provisions, there are other amendments that would be offered subject to a simple majority, amendments that could deal with any 1 of the other 17 amendments that are pending.

There are 67 different proposals for amending the Constitution currently pending in the 108th Congress. Any 1 of those 67 proposals would be fair game. There are many that have to do with gay marriage. There are many that have to do with flags, victims' rights, freedom of speech, campaign finance. There are a lot of amendments. We could be on amendments for the rest of this month. So this is not what I would imagine most people would prefer, but that is where we find ourselves today.

We are prepared to accept the unanimous consent agreement to go to the amendment that has been proposed to the Senate, but that is not apparently what our friends on the other side prefer to do. So we will have the vote on the motion to proceed.

The sad thing is there are so many other things that ought to be done. We were briefed just last week in a very sober setting in 407 about our circumstances involving homeland security and the possibilities of additional new threats to our country. Yet the Homeland Security bill languishes. There have been suggestions within our caucus to make a motion to proceed to homeland security, and at some point, I will say now that is a very real possibility that we will move to homeland security because the majority refuses to do so.

It is difficult for us to understand why we ought to be in this situation. This is the middle of July. We have yet to take up the Homeland Security appropriations bill, in spite of these warnings of new threats to our country. Why would we not take up that bill? That is just one of the questions, one of the issues, that trouble many of us.

The majority leader has promised to vote on reimportation. I do not know when we are going to take up reimportation. We are now through the middle of July. He has indicated that after the vote on the constitutional amendment we are likely to go to the free-trade agreements.

So I am not sure when we squeeze in a good debate about whether we can provide lower drug prices to seniors. That, too, could be the motion that could be the subject of debate on a motion to proceed. That is already on the calendar. The majority leader has promised a vote on mental health parity. We thought it would be January or February, then maybe March. Well, here it is now with fewer than 30 days remaining, and in spite of that promise there is no commitment to go to mental health parity.

Many of us would love to see a debate and a vote on whether we should negotiate lower prices with the drug companies for seniors.

That is on the list.

After what happened in the Supreme Court not long ago, there is a real question now about whether we ought to revive the debate on Patients' Bill of Rights. Patients' Bill of Rights ought to be the subject of debate in the Chamber, but to mention all the other appropriations bills, rail security legislation, legislation dealing with our borders, our ports, our railroad tunnels.

This continues to be a historic Congress in its inability to do the things the American people would expect of us. I have heard all the charges of obstructionism. They can't get their act together. That is the fact. They are unable to decide among themselves what their priorities are. As a result, the priorities of the Nation languish.

We face a real crisis, as I mentioned a moment ago, in our country, involving the rising cost of prescription drugs. Last year, Congress passed a bill that was supposed to solve that crisis. Seven months later it is clear that it is not working and prices are going up as fast as ever. We should not and we must not accept that.

We have an obligation to consider new ideas, to search for new solutions. President Roosevelt was fond of saying:

Take a method and try it. If it fails, admit it frankly, and try another. But, by all means, try something.

A couple of weeks ago my friend Senator PRYOR from Arkansas was speaking here. He suggested that we follow a "do right" approach to our work. I completely agree. As we tackle issues, we should ask ourselves a simple question: Are we doing right by America? In the case of prescription drugs, I would ask the question: Are we doing right by America's seniors? The answer, unfortunately, is no.

According to a report by the AARP, the cost of the most-prescribed brand name prescription drugs has risen above the rate of inflation for each of the past 4 years, steadily eroding the fixed incomes of seniors. Last year the cost of drugs rose three times the rate of inflation. But as bad as that was, this year appears to be even worse. The AARP revealed recently that during the first quarter of 2004, drug prices rose more than 3½ times the rate of inflation and there is no end in sight. The typical senior will pay \$191 more for drugs this year than in 2003.

Statistics cannot do justice to the hardship this is placing on Americans.

Not long ago my office was contacted by a man whose name is Stan Pitts. Stan's diabetes has left him virtually blind and unable to work. Controlling his illness requires 13 different prescriptions. In all, his monthly drug bill is \$1,267. When he could no longer work as a computer technician, Stan went on disability, which paid him \$1,162 per month. It is not much, not even enough to cover his drug costs, but it still disqualified him from receiving any other assistance, including food stamps, housing, and Medicare.

There are no good answers for Stan today. All he can do is try to balance

his needs and his income as long as he can. If he does not take his medicine, his illness will worsen and he will eventually die. If he doesn't pay his rent, he will be out on the street. So he alternates. One month he pays for his medicine. The next month he pays his rent, and so on. This only delays the inevitable. Eventually, he will be evicted and eventually there will be nothing left to sell or exchange to pay his drug bill.

That is the future waiting for Stan Pitts, and it will be the future for thousands of more Americans unless we do something.

The White House and congressional Republicans seem content to rest on their Medicare and drug card program. Since its introduction 2 months ago, seniors have expressed concern that it is too confusing, it doesn't cover their medications, and it doesn't protect them against price gouging. The Wall Street Journal reported recently that whatever discounts the cards might have provided have already been factored into drug company pricing strategies. In fact, drugmakers have already raised prices so much that the so-called discounts offered by this program will do little more than return the drugs to their original prices.

Families USA recently concluded that families are worse off today with the drug card than they were in 2001, when the President took office. Furthermore, the official Web site established to help simplify the program for seniors has only made the problem worse. The prices are actually inaccurate. The information on the Web site is confusing and very unhelpful. Last week we learned that many of the pharmacies listed as participants in fact do not participate at all. Some are no longer in business and their windows are boarded up.

Seniors have been thrust into a maze of contradicting information. Even those who navigate it successfully will have few, if any, savings to show for their efforts. One couple from Rapid City who recently wrote me found the whole process, in their words, "foolish." They wrote:

This solution is not a benefit to the senior citizens, but instead is an economic boon for the drug companies. . . .

So rather than participate in the drug card program, they have started buying their drugs from Canadian pharmacies. They do not like to break the law, but they say they will have no other choice. The drug they need is 60 percent cheaper in Canada than it is here.

This family is not alone. Pharmaceutical companies charge American consumers the highest prices in the world. Some medicines cost American patients five times more than they cost patients in other countries. In effect, our citizens are charged a tax simply for being American. As a result, millions of Americans are having trouble affording lifesaving medication.

Seniors should not be made to feel like criminals just because they cannot

afford a \$1,000-per-month drug bill. It is wrong that seniors are left to struggle alone, and what makes it worse is the fact it is totally unnecessary.

The good news for America's seniors is we can do right by them. There are low-cost alternatives that dramatically reduce the price of prescription drugs. We know, for instance, that by enabling Americans to reimport medications safely from other industrialized countries we can bring down drug costs immediately. At the same time, we should be able to take advantage of the method the VA has already used to reduce drug costs, and employ the unrivaled purchasing power of the Government to negotiate better prices for 41 million Americans.

The administration opposes each of these commonsense measures. Apparently, the White House is so committed to protecting the profits of pharmaceutical companies, it is negotiating trade pacts that would increase the drug costs of other countries. Rather than running up the pharmaceutical costs of other countries, the administration should work with us to lower the price to Americans.

The fact is, there is no mystery to the problem of bringing down drug costs. There is no hidden secret; no puzzle to solve. We can do right by our seniors by making a simple choice. Let's put their interests ahead of the demands of the drug companies and HMOs. By taking simple commonsense steps, we can bring the cost of drugs and health care within reach of every American. When we do that, we will know we have done right by America.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, how much time do I have?

THE PRESIDING OFFICER. The Senator has 7 minutes 55 seconds.

#### VALERIE PLAME LEAK INVESTIGATION

Mr. HARKIN. Mr. President, last week I noted here in the Senate that it has been almost a year since the identity of a covert CIA agent was revealed in print by a columnist, Robert Novak. It has now been 365 days, 1 year, and yet we still don't know who blew her cover, who leaked her name, who in the NSC, National Security Council, CIA, gave this information to people in the White House. It is clear that Valerie Plame's cover was blown as part of an effort at that time to discredit and retaliate against critics of the administration, especially anyone who dared to suggest that some of the intelligence used to justify the war in Iraq was fraud or fabricated.

If the administration were to try to continue this campaign of vengeance today, I suppose they would have to go after the entire Senate Intelligence Committee. I believe its report that it just put out verifies the fact that this was done in a vengeful manner.

As we all know, Ms. Plame's husband, former Ambassador Joseph Wilson, was sent by the CIA on a fact-finding mission to Niger early in 2002 to examine claims that Saddam Hussein had sought to purchase uranium from Niger. Wilson said he found the claims lacked credibility. The Intelligence Committee report provides an interesting new perspective on these events. It indicates that in October of 2002, CIA Director Tenet called the Deputy National Security Adviser, Stephen Hadley, to express the CIA's serious concerns about references to uranium and Africa in a speech the President was going to give in Cincinnati.

Guess what. The references were removed.

Then in December of 2002, the State Department officials advised that the documents underlying the claim were likely forgeries. That is in December. However, the President comes before a joint session in January and says that the "British Government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa."

One thing that remains unclear throughout this series of events is exactly how and why the same NSC officials—National Security Council officials—who heard Director Tenet's concerns in October, who removed that language from the speech the President was giving in Cincinnati, who also knew the State Department in December had said these were probably forgeries, how did they allow this back into the State of the Union Message in January 2003?

We still don't have a full picture of how the administration manipulated intelligence on Iraq. The Intelligence Committee report stops short of that inquiry. But it is clear that the intelligence community felt a great deal of pressure to conform its views to the administration's public characterizations of certainty about Iraqi production of weapons of mass destruction and Iraq's connections to terrorism.

The minority views of the report note that former Director Tenet confirmed that agency staff raised with him the matter of "repetitive tasking" and the pressure that it created. The CIA ombudsman told the committee that he believed "the 'hammering' of the Bush administration on Iraq intelligence was harder than he had previously witnessed in his 32-year career."

The minority views went on to say:

By the time American troops had been deployed overseas and were poised to attack Iraq, the administration had skillfully manipulated and cowed the intelligence community into approving public statements that conveyed a level of conviction and certainty that was not supported by an objective reading of the underlying intelligence reporting.

That was the fundamental point that Ambassador Wilson made in his op-ed in the New York Times: Intelligence was stretched to fit a predetermined course of action.

One year later—365 days later—we still don't know who was involved in leaking this name and exposing a covert CIA agent. We don't know who gave this classified information to the leakers in the White House.

The disclosure of Ms. Plame's identity was malicious and probably criminal. Mr. Fitzgerald, the special prosecutor, has been conducting a thorough investigation but with very little assistance from the person who could easily get to the bottom of it—the President of the United States.

I believe the President has been too cavalier, too dismissive of the situation. He has made only one statement on this issue. Here is what he said:

This is a town that likes to leak. I do not know if we are going to find out the senior administration official. Now this is a large administration, and there's a lot of senior officials. I don't have any idea.

That is the President of the United States.

Where is his outrage?

What about the Vice President? We know he can be relentless when he is on a quest for information to justify the war in Iraq. Vice President CHENEY personally journeyed to CIA headquarters repeatedly—I have heard up to eight or nine times—to meet directly with analysts on Iraq. I am further told that was unheard of before, that Vice Presidents have never done this before.

Here is Vice President CHENEY personally going to CIA headquarters across the river eight or nine times to sit down with analysts to tell them to get their story straight.

Where is that kind of determination when it comes to finding the people who committed treasonous acts against this country and leaked Ms. Plame's identity?

This administration has used the power of the Presidency to bend facts to fit predetermined views and then to suppress dissent.

That is why so much rests on the outcome of Mr. Fitzgerald's investigation. We need to send a clear message to any President that sacrificing intelligence assets and breaching national security is wrong and it is against the law.

We should be as vigorous and determined and unrelenting in finding these perpetrators, finding those who broke this law, finding those who undermined the security of our country as we are in going after any drug pusher or drug dealer anywhere in the United States.

This President, President Bush—yes, President Bush—has got to come out and help the special prosecutor. Quit hiding behind executive privilege. Quit hiding behind the fact that this is a large administration, and maybe we will never find out who did it. It is time for the President to come clean, and for the Vice President to come clean; otherwise, I fear for the future of our intelligence community and what kind of freedom they will have to give correct analysis to future Presidents of the United States.

I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). Who yields time?

The Senator from Kentucky.

#### INTELLIGENCE COMMITTEE REPORT

Mr. MCCONNELL. Mr. President, last Friday the Senate Intelligence Committee released a report on the CIA's threat assessments regarding Iraq conducted in the years prior to the liberation of that country. That the CIA overestimated the extent of Hussein's WMD infrastructure and underestimated the threat posed by al-Qaida prior to September 11 raises critical issues worthy of debate and deliberation. Unfortunately, we are not having this debate.

We know now that America was basically blind for over a decade throughout the Middle East, that we lacked agents in Iraq and Afghanistan or Arabic linguists or Middle east experts.

We also know that there are structural problems that have frustrated the intelligence community's ability to provide the best possible information to political leaders. And we know these structural flaws led to inaccurate estimates that misinformed policy makers.

Rather than working to fix the problems of the intelligence community, some Democrats are now issuing statements notably at odds with their prior positions.

The Vice-Chairman of the Senate Intelligence Committee, Senator ROCKEFELLER, accused the Bush administration of pressuring the CIA to come up with a certain viewpoint, even as he endorsed a committee report that concludes the opposite.

The Senator from West Virginia went further and charged that: "Our standing in the world has never been lower. We have fostered a deep hatred of America in the Muslim world, and that will grow. As a direct consequence, our nation is more vulnerable today than ever before."

Oddly, these charges are at variance with the sensible claims he and other critics of the President have said for years about the threat Saddam Hussein posed to the United States.

In October 2002, Senator ROCKEFELLER, then as now a member of the Intelligence Committee and privy to the sensitive intelligence data that administration officials use, gave a thoughtful speech defending his vote in favor of the use of force resolution. It was a very good speech. So let me highlight a few quotes from the speech of our good friend from West Virginia. He said:

There is no doubt in my mind Saddam Hussein is a despicable dictator, a war criminal, a regional menace, and a real and growing threat to the United States . . .

He went on to say:

Saddam's government has contact with many international terrorist organizations that likely have cells here in the United States . . .

We also should remember we have always underestimated the progress that Saddam Hussein has been able to make in the development of weapons of mass destruction . . .

The Senator from West Virginia continues:

Saddam's existing biological and chemical weapons capabilities pose real threats to America today, tomorrow. Saddam has used chemical weapons before, both against Iraq's enemies and against his own people . . . At the end of the day, we cannot let the security of the American people rest in the hands of somebody whose track record gives us every reason to fear that he is prepared to use the weapons he has used against his enemies before . . .

There has been some debate over how "imminent" a threat Iraq poses. I do believe Iraq poses an imminent threat. I also believe after September 11, that question is increasingly outdated. It is in the nature of these weapons that he has and the way they are targeted against civilian populations, that the documented capability and demonstrated intent may be the only warning we get. To insist on further evidence could put some of our fellow Americans at risk. Can we afford to take that chance? I do not think we can.

That was Senator ROCKFELLER back in 2002. I agree with what he said. Senator ROCKFELLER's assessment was a reasonable judgment at the time given Hussein's belligerence, his refusal to open his country to weapons inspectors, decades of intelligence collection, and the fact that not a single international intelligence agency believed that Iraq did not have WMD. Indeed, what we have found in Iraq indicates that Hussein maintained the capacity to produce chemical and biological weapons, even if he had destroyed or shipped out of country his stockpiles of WMD.

Senator ROCKFELLER is not the only democrat to change his tune. Senator JOHN KERRY, with Senator EDWARDS at his side, told the New York Times over the weekend that President Bush "certainly misled America about nuclear involvement, and he misled America about the types of weapons that were there, and he misled America about how the would go about using the authority he was given."

But in March of 1998, the Senator from Massachusetts declared on the Senate floor that Iraq continued clandestinely to maintain its WMD stockpiles and programs. This is what he said in 1998.

We do know that he had them [WMD] in his inventory, and the means of delivering them. We do know that his chemical, biological, and nuclear weapons development programs were proceeding with his active support.

We have evidence . . . that despite his pledges at the conclusion of the war that no further work would be done in these weapons of mass destruction programs, and that all prior work and weapons that resulted from it would be destroyed, this work has continued illegally and covertly.

And, Mr. President, We have every reason to believe that Saddam Hussein will continue to do everything in his power to further develop weapons of mass destruction and the ability to deliver those weapons, and that he will use those weapons without concern or pangs of conscience if ever and when-

ever his own calculations persuade him in is in his interests to do so . . .

. . . The United States must take every feasible step to lead the world to remove this unacceptable threat.

I have to ask: How can Senator KERRY claim he was misled by the current President into believing precisely the allegations he made back in 1998, when President Bush was Governor Bush?

Those who hold Senator KERRY's view would have you believe that President Bush invented these allegations and forced this war upon an unwilling Congress. Far from it.

Senator EDWARDS noted in 2002:

As a member of the Senate Intelligence Committee, I firmly believe that the issue of Iraq is not about politics. It's about national security. We know that for at least 20 years, Saddam Hussein has aggressively and obsessively sought weapons of mass destruction through every means available.

We know that he has chemical and biological weapons today . . . I believe that Saddam Hussein's Iraqi regime represents a clear threat to the United States, to our allies, to our interest around the world, and to the values of freedom and democracy we hold dear.

Now, I find it troubling that neither Senator KERRY, nor his running mate seems to recall his own prior assessments of the threats posed by the Hussein regime.

I believe America is better off with Hussein gone, and I know the Iraqis are happy with his ouster and increasingly optimistic about their future. Unfortunately, some here in the Senate don't share their optimism.

Equally perplexing is a partisan view of this United States economy. Just as partisans see no threat from Iraq now when they call it a threat a few years back, they see a Great Depression now when they would have called it a great recovery a few years back.

They claim signs of this Great Depression are all around. But the cold, hard, inconvenient fact for their theory is that we have added 1.3 million jobs so far this year. The unemployment rate has been dropping for a year, to 5.6 percent today. That is below the average of the 1970s, the 1980s, and the 1990s, but the naysayers read it as proof of an economic collapse.

They point to all sorts of signs of weakness in our economy, such as strongest annual growth in 20 years, low mortgage rates, low inflation rates and the highest productivity rates in half a century. The stock market has "crashed" upward by 40 percent in the last 2 years. NASDAQ has had a 70 percent gain! The "human costs" of this Great Depression are apparent, such as having the highest homeownership rate in United States history.

This is the new speak of the Great Depression.

We don't have a depression; what we have is political spin. We have political leaders who are trying to convince the American people that the economy is bad, that we have not gotten over the 2001 recession, the terrorist attacks of

9/11, the corporate scandals, or the uncertainties of war.

Yet the facts say we are well on our way, and we won't rest until every American who wants a job, has a job.

I understand the spin game in Washington. We can spin a lot of things in Washington, but a weak economy can't be spun as a strong one, and a strong economy can't be twisted as a weak one.

Ant I can only hope my friends have not dizzied themselves so much that they cannot separate reality from politics or understand the difference between a recovery and a depression. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

#### SENATE SELECT COMMITTEE ON INTELLIGENCE

Mr. BOND. Mr. President, I thank the deputy majority leader for his excellent comments. As a member of the Senate Select Committee on Intelligence, I congratulate him on his very thorough and thoughtful discussion of the work of the Intelligence Committee.

Last week, as we all recall, the committee released a remarkable report unanimously supported by the Democrat and Republican members of the committee. However, despite the findings of fact, which took a year of interviews by staff of over 200 people reviewing 15,000 documents, the campaign continues to attempt to politicize this process perfectly consistent with the political strategy memo uncovered last November designed by minority staff to show how the Intelligence Committee could be manipulated in order to hamper the President and his administration during the election year. The fact this is a time of war is apparently insufficient justification for leaving politics at the water's edge.

No rule of law should ever stifle honest debate, discourse, or dissent in this country, but somewhere public leaders can recognize self-discipline can be a benefit to our troops and our Nation. I saw a report recently that in the 1944 election, as Republican candidate Thomas Dewey was set to blame President Roosevelt for what transpired at Pearl Harbor, General Marshall appealed to Dewey, arguing that the Nation should be united against the real enemy. Dewey acted on behalf of the country. I guess times were different then.

In this country, we need to make sure our service men and women understand that while we can have our debate, we can demonstrate more disdain for the enemy than we have for the opposition party.

Since Friday, we have heard the suggestions that the efforts of our troops to depose Saddam Hussein and set the long-term stage for peace and democracy in the most dangerous region in the world was not—yes, not—warranted. Besides being wrong, what kind

of horrible message is this to send our troops and their families, not to mention the enemy, whose only hope is to win in Washington what they cannot win from our troops on the battlefield?

If it is the will of this body that we cut and run, then let's debate and vote on it. Maybe we need a sense-of-the-Senate resolution, in any case, to send a message to our troops and the enemy that we intend to see this through. If we agree on it, as I believe we do, we should let our troops do what they are doing, and we should spend our time supporting their efforts, not retracting from their mission.

Of course, we should be focused on the need to provide better intelligence, but some of us have been saying that since the 1970s when our intelligence collection was destroyed. Some of us had said that when we failed to predict the Iraqi Army would amass on the Kuwaiti border and when intelligence failed to predict they would cross over and overtake Kuwait and threaten Saudi Arabia. Some of us said that when we learned the estimates of Saddam Hussein's nuclear capability were not 5 to 10 years in the future but less than 1 year. All we need to know about the quality of intelligence in the region is to know we did not have one single agent on the ground.

As said in today's editorial in Investor's Business Daily, intelligence spending was cut, the number of spies sharply dropped, so sharply, in fact, that after 9/11 the CIA had to create a 5-year plan to undo the damage. During President Clinton's two terms, the number of spies fell an estimated 20 percent, the budget tumbled by some estimates as much as 30 percent—it is classified—spy satellites got taken down, experienced analysts got fired.

Well, much has been said of the pressure that policymakers allegedly put on the intelligence community to get hard answers to important questions. We just heard that repeated in the Chamber. They are talking about pressure to change the analysis. Let's go back to what the bipartisan committee unanimously concluded.

Conclusion No. 11.

Several of the allegations of pressure on the intelligence community analysts involved repeated questioning. The committee—

That is the Senate Select Committee on Intelligence—

believes that the intelligence community analysts should expect difficult and repeated questions regarding threat information. Just as the post-9/11 environment lowered the intelligence community's reporting threshold, it has also affected the intensity with which policymakers will review and question threat information.

With respect to the Vice President, conclusion No. 84:

The committee found no evidence that the Vice President's visits to the Central Intelligence Agency were attempts to pressure analysts, were perceived as intended to pressure analysts by those who participated in the briefings on Iraq's weapons of mass destruction programs or did pressure analysts to change their conclusions.

Conclusion No. 102:

The committee found that none of the analysts or other people interviewed by the committee said they were pressured to change their conclusions related to Iraq's links to terrorism.

Now, talking to the people who work in the intelligence community, they are expected to get tough questions. They need to be able to defend what they have produced, and a good policymaker will challenge them not to change the evidence, and there was no evidence—zip, zero, none—of pressure to change.

I ought to mention Ambassador Wilson's name was raised. The committee also found that his so-called review was inadequate and did not conclusively determine that there was not an effort—in fact, some analysts were led to conclude from what he brought back that it was more likely that Iraq was trying to get uranium from Africa, and I would refer my colleagues to Chairman ROBERTS' additional views.

The partisan suggestions continue nevertheless, as administration officials are accused of making the same charges against Saddam's regime as the Senators themselves made in 1998 and during the debate for war which was overwhelmingly adopted in 2002. Candidates accuse our President and Vice President of having little swing with our so-called allies. Yet somehow they must have had enough swing to intimidate the English, French, Swiss, German, U.N. and Russian intelligence agencies to fall for the same WMD charge. This notion did not survive investigative scrutiny, and it does not survive common sense. Furthermore, it is a gross insult to analysts in the intelligence community to suggest they conform their views to the pleasure of policymakers.

Again, I would draw the attention of my colleagues to yesterday's Wall Street Journal editorial on this subject, which says something that I said in the Chamber last Friday. A few apologies would seem to be in order. I think apologies are owed to the Vice President and to the administration. And yet we are still continuing to hear the same misguided, unsubstantiated charges made. Some Senators trying to win the White House away are criticizing the President for looking at the same intelligence they did and coming to the same conclusion they did. Is political victory more important than victory in Iraq? Has political victory become so important that some believe it necessary to divide America with this blame game while their sons and daughters are risking their lives abroad? If we are going to blame someone, I recommend we all agree to start with Saddam and bin Laden. Have we forgotten who the real enemy of peace, democracy, and humanity really is?

Recall what President Clinton said who saw the intelligence in 1998. President Clinton said:

The fact is that so long as Saddam remains in power, he threatens the well-being of his

people, the peace of this region, the security of the world. The best way to end that threat once and for all is with the new Iraqi Government, a government ready to live in peace with its neighbors, a government that respects the rights of its people. Saddam will strike again at his neighbors and he will make war on his own people, and mark my words, he will develop weapons of mass destruction. He will deploy them and he will use them.

My colleague, the deputy majority leader from Kentucky, has already pointed out the words of the Senators in this body, and I agree with him and I endorse that reference. But as we focus to the point of obsession on intelligence—and we must make it better if we are to stop future acts of terror—we cannot leave behind our own personal intelligence. We do not exist to swallow whole what the intelligence community feeds us. Sometimes they are wrong, sometimes lazy, but most of the time they work tirelessly under dangerous conditions and are dead right, and other times their guesses, which is much of what intelligence is all about, may not be as good as ours. But in the case of Saddam, who in this body needed a CIA report to understand that the man and his despicable sons set to lead Iraq through the first half of the new century? Ordinary citizens need not have a security clearance but need only to have watched or read the news over the previous 20 years.

What don't we know about this man's evil intention, his hatred for the U.S., his willingness not only to pursue but use weapons of mass destruction? Is his track record of insanity meaningless?

By the time a crazed maniac invades two foreign countries, defies repeatedly the mandates of the U.N., fires missiles at Israel, fires missiles at our patrol aircraft, pays suicide bombers to blow up innocent women and children, not only builds and stockpiles weapons of mass destruction but uses them, fills mass graves by the tens of thousands, attempts to assassinate our former President, and suggests that perhaps his only regret in 1990 was not waiting a few more months so he would have the nuclear capability to confront our troops, what else do we really need to know about this man? Do we really need the CIA to introduce Saddam to the Senate? Can it be true that there is this signal that unless WMD are found, Saddam is somehow acquitted? Look at the thousands and thousands of people he killed with the WMD.

In retrospect, many things are more clear, including that we would have been better off taking care of him in 1991, but in post-9/11 could we really afford to trust him, to let him continue to fester indefinitely? Were we prepared to wait until the threat was imminent? President Bush said we can't wait until the threat is imminent, meaning to wait until the threat is executed which is too late. We didn't know his invasion of Kuwait was imminent until we saw his tanks through the dust of the Kuwaiti desert. We knew bin Laden was a threat but the

threat did not appear imminent until after the USS *Cole* was bombed, after the embassies were bombed, after the towers were dropped, killing 3,000 innocent Americans.

While it may be lost on some perhaps in this body, but in our national news media, the burdens of leadership are not lost on this President. While no one else may see the irony, President Bush does. He sees a 9/11 commission asking: Why didn't the administration act on sketchy intelligence at the very same time some on the other side are asking why did the administration act on sketchy intelligence? The first investigation answers the second to anyone sitting in the hottest political seat in America. Meanwhile, the hottest job abroad is being faithfully executed by our soldiers, marines, airmen, and civilian support personnel.

I am proud my son is a marine who expects to get his turn to serve in the sandbox. I want him to return safely, but I want him to win, and I want our troops abroad to win, and I want them to know that America is behind them and to know that addressing the most dangerous nation in the most dangerous region of the world makes this world safer because it will if Washington will let it.

Winning the real war on terror is more important than winning the political war for the White House. We want to win the war on terror and we must. The continued charges of pressure and misinformation are totally off the mark based on what the Intelligence Committee found. There is no question that we are better off. The region is safer, the Iraqi people are much safer, and we in the United States are much safer because we have deposed Saddam Hussein, because we have enacted the PATRIOT Act, because we have pursued very vigorously the war on terror.

We ought to be strengthening that war, supporting our troops, supporting our agencies here at home and not trying to phony up charges of pressure to win political points.

I ask unanimous consent that two editorials, one from the Wall Street Journal and one from Investor's Business Daily, be printed in the RECORD.

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

[From the Investor's Business Daily, July 13, 2004]

#### POINTING FINGERS

It's a little funny watching some of the very same people who voted repeatedly in the 1990s to strip the CIA of its spies and slash its budget now taking it to task for not doing its job.

It is true the CIA failed to anticipate Sept. 11—though it's not clear any organization operating in a democratic society could have done so.

It's also true the CIA made mistakes in estimating the scope of Saddam Hussein's weapons of mass destruction programs—and in suggesting the U.S. would find stockpiles of WMDs when it invaded.

(Although, it's equally clear the CIA wasn't entirely wrong: Iraq did have WMD

programs, and coalition troops did find weapons of mass destruction—namely, deadly sarin and mustard gas—in Iraq, though not in the amounts the CIA hinted they would).

Nonetheless, in a predictable game of political tag, some try to pin the blame for the CIA's failures on President Bush—as if the eight years of massive intelligence cuts in the 1990s played no role at all.

It's a matter of record: President Clinton slashed intelligence spending and cut the number of spies sharply—so sharply, in fact, the CIA after 9-11 had to create a five-year plan to undo the damage.

During his two terms, the number of spies fell an estimated 20%. The budget tumbled, by some estimates as much as 30% (it's classified). Spy satellites got taken down. Experienced analysts got fired.

That doesn't mean Clinton had no spying priorities. He did: the economy. In place of a relentless focus on the growing terror threat, the Clinton White House made "economic security" its top priority.

Typical was this comment from then-Secretary of State Warren Christopher: "Our national security is inseparable from our economic security."

So much for terrorism.

Unfortunately, terrorists found the U.S. an easy target during the decade. They started with the World Trade Center bombing in 1993, killing six and wounding a thousand more. They kept at it, blowing up a U.S. barracks in Saudi Arabia, attacking U.S. embassies in Kenya and Tanzania, and bombing the USS *Cole* in port in Yemen. They murdered hundreds in these and other terror attacks.

Yet, it was still "the economy stupid" in the White House—an attitude that found many allies among Congress' Democrats.

That includes Sen. John Kerry. He proposed deep cuts for the CIA in 1994 and 1995.

We mention this because the report on the CIA's shortcomings has been the source of a good deal of finger-pointing. Bush often gets the blame, even though the weakened intelligence community he inherited was Clinton's creation.

The CIA, no doubt, needs reforms. But its troubles didn't arise in just the last three years. And playing political football with America's intelligence failures won't make us more secure.

[From the Wall Street Journal, July 12, 2004]  
OF "LIES" AND WMD

"The Committee did not find any evidence that Administration officials attempted to coerce, influence or pressure analysts to change their judgments related to Iraq's weapons of mass destruction capabilities."

So reads Conclusion 83 of the Senate Intelligence Committee's report on prewar intelligence on Iraq. The committee likewise found no evidence of pressure to link Iraq to al Qaeda. So it appears that some of the claims about WMD used by the Bush Administration and others to argue for war in Iraq were mistaken because they were based on erroneous information provided by the CIA.

A few apologies would seem to be in order. Allegations of lying or misleading the nation to war are about the most serious charge that can be leveled against a President. But according to this unanimous study, signed by Jay Rockefeller and seven other Democrats, those frequent charges from prominent Democrats and the media are without merit.

Or to put it more directly, if President Bush was "lying" about WMD, then so was Mr. Rockefeller when he relied on CIA evidence to claim in October 2002 that Saddam Hussein's weapons "pose a very real threat to America." Also lying at the time were John Kerry, John Edwards, Bill and Hillary

Clinton, and so on. Yet, Mr. Rockefeller is still suggesting on the talk shows, based on nothing but inference and innuendo, that there was undue political Bush "pressure" on CIA analysts.

The West Virginia Democrat also asserted on Friday that Undersecretary of Defense Douglas Feith has been running a rogue intelligence operation that is "not lawful." Mr. Feith's shop has spent more than 1,800 hours responding to queries from the Senate and has submitted thousands of pages of documents—none of which supports such a charge. Shouldn't even hyper-partisan Senators have to meet some minimum standard of honesty?

In fact, the report shows that one of the first allegations of false intelligence was itself a distortion: Mr. Bush's allegedly misleading claim in the 2003 State of the Union address that Iraq has been seeking uranium ore from Africa. The Senate report notes that Presidential accuser and former CIA consultant Joe Wilson returned from his trip to Africa with no information that cast serious doubt on such a claim; and that, contrary to Mr. Wilson's public claims, his wife (a CIA employee) was involved in helping arrange his mission.

"When coordinating the State of the Union, no Central Intelligence Agency (CIA) analysts or officials told the National Security Council (NSC) to remove the '16 words' or that there were concerns about the credibility of the Iraq-Niger Uranium reporting," the report says. In short, Joe Wilson is a partisan fraud whose trip disproved nothing, and what CIA doubts there were on Niger weren't shared with the White House.

The broader CIA failure on Iraq's WMD is troubling, though it is important to keep in mind that this was a global failure. Every serious intelligence service thought Saddam still had WMD, and the same consensus existed across the entire U.S. intelligence community. One very alarming explanation, says the report, is that the CIA had "no [human] sources collecting against weapons of mass destruction in Iraq after 1998." That's right. Not one source.

When asked why not, a CIA officer replied "because it's very hard to sustain." The report's rather obvious answer is that spying "should be within the norm of the CIA's activities and capabilities," and some blame for this human intelligence failure has to fall on recently departed Director George Tenet and his predecessor, John Deutch.

The Senate report blames these CIA failures not just on management but also on "a risk averse corporate culture." This sound right, and Acting Director John McLaughlin's rejection of this criticism on Friday is all the more reason for Mr. Bush to name a real replacement. Richard Armitage has been mentioned for the job, but the Deputy Secretary of State has been consistently wrong about Iran, which will be a principal threat going forward, and his and Colin Powell's philosophy at the State Department has been to let the bureaucrats run the place. We can think of better choices.

One real danger now is that the intelligence community will react to this Iraq criticism by taking even fewer risks, or by underestimating future threats as it has so often in the past. (The failure to detect that Saddam was within a year of having a nuclear bomb prior to the 1991 Gulf War is a prime example.) The process of developing "national intelligence estimates," or NIEs, will only reinforce this sense of internal lowest-common-denominator, conformity. If the Senate is looking for a place to recommend long-term reform, dispensing with NIEs would be a good place to start.

Above all, it's important to remember that the Senate report does not claim that the

overall assessment of Iraq as a threat was mistaken. U.N. Resolution 1441 gave Saddam ample opportunity to come clean about his weapons, but he refused. The reports from David Kay and his WMD task force have since shown that Saddam violated 1441 in multiple ways.

Saddam retained a "just-in-time" capability to make WMD, even if he destroyed, hid or removed the "stockpiles" that the CIA believed he had. It's fanciful to think, especially in light of the Oil for Food scandal, that U.N.-led containment was a realistic option for another 12 years, or that once containment ended Saddam wouldn't have expanded his weapons capacity very quickly. The Senate report makes clear we need a better CIA, not that we should have left in power a homicidal, WMD-using dictator.

Mr. BOND. I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). Who yields time? The time is under the control of the majority.

Mr. REID. Mr. President, on behalf of the minority, are we now on the constitutional amendment?

The PRESIDING OFFICER. No, we have 4 minutes 45 seconds left on the Republican side.

The Senator from Montana.

#### CONGRATULATIONS

Mr. BURNS. Mr. President, I wish to make a short statement of congratulations to my good friend from Missouri, Senator BOND, and also congratulate his son on graduating OCS at Quantico, now a fresh new lieutenant in the U.S. Marine Corps looking for assignment. He is talking recon. I know that is a tough road. So congratulations on your son. We wish him well in his tour in the U.S. Marine Corps.

Mr. BOND. I thank the Senator.

The PRESIDING OFFICER. The Senator from Mississippi.

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

The PRESIDING OFFICER. There is 4 minutes.

#### CRITICAL ISSUES

Mr. LOTT. Mr. President, I urge my colleagues and our leadership on both sides of the aisle to find a way for us to work together to address some of the critical issues facing this country. We have in conference now on a highway bill, a transportation bill that is important for economic development, for the creation of jobs, and for safety. I hope the conference will not become so obsessed with achieving the highest possible funding level that we wind up not getting a bill. It takes leadership and courage. It also takes being willing to accept what you can get, and get a conclusion that is good for everybody and move forward.

We need an energy bill. The very idea that we still do not have a national energy policy is indefensible. Yet we continue to labor over how do we get an energy bill, what is in the package, and how are we going to get back to the floor of the Senate. We need to find a way to do that.

The very idea that there is an effort to block the FSC/ETI JOBS growth bill, which involves a ruling by the WTO which has led to American products being hit with a penalty in Europe, and that we are not going to go to conference until we get some guarantee of what the result will be or that one Senator will be able to decide the conference report, what have we come to? We should get this bill in conference and get a result. Does it need to be changed? Yes. Has it become bloated? Absolutely. But if we don't deal with this, American products are going to wind up facing a penalty of 12 percent or more before we get a chance to address it again. It could go up to 17 percent. We are not going to deal with the job growth provisions in this legislation. We need to find a way to get it done.

I hope our leaders will find a way to get these conferences going or get us into conference and get a result, because we need to get this done for the American people. I know it is a political season—Presidential campaigns, Senate races, and congressional. I still maintain, as I always have, that the best politics is results. Get things done for the people. There is plenty of credit to go around.

If we stand here and find a way to question each other's motives and block and obstruct and confuse, we are going to pay a price as an institution. I worry about that.

#### REPORT OF SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, on the Select Committee on Intelligence report, I emphasize again, this was a unanimous bipartisan vote. There are problems with the intelligence community. We did not get what we needed before we went to war in Iraq. It was flawed and misleading and inaccurate. We should acknowledge that. But all the effort that is going on now to find a way to fix political blame is a mistake. We should be working together to produce results. That is why I am working with Senator FEINSTEIN of California on some proposals. That is why I am working with Senator WYDEN on some proposals.

We have 1 minute remaining?

Mr. REID. Mr. President, I am happy to not object, but Senator LAUTENBERG was on the floor this morning and asked for an additional 5 minutes, and it was objected to.

Mr. LOTT. I think I have 1 minute left.

Mr. REID. I was just waiting for an opportunity to say what I just said.

Mr. LOTT. Mr. President, we need to find a way to deal with the problem.

The point I want to make is, Congress is now like somebody that has been at the scene of an accident. We saw it happen, but now we are pretending we weren't there. Congress is a part of this problem. For 20 years we have underfunded, we have limited

human intelligence. We have improperly funded the intelligence community. We have allowed a situation where 80 percent of the money for the intelligence community is under the Department of Defense, not the CIA.

Let me give some numbers. During the 1990s, the number of CIA stations declined by 30 percent. The number of agents declined by 40 percent. The volume of intelligence reports decreased by 50 percent.

The intelligence community connected the dots, and got it wrong. It was not just our intelligence community that got it wrong—there was a global breakdown in intelligence analysis. The report is not an indictment of the hard-working and dedicated men and women who put their lives on the line, and are charged with connecting the dots. It is a criticism of the process and community at large, and demonstrative of a lack of leadership, oversight, and insufficient investment.

The breakdown in intelligence capability evolved over several years. It was recognized in 1976 by a 5-volume report by the Church committee. Our intelligence gathering and analysis capability—especially human intelligence and linguists—was gutted in the 20 years that followed, particularly in the 1990s, when the Congress did not adequately fund the intelligence community.

President Clinton relied on this same analysis of the Iraqi threat when he signed the Iraqi Liberation Act. The Congress relied on this same intelligence when we passed several resolutions regarding Iraq; President Bush relied on this intelligence when making his decisions as well. Many have asked whether I want to change my vote given today's assessment of pre-war intelligence—I do not.

Saddam Hussein was a mass murderer who used weapons of mass destruction on his own people; supported terrorism and trained terrorists; provided "bonuses" to the families of terrorists; a destabilizing factor in the Mideast.

Let's not play armchair quarterback by asking "what would have happened if." The country would be much better served if the Congress and the President took action as soon as possible to fix the organization, leadership, and oversight problems that we have with our intelligence community.

When the American people read the Intelligence Committee's report, they will see some fundamental things that need to be changed in the intelligence community. First and foremost it is evident that the Director of Central Intelligence does not really control all aspects of the intelligence community. In fact, as I have said, 80 percent of intelligence dollars go to the Department of Defense, not the CIA. Moreover, many of people that lead the 15 agencies that comprise the intelligence community work for the Department of Defense, not the Director of Central Intelligence.

To fix this problem, Senator FEINSTEIN and I are about to propose legislation that will establish a Director of National Intelligence—or DNI. The DNI will be a Cabinet-level position that will lead the intelligence community, and be responsible for aggregating intelligence for the President.

As for the specific processes that cry out for reform, the report focuses on two in particular. One, layering of uncertain conclusions—judgments were layered upon other judgments, and specific concerns and uncertainties were simply lost; two, group think—because we knew Saddam Hussein had weapons of mass destruction, and used them on his people, any data that appeared to support this continued behavior was viewed favorably, and dissenting data was discounted or underreported.

Those “process” types of deficiencies quickly lead one to ask: How can the intelligence community provide better oversight and supervision of “expert” analysts; and how can the Congress provide more effective oversight of the intelligence community? There are clearly process reforms needed within the intelligence community, and Congress’s oversight of that community.

I know that Chairman ROBERTS and Vice Chairman ROCKEFELLER, are very concerned that our intelligence community is broken, and are committed to taking action in the coming weeks and month to address many of the most critical deficiencies.

With particular regard to congressional oversight, I believe that there are some fundamental things that need to be changed such as term limits of committee members. Currently, members can only serve on the Senate Intelligence Committee for 8 years. That means that when they know enough to be conversant in the intelligence business, they need to rotate off of the committee. We need intelligence committee members who can speak the lingo and understand the processes. Consequently, term limits need to be eliminated.

Also, the jurisdiction of the Intelligence Committee regarding classified matter is sometimes muddled due to overlap with the Armed Services Committee. I submit that a simplified approach to jurisdiction could enhance oversight and accountability.

The process of document classification and redaction also needs to be reviewed. When the Intelligence Committee first prepared this report, the CIA recommended that about half of it be redacted. I understand the need to protect the names of sources and intelligence methods. But I can tell you that most of those redactions were not of that nature; they were everyday, unclassified words.

The report you see today is less than 20 percent redacted, and the Intelligence Committee is still working with the CIA to release more of the report.

Notwithstanding, it is my belief that in matters such as these, the CIA is too

close to the intelligence process to provide an objective view of what really needs to be classified. Consequently, I am working with Senator WYDEN to propose legislation that will establish a small independent group under the President that will review documents such as this report to ensure that classification decisions are independent and objective. In addition, I urge the President to nominate as soon as possible a candidate to serve as the Director for Central Intelligence.

This is a critical time of this Nation as we fight the global war on terrorism, and we need to have effective leadership in-place at the CIA as soon as possible. As we make progress in fixing the intelligence community, I repeat my call to both sides of the aisle to not politicize the issues or the prospective remedies. We owe it to the American people and to the members of the intelligence community to fix the fundamental problems outlined in this report, and create an intelligence community that can best serve the national security interests of the United States.

We are part of the problem. Let’s find the solution.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### FEDERAL MARRIAGE AMENDMENT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S.J. Res. 40, which the clerk will report.

The assistant legislative clerk read as follows:

A motion to proceed to consideration of Senate Joint Resolution 40, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

The PRESIDING OFFICER. Under the previous order, the time until 8 p.m. shall be equally divided between the chairman and ranking member or their designees.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I take this opportunity, before we continue with the debate, to talk about how important it is that we debate in an earnest and sincere way the issue of marriage. Marriage does matter. It is important to the American people.

We heard earlier comments about how bringing up issues such as class action lawsuits, the marriage amendment, and trade were just wasting the Congress’s time. Yet the other side doesn’t think it is a waste of time to raise taxes, to increase more laws so we have fewer and fewer rights, to restrict the free enterprise system, and in a sense create more government.

In the debate on marriage, we are trying to accomplish a number of

things. No. 1, we want to define marriage as the union of a man and a woman. No. 2, we want to restrict the action of the court’s ability to define marriage. Then, No. 3—and perhaps the most important part of this debate—we want to give the American people an opportunity to debate this through their elected representatives in the Congress here and in the State legislatures.

It has been a grassroots type of process from the bottom up. We have heard a lot of concerns from people all over America about the way the courts are dealing with the issue of marriage and their frustrations in not being able to address this issue.

We heard a lot of good comments from some of my colleagues yesterday in debating the marriage amendment. In favor, we have had Senators HATCH, SANTORUM, SMITH, FRIST, BUNNING, KYL, CORNYN, SESSIONS, LOTT, and BROWBACK—all explaining why it is important that we move forward in passing this amendment.

We have heard pretty much procedural arguments from the other side. Our side was talking about their concern about losing the institution of marriage, that it is basically a fundamental building block of society, and if we want democracies such as the United States to survive, we need to have good, functioning families. If families do well, children do well. We will hear more about that today. Then we will hear about the democratic process in which we allow American citizens to participate. This is the essence of what we were talking about yesterday and the inevitability of what is going to happen through our courts, that there is a master plan out there from those who want to destroy the institution of marriage to, first, begin to take this issue to a few select courts throughout this country at the State level.

We begin to see this in States such as Vermont and Massachusetts and a number of other States, and then proceed up through the States; and once they get favorable rulings from a few courts that are dominated pretty much by activist judges and judges who want to ignore the tradition of marriage for thousands of years, and want to bypass the legislative process—then once they have established their basis, they want to take it to the Federal courts, and they will eventually move it to the Supreme Court.

We heard arguments yesterday about how Members of this Congress and constitutional scholars believe that the Supreme Court—if it reaches the Supreme Court—by a very slim majority is probably prone to rule in a way that would eliminate the traditional family as we know it.

So this is an important issue. It is a very timely issue. We have 46 States that have individuals living in them—at least 46—who have same-sex marriage licenses. They have been granted them as a couple through either Massachusetts or Oregon or California. We

have 11 States that have had court cases filed in them today. So the platform for action from those who favor same-sex marriages has been well established.

Now, in reaction to that, we have some 48 States that have laws they have passed supporting traditional marriage—that being a union between a man and a woman. At least 10 States have constitutional amendments on the ballot. We have at least 3 States still gathering petitions. So more than 20 percent of the States have constitutional amendments that will be pending before them as we move into the election cycle.

Mr. President, I am sympathetic to this idea of federalism. I am sympathetic to the idea that we need to protect the definition of the traditional family. Federalism does not demand that we redefine the family. More important, it does not demand that we stand idly by while the courts redefine marriage for us, without giving us an opportunity to act.

This is an important issue, and it is very timely that we have this debate today in the Senate, a debate in which we try to define marriage and limit the rule of the Federal court and we allow States, through a democratic process, to proceed as they see fit toward providing benefits through civil unions or domestic partnerships. Marriage simply should not be left to the courts alone.

In my view, a large majority of Americans are with us. Marriage matters. It matters to children and it is a societal building block.

I had an opportunity to review the testimony of Governor Romney from Massachusetts. I ask unanimous consent that his testimony be printed in the RECORD as it was presented to the Committee on the Judiciary.

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

TESTIMONY OF HON. MITT ROMNEY

Chairman Hatch, Senator Leahy, Senator Kennedy, distinguished members of the committee, thank you for inviting me to testify today.

As you all know, last November a divided Massachusetts Supreme Judicial Court reformulated the definition of marriage according to their interpretation of the Massachusetts Constitution.

As I am sure you also know, I believe that decision was wrong. Marriage is not “an evolving paradigm,” as the Court said, but is a fundamental and universal social institution that bears a real and substantial relation to the public health, safety, morals, and general welfare of all of the people of Massachusetts.

The Court said that the traditional idea of marriage “is rooted in persistent prejudices” and “works a deep and scarring hardship on a very real segment of the community for no rational reason.” Marriage is “a caste-like system,” added the concurrence, defended by nothing more than a “mantra of tradition.”

And so the Court simply redefined marriage, and, based on their reading of the Massachusetts Constitution, declared that “the right to marry means little if it does not include the right to marry the person of one’s choice.”

This is no minor change, or slight adjustment. It is a fundamental break with all of our laws, experiences and traditions.

When some in the state Senate asked whether a “civil unions” bill would satisfy the ruling, the Court rejected the alternative, writing that traditional marriage amounts to “invidious discrimination” and that “no amount of tinkering would remove that stain.”

In response, our legislature proposed a constitutional amendment that “only the union of one man and one woman shall be valid or recognized as a marriage in Massachusetts,” and establishing civil unions for same-sex couples. While I do not think civil unions should be written into the constitution, the main and laudable effect of the amendment would be to overturn the Court’s decision.

This was the first step in the legitimate process, by which the representatives of the people turn to the sovereign people to decide this momentous issue. But it takes time to amend the constitution in Massachusetts. The legislature must pass this amendment again, and then it would be submitted to the people for consideration.

Because it will take time to follow the process of constitutional amendment in the Commonwealth, I asked the Massachusetts Attorney General to call for the Court to withhold their pronouncement until the people could consider the question, so that they would not be excluded from a decision as fundamental to our societal well-being as the definition of marriage. He declined to do so.

Several last minute challenges to the decision were also summarily rejected.

So, as a result, on May 17, the Commonwealth of Massachusetts began issuing marriage licenses to persons of the same sex. These licenses are valid for up to 60 days and are filed with the State Department of Public Health two months after a marriage has taken place. Therefore, we do not have official statistics and information yet from our Department of Public Health. However, the Boston Globe recently surveyed the 351 cities and towns in Massachusetts and the results of their survey do provide some information on the activity since May 17.

According to the Globe, in the first week that the issuance of marriage licenses to same-sex couples became legal, over 2,400 such licenses were issued. The vast majority of these licenses were issued to Massachusetts residents, because our state does have a law which prohibits couples from entering into valid marriages in Massachusetts if there is an impediment to marriage in their home state. Applicants are required to sign a form signifying their intent to reside in Massachusetts in order to receive a license.

Originally, we were aware of six communities where the clerks refused to honor that law. The Globe reports that at least 164 out-of-state couples, from 27 states and Washington, DC, were issued licenses by these clerks. 56 of those couples specified on their application that they do not intend to move to Massachusetts. For those couples whose unions would not be recognized in their home state, according to Massachusetts law, their marriage is null and void.

At my request, the Attorney General directed the city and town clerks to comply with the existing Massachusetts law, and it is my understanding that currently, all the cities and towns are in compliance. Legislation is pending in the Massachusetts legislature which would repeal this residency law and, although it has passed the Senate, it doesn’t appear likely to pass the House in the short period remaining before adjournment.

Nevertheless, other actions are underway to eliminate the residency requirement. Two suits have been filed against this law, one

from a dozen Massachusetts towns and another from several same-sex couples from Maine, New Hampshire, New York, Rhode Island and Connecticut. The couples argue that this new right is so powerful that denying it to non-residents violates the Massachusetts constitution, as well as the Privileges and Immunities Clause of the U.S. Constitution.

With the inauguration of same-sex marriages, a plethora of legal and regulatory issues are now arising. Although we will eventually be able to sort these issues out, it will take time. And, more importantly, we must move through many of these issues without the benefit of adequate time for full consideration of all the impacts. I expect that we will continue to see new issues arising for the foreseeable future as the Commonwealth struggles to understand all the changes that will now be sought due to this judicial ruling.

A number of the issues we are now reviewing relate to state benefits. In some cases, we have been in contact with the federal government to understand their position on the eligibility for benefits that are provided by the state but funded by the federal government. For example, we have been told that we cannot use federal funds to provide meals for an elderly same-sex spouse if the person’s eligibility for the services is due to their spousal status. We have not heard yet from the Veterans Administration as to whether we can bury two same-sex spouses at our state Veterans cemeteries. Medicaid is a particularly interesting situation. Under our state laws, we use federal income eligibility guidelines. In this case, since the marriage is not recognized by the federal government, the person will be deemed eligible for Medicaid based on their individual income, not their two-spouse income. And, CMS has confirmed that federal matching funds will be available in this instance. However, if the person is eligible for Medicaid due to their spousal relationship, federal matching funds cannot be used since the federal government does not recognize the marriage. Similarly, CMS has notified us that federal transfer of asset rules regarding spouses will not apply, nor will spousal impoverishment provisions apply, to same sex spouses.

There are other very troubling issues. We now must consider whether to amend our birth registration process, which currently requires the name of a mother and a father. Should we change our birth registration document to read “Parent A” and “Parent B”? What impact would this have on child support enforcement, considering that birth certificates are a critical tool that are used to find and force absentee fathers to provide child support.

A number of legal issues are expected related to divorce and inheritance rights, particularly regarding those couples who move out of Massachusetts to states where their marriage is not recognized. The private sector is also beginning to grapple with ramifications of this change. We have been told anecdotally that some companies may be dropping domestic partnership benefits now that same-sex couples can wed, thus eliminating a benefit that was available in the past. Pension issues are also expected to arise, particularly for surviving spouses who do not meet the requirement for number of years married when marriage was not legal prior to May 17.

These issues will not be confined to Massachusetts alone. Our state’s borders are porous. Citizens of our state will travel and may face sickness and injury in other states. In those cases, their spousal relationship may not be recognized, and it would be likely that litigation would result. Massachusetts residents will move to other states, and

thus issues related to property rights, employer benefits, inheritance, and many others will arise. It is not possible for the issue to remain solely a Massachusetts issue; it must now be confronted on a national basis.

We need an amendment that restores and protects our societal definition of marriage, blocks judges from changing that definition and then, consistent with the principles of federalism, leaves other policy issues regarding marriage to state legislatures.

The real threat to the states is not the constitutional amendment process, in which the states participate, but activist judges who disregard the law and redefine marriage in order to impose their will on the states, and on the whole nation.

At this point, the only way to reestablish the status quo ante is to preserve the definition of marriage in the federal constitution before courts redefine it out of existence.

Congress has been gathering evidence and considering testimony about the need for a constitutional amendment to protect marriage. The time fast approaches for debate, and then decision.

The decision you will make will determine whether the American people will be allowed to have a say in this matter, or whether the courts will decide this matter for them.

At the heart of American democracy is the principle that the most fundamental decisions in society should ultimately be decided by the people themselves. Surely the definition of society's core institution, marriage, is such a decision.

Let me conclude with this point: Despite the warning signs, the Massachusetts Legislature hesitated, and refused to act. But the court had no such reluctance, and acted decisively. Now on the defensive, the legislature has begun the long and difficult process of amending the Constitution to undo what the Court has done. But it may soon be too late.

This is what happened in Massachusetts. It is in your hands to determine whether or not this will be the fate of the nation.

Mr. ALLARD. Mr. President, if you read carefully through his testimony, he talks about the fundamental change that is happening in Massachusetts and many of the issues that he as a Governor in a State that has a court that actually went contrary to the wishes of the legislature to redefine marriage as something different than a union of a man and a woman. He talked about the effect that this redefinition is having on such basic programs as meals for the elderly and veterans and spousal benefits, burial rights, Medicaid, birth registration process, child support enforcement, inheritance, private sector, how employees are struggling with this particular issue. He makes a very important point that States are porous. So what is going on in Massachusetts has the potential to have an impact on other States, particularly if this gets to the U.S. Supreme Court, or we find the U.S. Supreme Court deciding to overrule DOMA, the Defense of Marriage Act, and decide that somehow or other it is unconstitutional.

Many of us have looked at what has happened in other countries where they have liberalized the marriage laws, particularly the Scandinavian countries and the Netherlands. In the Scandinavian countries, for example, for a number of years they have recognized same-sex marriage. As a result of that, there has been a very disturbing trend

in that more and more children are born out of wedlock. In fact, if you look at the figures today in some of the Scandinavian countries, well over 50 percent of their children are born out of wedlock. We looked, more recently, at what has happened to the Netherlands—a country which traditionally, before 5 years ago, had a very strong record as far as children being born in wedlock, a country that promoted the idea of traditional marriage. But they have changed; they changed the definition of marriage, and they allow same-sex marriage. They are seeing that now there is an alarming increase in the number of children that are born out of wedlock.

We are faced with a challenge from the courts that will fundamentally change this society in America if the Congress does not act. We heard arguments yesterday about the Goodridge case in Massachusetts and Lawrence v. Texas, using the privacy issue, combined with the good faith and credit laws of the Constitution, and how the courts are setting the groundwork to overturn what traditional marriage means in the United States.

So it is very appropriate that we have this debate now. It is very appropriate that we have a full debate. I have been rather disappointed that we have not had more actual debate on the meaning of marriage from the other side. We have had debate about procedure, and I think there is a frustration about procedure. But I want the American people to understand that there is a fundamental difference between the way Republicans do business and the Democrats do business. We believe in a bottom-up approach. So we work for a consensus. I spent a long time at the very start of this process looking at a number of proposals on how we are going to amend the Constitution, working with grassroots groups and with my colleagues, and working with constitutional scholars.

We eventually came up with a conclusion, with the Judiciary Committee putting the final touches on the amendment, that the kind of language we need is what is now embodied in the amendment that is up before the Senate today for debate. This is where we developed the consensus. When you develop a consensus, that doesn't mean other ideas cannot come forward. As we strive, then, the next step is to strive for consensus on the Senate floor. I have been working personally with Senator GORDON SMITH from Oregon. He and I have been working together to strive for consensus.

So this idea that all of a sudden we would just deal with the first sentence in this amendment is not anything that is an unexpected result on this side because we recognize that perhaps maybe we cannot get an ideal amendment to move forward, perhaps maybe we have to work toward another version of the amendment that I have introduced that would allow for us to establish a consensus on the Senate floor.

That is where Senator SMITH has come in with his proposal, and actually he does it at the request of myself and other Members of the Senate because we are working for a consensus. That is what the Senate is all about. So I hope that we can get serious participation from the other side in the debate on this floor; we do have a number of Senators on the Republican side who want to continue to talk about how important marriage is.

So my hope is that we can move forward in a civilized and thoughtful manner on how important traditional marriage is to America, and to give the American people an opportunity to participate.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I am glad to hear Senator ALLARD say he welcomes the debate because that is the reason I came to the Senate floor today: to debate this issue. As someone who has been married 42 years, as a Democratic woman, I believe I can talk about marriage and what we need to do to strengthen marriage.

Unfortunately, there is not one item on the table here that strengthens marriage and helps people stay married, that helps the family, and that is going to be part of what I talk about.

It is interesting that Senator ALLARD said there is a great difference between Republicans and Democrats on this issue. I beg to differ with him. You cannot say you stand and speak for all Republicans today. In the "Roll Call," it says:

True Conservatives Oppose the Federal Marriage Amendment.

George Will:

Amending the Constitution to define marriage as between a man and a woman would be unwise for two reasons. Constitutionalizing social policy is generally a misuse of fundamental law. And it would be especially imprudent to end state responsibility for marriage law at a moment when we require evidence of the sort that can be generated by allowing the states to be laboratories of social policy.

That is George Will, a Republican syndicated conservative columnist.

Then we have Lynne Cheney, wife of DICK CHENEY, a Republican:

I thought that the formula [Dick Cheney] used in 2000 was very good. First of all, to be clear that people should be free to enter into their relationships that they choose. And, secondly, to recognize what's historically been the situation, that when it comes to conferring legal status on relationships, that is a matter left to the states.

That is none other than Lynne Cheney, the wife of the Republican Vice President, a Republican herself and conservative.

Then there is Bob Barr, former Congressman from Georgia and author of the Defense of Marriage Act:

Marriage is a quintessential state issue. The Defense of Marriage Act goes as far as is necessary in codifying the federal legal status and parameters of marriage. A constitutional amendment is both unnecessary and needlessly intrusive and punitive.

Bob Barr.

Senator Alan Simpson, a former Senator from Wyoming, Republican conservative:

A federal amendment to define marriage would do nothing to strengthen families—just the opposite. And it would unnecessarily undermine one of the core principles I have always believed the GOP stood for: federalism.

That is Alan Simpson, a former Republican Senator.

Then Lyn Nofziger, former White House Press Secretary and assistant to President Ronald Reagan, a Republican:

There are two kind of amendments. One kind would give the federal government more authority, usually at the expense of the states, and broaden its intrusions into the lives of its citizens. These include—

And he lists the ones with which he disagrees, with which I do not agree. He says the equal rights amendment would do that. He also says that proposals to ban same-sex marriage and abortion would violate federalism.

He says:

I favor neither of the latter two but I oppose constitutional amendments that would ban them.

In other words, he agrees that gay marriage is not what he supports, but he does not believe in this constitutional amendment.

Mr. President, I say to Members of the Senate and anyone else listening to the debate, let's be clear, when the manager stood up and said Republicans and Democrats have a different approach, he forgot about a few Republicans who do not agree with him: George Will, Lynne Cheney, Bob Barr, Alan Simpson, and Lyn Nofziger. And by the way, quite a few on his side of the aisle stated they do not support the amendment. Let's be clear here, this is not a question of Republicans versus Democrats.

After today, we have 27 legislative days until adjournment—27 legislative days to deal with the most pressing issues of the country.

There were three developments around here in the last few days that underscore the work we should be doing right now.

First, we were all summoned to the secret briefing room here in the Capitol and told we were under the threat of attack from al-Qaida between now and election day. Why is it that I can tell you this if it was secret? Because it has been all over. Immediately from that room came Tom Ridge, the head of the Department of Homeland Security, to a press conference to announce this threat. This is serious. Let's put up what Tom Ridge said so my colleagues can see it for themselves:

Credible reporting now indicates that al-Qaeda is moving forward with its plans to carry out a large-scale attack in the United States in an effort to disrupt our democratic process.

July 8, 2004.

I have a question to my colleagues in the Senate and to all Americans who

may be listening to this debate: What is more important to you, what is more a threat to you—al-Qaida moving forward with its plans to carry out a large-scale attack in America to disrupt our democratic process or two people who happen to be of the same gender moving in together down your street?

Let us be honest. However we feel about gay marriage or civil unions or domestic partnerships, however we feel on those matters, what is more of a threat to you and your family? You need to ask that question, put aside politics, and whatever answer you come up with, I have to believe most would say al-Qaida, not Mary and Carol or Jim and Carl, but al-Qaida, people whose names we do not know.

That is the first thing that happened last week. What else happened. A new report was released showing that the intelligence of our country is in disarray, intelligence we relied upon, intelligence that was used to make the case for war where more than 800 of our beautiful Americans are dead and 5,000 or more of them are injured, some without legs, some without arms, some who will never be the same, most of whom will never be the same.

What is more important to America today? Fixing the intelligence problem—we do not even have a head of the CIA; maybe it is time we thought about getting someone to be permanently in charge—or worrying about two people of the same gender who move in together down your street? I believe you need to ask yourself that question as you watch us in the Senate in this debate: What is more important to you, to your family, to your security, to your children?

Some of you are worried about a draft; you are very worried about a draft. What is more important—fixing our intelligence, making sure al-Qaida cells are drummed out of this country?

By the way, I looked at reports from this administration 30 days after 9/11, and do you know what they told us? Al-Qaida was in 45 countries, including America. Not one cell was in Iraq. Instead of going after al-Qaida, we turned around and went into Iraq based on faulty information.

Our people are dead and dying to this minute, to this day, to this moment. I visit them at Walter Reed, and I see the damage done. There are many Californians. I pay tribute to every one of those brave, unbelievably patriotic, caring members of the armed services who have given their lives with honor, deep honor when your Commander in Chief asks you to sacrifice yourselves for a decision he has made. You are honorable. And, no, you did not die in vain when your Commander in Chief asked you to go. Of course not.

I ask you, with our people dying every day, with the intelligence failures we have seen—and by the way, in my opinion, not only was the intelligence wrong, not only was it misused, not only was it misinterpreted, it ap-

pears to me there was pressure brought to bear to skew that intelligence, and that is the next phase of our inquiry that we will go into.

What kind of pressure was put on people to come up with an opinion? How does that relate to all of this? Because we are not talking about ways to stop al-Qaida. We are not talking about ways to fix our intelligence. We are talking about amending the Constitution of the United States, which is a very serious thing to do. It has hardly been done in the history of our Nation. Our forefathers were brilliant about making a constitution that is so flexible that we do not have to amend it every other day, but that is what we are doing about two people of the same gender who may want to care about each other. That is what we are doing today. That is what we did yesterday. That is what we did Friday. That is what we will do tomorrow. If the Senate proceeds, that is what we will do for the immediate future.

I hope the Senate will not proceed to it with all that we have to do.

There is a third thing that happened. In addition to being warned by Tom Ridge, in addition to being told by a bipartisan committee that our intelligence is in disarray in this country, there is something else new. We have news yesterday that discussions are being held within this administration about whether and how to possibly postpone elections if there is an attack on election day or in and around election day.

To this Senator, to even consider postponing our elections, the most ardent symbol of American democracy, because of terrorist threats is nothing more than allowing the fear that they bring to rule this country. This country is too strong for that. This country is too great for that. With our men and women overseas, literally dying for the rights of other people to vote, how could we even consider postponing the election?

If this administration is so concerned about the possibility of terrorist attacks—and to listen to them and to read this clearly they are—and if they are even seriously thinking of disrupting the centerpiece of American democracy, then our priority in the Senate and in the administration should be how to best defend against those attacks, not how to close polling places. Talk about misplaced priorities. It is worse than Alice in Wonderland. One has to pinch themselves, in light of all that we know, that we are more worried as a Senate about two people of the same gender caring about each other wanting to visit each other in the hospital than we are about these unbelievable threats that are facing our Nation, and we are not doing anything about that.

Let me tell the American people who may be listening, as well as my colleagues, what is not being done to make them safer. We do not yet have a port security bill which has been voted

in a unanimous fashion out of the Commerce Committee. It would create command and control centers to improve security at America's ports. There has been no action by the full Senate.

My understanding is the bill was going to be brought here and there were difficulties with it on the other side of the aisle; the Republicans did not want to bring it up. Rail security, another bill voted unanimously out of the Commerce Committee, on which I serve, again there has been no action by the full Senate.

I have to say, in every report one reads Madrid is mentioned. The rail security problems are major.

So here we have a port security bill that unanimously came out of the committee, a rail security bill that unanimously came out of the committee, and those on the other side, the Republicans, are objecting to bringing those bills forward.

Transit security, \$5 billion over the next 3 years to improve security on local transit systems approved by the Banking Committee in May, and there has been no action by the full Senate. Nuclear plant security, a bill to assess threats to and require improvements at nuclear facilities approved by another committee that I sit on, the Environment and Public Works Committee, there has been no action by the full Senate. Chemical plant security, a bill to require chemical facilities to have and implement a new security plan to protect against terrorist attacks approved again by the Environment and Public Works Committee October 2003, no action by the full Senate.

Airline security, the administration is cutting the number of air marshals. I had the privilege of writing the language in the air security bill that we passed after 9/11 to put air marshals on high-risk flights. What do we see? Cutting back on air marshals, not training enough pilots for the Federal flight deck officer program that allows for pilots to carry a weapon in the cockpit if he or she is trained as a sky marshal. The administration is not moving forward with that at all. They are slow-walking it. They have approved only a few pilots.

What about the threat of shoulder-fired missiles? I have been working on that with CHUCK SCHUMER, STEVE ISRAEL, and others. They are slow-walking these countermeasures. We know there are tens of thousands of shoulder-fired missiles. Terrorist groups have them. They can buy them for very little money on the black market. We know that aircraft have been shot at and shot down. What are we doing about it? Again, slow-walking this.

While Air Force One is protected when the President travels, he has countermeasures on that plane, and I fully support it and thank goodness we have it, but if we can do it there—and in Israel they can protect their commercial airlines—why can we not do it

here? I will tell my colleagues the reason. The other side does not want to bring up these issues. They want to worry about two people of the same gender caring about each other and they are going to make a whole deal over this for days and days.

We have been warned over and over again. The FBI warned us a long time ago about the threat of shoulder-fired missiles. They are slow-walking that. They are holding the port security bill at the desk, the rail security bill at the desk, the transit security bill at the desk, the nuclear plant security bill at the desk, the chemical plant security bill is being held at the desk.

How about the COPS Program? We all supported that. We want to put 50,000 more cops on the beat. We put 100,000—and I see my colleague, the senior Senator from California, and I know about the great work that committee did on the COPS Program. But, oh, no, the Bush budget request cuts the COPS program by 87 percent and no new hires.

So now we see why the Republicans want to talk about gay marriage. They cannot point to anything they have done in the past to make us safer.

Firefighters, the Bush budget cuts firefighter assistance by one-third and provides no funding for the SAFER Act to hire 75,000 new firefighters.

We all remember the heroes after 9/11 and how everyone, Republican and Democrat, rallied around our firefighters. The cynicism around this place is unbelievable.

First responders, the bill to provide FEMA assistance to local first responders was approved by the EPW Committee in July of 2003. There has been no action by the full Senate.

So I have shown—and I have not even gone into them in great detail—what we ought to be doing if our focus is defending our homeland.

It seems we do not have any problem focusing our resources abroad, trying to bring democracy to others while this administration seems completely at a loss on how to protect us at home. It is extraordinary to me. To come out to a microphone and say to the American people, look at these threats, here are Tom Ridge's own words:

Credible reporting now indicates that al-Qaida is moving forward with its plans to carry out a large-scale attack in the United States in an effort to disrupt our Democratic process.

We then hear proposals discussed on how to delay the elections. This is pretty clear. But any leader who gives you this, and then doesn't step to the microphone and say: And, American people, we know how to protect you; we know how to make our ports safer; we know how to make our railroads safer; we know how to protect you against a guerrilla attack against a nuclear powerplant—oh, no, they give out iodine pills. That is what they do in this administration. They send iodine pills to people who live within 100 miles of a plant so they can be "protected" from cancer. It is extraordinary to me.

The other thing they do is they hold press conferences on the war in Iraq. Then they say it is going to get worse before it gets better. I don't understand that kind of leadership. Maybe I am old fashioned, but I think leadership is about seeing a problem and fixing it to the best of your ability—laying out the plans on how you are going to fix it. If you do not do that, you fail the test of leadership.

We need to be stronger at home. We need to be respected abroad. Senator KERRY and Senator EDWARDS are taking that message across this country. What I am trying to say today is that message is real.

I am saying there are many things we can do. I have just laid out 10 things we should be doing now instead of worrying about two people of the same gender moving down the street who happen to care about each other. But all we hear about is the fear part, and no plan. Remember how we had no plan for Iraq, except the military plan which was brilliantly executed, but then there was nothing after it? We have no plan to protect our homeland.

It is time to stop the fear mongering like this, unless you are going to say what we are doing to make us safer and carry it out. We have to start protecting our people, our homeland, and our democracy at home. But, again, what does the administration want to do? A constitutional amendment to prohibit gay marriage. A constitutional amendment that will deny—and make no mistake about it—millions of Americans equal rights because even if it doesn't say so explicitly, it will mean that those in domestic partnerships or in civil unions—which I strongly support—will not get equal rights or equal responsibilities.

Let's be clear. The authors of this amendment say it has nothing to do with domestic partnerships or civil unions; those are fine.

No, I will have later in my statement the lawyers who tell us that, in fact, it will be impossible for domestic partners or civil unions to receive anywhere near the same rights or responsibilities as married couples. This constitutional amendment, if it passes, would guarantee legal challenges to civil unions and domestic partnerships, as I said. That is David Reeves, a partner and legal expert at a well-respected law firm here in Washington.

How about the American Bar Association? They say:

The language of the constitutional amendment is so vague that the amendment could be interpreted to ban civil unions and domestic partnerships and the benefits that come with them.

So be clear what you are doing. Even if you oppose marriage between people of the same gender, if you support civil unions or domestic partnerships, you are condemning them because they will not be able to have the same benefits. This constitutional amendment is divisive to this country. It even divided Lynne Cheney from DICK CHENEY. Let's

just look at what DICK CHENEY said before he changed his mind in this election year. This is the statement that now his wife supports:

The fact of the matter is we live in a free society and freedom means freedom for everybody. And I think that means that people should feel free to enter into any kind of relationship they want to enter into. It's really no-one else's business in terms of trying to regulate or prohibit behavior in that regard.

This is what he says:

I think different states are likely to come to different conclusions, and that's appropriate. I don't think there should necessarily be a Federal policy in this area.

That was DICK CHENEY in the year 2000. Now, because the President has decided that he needs to do this right now rather than keep us safe from al-Qaida and move forward and help us get our legislative packages through to protect the American people, that this is more important, then Vice President CHENEY now supports the amendment. But his wife Lynne has taken a decidedly different view. I have, in fact, shown you that before. Her comments:

I thought the formula Dick Cheney used in 2000 was very good. First of all, to be clear that people should be free to enter into their relationships that they choose and secondly to recognize what's historically been the situation, that when it comes to conferring legal status on relationships, that is a matter left to the States.

So when I say it is divisive to the country, it has divided Mrs. Cheney from DICK CHENEY and that is just an example of how it divides people.

I will tell you the reason it does. First, it is unnecessary. The States are taking care of this. Second, we are enshrining discrimination into the Constitution, a document that is meant to expand rights. We have never, underline never, amended the Constitution to deny rights, to deny equality.

In his testimony before the Senate Judiciary Committee earlier this year, University of Chicago Law School professor, Cas Sunstein, noted that:

All of the amendments to the Constitution are either expansions of individual rights or attempts to remedy problems in the structure of government. The sole exception being the 18th amendment that established prohibition and that attempt to write social policy into the Constitution was such a disaster that it was repealed less than 15 years later.

The list of adopted constitutional amendments is short but impressive. There are the first 10 amendments, the Bill of Rights, that guarantees important liberties to the American people, from freedom of speech and the press, to the right to be secure in our homes, to the freedom of religion. It is the 13th, 14th, and 15th amendments that undid the terrible injustices of slavery, ensuring African Americans the right to vote and guaranteeing everyone equal protection under the law.

Then there is the 19th amendment that gave women the right to vote. We know what a struggle that was. The suffragettes worked mightily, long and hard.

The 24th amendment banned poll taxes to further ensure that minorities have the right to vote.

The 26th amendment gave 18-year-olds the right to vote. I remember that debate was, if you are old enough to die for your country, you should be old enough to vote in your country.

It is quite an impressive list. It is a short list. It obviously sought to expand freedom and equality, and it did so.

The other day I happened to see my grandchild watching a show. They were singing a song—which I will not sing, so don't panic—which goes like this, in words:

One of these things is not like the other,  
One of these things just doesn't belong.

This proposal before us today doesn't belong in the Constitution of the United States of America. That is why so many organizations, 127, have come out against this amendment. Let's take a look at them. It is a huge list. Many of these groups have absolutely no interest in the debate over same-sex marriage, but they share one common goal: Preventing discrimination from being written into our Constitution. Let me mention a few of these:

The Japanese-American Citizen League says:

The Japanese-American community is keenly aware of what it means to be the target the Government sanctions and implemented discrimination and mistrust. We believe discrimination in any form is un-American.

The National Council of La Raza, the National Black Justice Coalition, the Mexican-American Legal Defense and Educational Fund, the Leadership Conference on Civil Rights, the Labor Council for Latin American Advancement, the American Jewish Committee, the NAACP, the National Asian-Pacific American Women's Forum, the National Hispanic Leadership Agenda say that this will be the first time in history that an amendment to our Constitution "would restrict the rights of a whole class of people in conflict with its guiding principle of equal protection."

These Americans who are in these groups—and by the way, there are a lot of religious organizations in this group: The Religious Action Center, you have a number of religions—the Interfaith Alliance, University Fellowship of Metropolitan Community Churches, Presbyterian Church Washington Office—a lot of these folks, not only do they not want to see discrimination written into the Constitution, but they believe the Constitution is a gift to us. I agree with that—a gift we inherited from giants among men who wrote it 217 years ago. We know no document is perfect, but when we amend the Constitution, it would be to expand rights, not to take away rights from decent, loyal Americans. This great Constitution of ours should never be used to make a group of Americans permanent second-class citizens.

This Constitutional amendment is so flawed it couldn't pass the Judiciary

Committee. The leadership has to bypass the committee in order to get this bill before the full Senate. Sometimes that happens. We have seen it happen with various bills that come to the Senate floor. This isn't just a bill; this is an amendment to the Constitution of the United States. It needs to get 67 votes in the Senate. We don't even know if a majority of the Senate is in favor of it; yet here it is. Instead of doing what they would do to protect our people, this is what we are doing.

This amendment would make it impossible, if it passed, for States to say that two people who love each other, care for each other, and are willing to die for each other, have no inheritance rights, equal hospitalization rights, or equal benefits under the law. That is an outrage.

Don't let anyone tell you: I am for this amendment because it basically says marriage is between a man and woman, but I support civil unions and domestic partnerships. You can't do it. The lawyers tell us that once this is enshrined in the Constitution, the States will not be able to confer equal benefits on civil unions or domestic partnerships. Marriage is not a Federal issue; it is a matter of State law. For some it is a religious issue. Some religions recognize same-sex marriages and some do not. Again, many religions oppose this amendment, including the Alliance of Baptists, Episcopal Church, the 216th General Assembly Presbyterian Church.

When I got married, it was a religious service and I had my civil recognition, so I had both religion and civil present. Guess what. The Federal Government wasn't involved. That was OK. That is the way it has been.

My State has a domestic partnership law. California's law I believe is a good start. It gives same-sex couples many of the same rights and responsibilities as married couples. It isn't perfect. I think we need to do more. But even this imperfect law means so much to some people in California. For this Congress to take that away from them by amending this Constitution is wrong and it is mean spirited. That is what experts tell us will happen. My State has made this decision. Other States are making their decisions. What is wrong with that?

The very same people who are always preaching States rights now feel they must move forward. I already gave you Vice President CHENEY's statement about the fact that we live in a free society, freedom means freedom for everybody, and he didn't think there ought to be a Federal policy in this area. I believe those words of his from the year 2000 stand up. Frankly, the words he is uttering today are just bowing to the political pollsters. That is really a shame. The Constitution is too great a document for it to be used as a political football. The Constitution is too great a document to be used as an applause meter before a convention. Yet that is what we are seeing.

I don't know what message the people who are bringing this to you want to convey. Is it to send a message that certain Americans are inferior? I hope not. But that is a message that is being sent to a lot of people who are hurting right now.

I have heard my colleagues say the reason for this amendment is that the American family is in a fragile condition. One of my colleagues says marriage is under assault by gay marriage or gay relationships.

I want to tell you something straight from my heart. Not one married couple has ever come up to me and said that their marriage is under assault because two people of the same gender living down the street care about each other. If your marriage is under assault because of that, you have other issues that you should deal with.

If we were truly concerned about strengthening marriage and families in this country, I will tell you there are a lot of things we could do, just like we could do a lot of things to make us safer. There are a lot of things we can do.

We have not raised the minimum wage in 8 years. People are trying to hold their families together on a minimum wage. Two people working on a minimum wage are probably just at the poverty line. Why don't we raise our minimum wage and help our low-income families? We could pass a bill to make sure our families and our married couples have the same health insurance as we have. I think it is a great idea. Open it up. We could pass a bill like that. We could pass a bill to make sure all children have a high-quality education. We could fully fund the No Child Left Behind Act. That would take pressure off of our families. Instead of freezing the number of children in afterschool programs—and I have a lot in my heart about that because I wrote the afterschool law with Senator ENSIGN. We have frozen that program for 3 years. We have a million kids in it. That is another one. Open it up. Let these children in. Take the pressure off our families. Take the assault off our marriages. That would really help. Keeping our children safe until mom or dad comes home is something we could do.

Now we have some saying the amendment is needed to stop the activist judges. Not one Federal judge has ruled on the issue of same-sex marriage.

I have to say: Is this a new thing we now have on the other side? Suddenly they are upset about activist judges. I can understand if they are concerned about activist judges. Why did they vote for many of them for the most part? My colleagues voted to confirm James Leon Holmes. Regarding women's right to choose, where was the concern when he said the "concern for rape victims is a red herring because conceptions from rape occur with the same frequency as snow in Miami." He is going to take that opinion that is so wrong and defies science and is so ac-

tivist in nature so he can change the law.

Where was the concern about William Pryor, who our colleagues on the other side of the aisle voted for, who said the Federal Government should not be involved in the business of public education or the control of street crime? Imagine a Republican saying that when it was Dwight Eisenhower who wrote the very first public education bill.

All of a sudden, we have concern about activist judges when they are voting for activist judges every day.

This same William Pryor called the Voting Rights Act, which guarantees voting rights to all of us, an affront to federalism. They didn't have a problem with that.

What about Charles Pickering, who worked to reduce the sentence for a man convicted of burning a cross on the lawn of an interracial couple?

What about activist judges who stopped the State recount in the recent Presidential election and essentially decided that election when most legal scholars said, they won't do it, the Supreme Court will allow a recount to go forward.

On every count, this argument seems to me to be disingenuous and only before the Senate to hurt some people who are going to cast a tough vote, so use it in 30-second spots. Indeed, some of those 30-second spots have already begun.

Shame on us. This job is too important, this country is too great. The Senate means too much to too many people to use it like this. It is not right.

If this was really about activist judges, we would be debating this after a Federal judge has actually acted. By the way, the timing of that would be inconvenient for my colleagues on the other side because no Federal judge will act before the Democratic Convention.

What we see—and it is really sad, but it has to be said—is crass, cold-hearted politics. Distracting attention from the real issues facing our Nation, this constitutional amendment is being used as a weapon of mass distraction. Again, already it is being used in 30-second commercials.

I hope and I pray the people of this country will see this debate for what it is. Members are going to hear a string of speeches: We have to do this because marriage is under assault.

The next question is, If marriage is under assault, what are you doing to help make family life easier for our people, easier for our hard-working people at a time when women and men both have to work because it is so tough, at a time when actual wages have gone up 1 percent but the cost of health care almost 30 percent, the cost of gas up, the cost of college tuition up well over 20 percent, the worst job record in the last 3 years?

Since this administration took over, we have had the worse job creation record since Herbert Hoover. Fewer

jobs are in existence today than when George Bush took over. Do Members want to take the strain off of our marriages, off of our families? Let's have an economic recovery. Let's stop the good jobs from going abroad by giving incentives to create jobs here. Let's raise the minimum wage. Let's assure the people of this country that they will be protected from the threat of shoulder-fired missiles.

When we go up to that secret room upstairs and we are told that al-Qaida is moving forward to disrupt our democratic process and to attack our country, what do we come down here to do? Nothing to take away that threat. Holding bills at the desk, including rail security, transit security, port security, chemical plant security, nuclear plant security—I could go on with the other issues we ought to be discussing. But, no, we do not have time to take care of that.

Now I hear we are going to go to the Australian free-trade agreement after this. I love the Australians and they are great friends of America. But I love the people I represent, too. And when I see threats like this, I cannot sleep at night, worried about it. I didn't come here to stand and debate constitutional amendments that do nothing to make life better for anyone in this country. But that is what they want to do. It is a very sad day.

We are all God's children. No two of us are alike. We have different color eyes. We have different color hair. We have different color skin. We are different genders, different religions, different backgrounds, different views. I come from a State of 35 million people, the most unbelievably diverse State in the Nation. Yes, different sexual orientations is part of that mix. We are all different. Yet we are all God's children. We are all united behind this country and the common cause of freedom, justice, fairness, and equality. That is what unites us.

In this Chamber, we have a job to do. That is to advance the cause of freedom and justice and equality, and to advance the status of our people economically. Doing this does not help any of it.

A constitutional amendment before the Senate is an attempt to use our diversity to divide us instead of to unite us. Ironically, it is being brought by the President and his friends in the Senate who said he would be the great uniter, a healer; that he would change the tone in Washington.

The tone has changed. It is worse than it has ever been in all my years here, and this is the end of my second term in the Senate. I was in the House for 10 years. Before that I was in local government. I have never seen a worse tone.

This constitutional amendment is an attempt to appeal to our prejudice instead of to our compassion, to our hatreds instead of to our hopes, to our fears instead of our dreams. The constitutional amendment is an appeal to

what is the worst in us instead of what is best in us. We are better than that, or we should be better than that.

In his first inaugural address, Republican President Abraham Lincoln appealed to the better angels of our nature. This amendment flies in the face of those words.

Regardless of what anyone thinks about gay marriage, regardless of whether Members are for domestic partnerships or civil unions—which, again, I strongly support—regardless of whether Members support or oppose the laws in their State, this constitutional amendment should be defeated, and the motion to proceed, if it is a vote on that, I hope that fails, as well. The signal will be, when we defeat this motion to proceed, the message we are sending is we want to get to the business of the American people that will make marriages better and stronger, that will protect our people from threat of terrorist attack, not to sit here and talk about a constitutional amendment which the author knows hasn't got one slim chance of passing. He is taking up valuable time on an issue that does nothing at all to help our people.

I urge my colleagues to do the right thing. I urge my colleagues to put the Constitution above any political gain. I urge my colleagues to put the Constitution above their political well-being.

Here is what I have known in the many years I have run for office. When you take a stand out of deep conviction, people know. They may not even agree, but they ask, Do I want someone who is willing to take a hard stand and someone I can trust to do that when the chips are down? They want that. They will see that is what a true patriot is, not someone who reads the polls and says the polls show this or that. The point in the Senate sometimes is to lead. I wish it would be that way every day, but especially it should be that way when there is an amendment to the Constitution. I hope once we dispose of this and vote down the motion to proceed, and they do not get enough votes on that, we can turn our attention to the awesome challenges and the difficult issues we face. Once we send that signal, America will see we did right by the Senate, we did right by our constituents, and we did right by this country that we love so much and we hold so dearly.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ALLARD. Mr. President, I will yield to my good friend from Missouri, but first I will make a couple points.

First, we are just beginning to defend marriage. This debate may go well beyond this year. I anticipate we will have more votes. But the message is, we are just beginning.

Second, this is a moderate amendment. We do allow States the opportunity to find civil unions and domestic partnerships. This is not a civil

rights union. This is not a civil rights issue.

I will have an opportunity later on in our debate this afternoon to talk about these very points.

First, I call on my good friend, the junior Senator from Missouri.

I served with him in the House, and I am proud to call him my friend. He is doing a great job in the Senate. I yield to the Senator from Missouri, Mr. TALENT.

Mr. TALENT. I understand we have about 20 minutes until lunch. May I have the 20 minutes?

Mr. ALLARD. Twenty minutes.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. I appreciate that. I very much appreciate the kind words of my friend from Colorado in introducing me. That is probably more than I deserve, and it is certainly better than I usually get when I stand up to speak on the Senate floor.

We are in the midst of another filibuster. I say that because if I didn't say it, given the Senate procedures, it would not be evident to people that that is what is happening. But we are filibustering yet another measure before the Senate. This one has a little twist to it. Those who are filibustering are willing to allow us to go to a vote on the amendment, if we have no amendment to the amendment. In other words, if nobody wants to offer any amendment to change this amendment at all, to try and perfect it, then they will permit an immediate vote. So what we are told is that we must either have an immediate vote without any changes even being considered or no vote at all.

I suspect that the filibuster will be sustained when we vote on it. It is a shame because this is an important measure, and the people are entitled to see who in this body is for protecting traditional marriage and who is not, because nothing less than that is at stake. Members of the Senate should not be mistaken or deceived by discussions of other issues or attempts to restate what this amendment is about or assurances that we don't really need to do anything and everything will be OK.

The courts of this country are engaged in a process by which they are going to force the people, whether they like it or not, to accept a fundamental change in the basic building block of our society. I kind of think that is important. I think it is worth debating. It is a sign of the regard in which marriage is held by some of those who are filibustering that they don't think it is important enough to be worth debating.

Marriage is our oldest social institution. I was thinking about this the other day. It is not older than the impulse to seek God, but it is older than our formal religions. It is older than our system of property. It is older than our system of justice. It certainly pre-dates our political institutions, our Constitution, even our union in this

country. And marriage may be the most important of all these institutions because it represents the accumulated wisdom of literally hundreds of generations over thousands of years about how best to lay the foundation of a home in which we can raise and socialize our children.

Every society has to be able to do certain things in order to survive. It has to produce wealth, goods, and services so people can live. It has to resolve disputes so that people don't kill each other over problems that they have. It has to be able to raise children who are reasonably content, reasonably well adjusted, and reasonably committed to the norms of that society. It is possible to do that. I put in that word for those in the gallery who may have teenagers as I do. It is possible for children to be reasonably content, well adjusted, and committed to the norms of society. And the way that we do that, the way we have decided over the millennia to do that in this country, and, indeed, throughout the world, is through marriage.

It doesn't always work that way, obviously. No human society, no human institution is perfect. A spouse may die. The marriage may break up. The marriage may be so completely dysfunctional that maybe it ought to break up. People sometimes are single when children are born, and very often in those circumstances the person who is raising the child is able to make it work. They act heroically to raise the child on their own.

If a child in that circumstance went to his mom or dad or aunt or uncle or grandma or grandpa or guardian, whoever was trying to raise him or her on his own and said, When I grow up, when I want to have children, would you recommend that I try and find somebody who is committed to raising the child—say it is a girl—if I try and find a man who is committed to me and committed to the home and committed to raising our children in that context, would you recommend that I do that or not? How many of those single moms or dads or grandmas or grandpas or aunts or uncles who have raised kids or are raising kids, how many would say, No, do it the other way? They would say: Do it that way, if you can.

It is hard under any circumstances. But it is less hard if you have a husband or a wife who is there, who is committed, who wants to help. That is what marriage is about. Americans know that as a matter of common sense. Americans live in this civilization. Americans of all different backgrounds, all different ethnicities, all different religions, all support traditional marriage. They know that, if possible, kids should be raised by a mom and a dad, committed in the context of marriage to their family. Americans know that and have known it. They have built that society and that culture.

The social scientists have figured it out. Here is a representative statement. The Senator from Kansas read a

number of similar statements the other day, but this was by Scott M. Stanley who is a Ph.D. at the Center for Marital and Family Studies at the University of Denver, which my friend from Colorado has the honor to represent. He said:

As a result of decades of accumulated data, many family scientists, from the fields of sociology, psychology and economics, have concluded—

Here is the news bulletin—  
children and adults on average experience the highest level of overall well-being in the context of healthy marital relationships.

And what is marriage? We are entitled to ask that about all our social institutions. What is it? It is not complicated. In short form, it is one mom, one dad, one at a time. Everybody has the same right to get married. There is no discrimination involved in a social institution. Everybody has the same right to get married. But nobody has the right to marry anybody they want to. There are certain restrictions. You can't marry a close relative. You can't marry somebody who is already married. Is that discrimination if we tell people, No, you can't marry somebody if they are already married? That is not marriage. And you can't marry somebody of the same sex.

And why? Because marriage is the institution—remember, it is many things; yes, it is an expression of love and commitment between two people and that is beautiful—that we in our society rely upon for raising our children. And it is best for kids, if possible and where possible, to have a mom and a dad. And that is one thing that two people of the same sex cannot give children. They cannot give them a mom and a dad.

It comes down to this: People in this country are free to live the way they want to live. That is one of our cultural norms that, by the way, marriage supports. Marriage is the building block of a society which believes, among other things, that people should be free. And people are free to live the way they want.

The Senator from California talked about two same-sex people who love each other and want to live together. Legally people are free to do that. But that does not mean that they are free to change the basic cultural institutions on the health of which everybody and everybody's rights depend.

We have models of this around the world. In Scandinavia they have changed traditional marriage, legalized same-sex marriage. The result there is increasingly nobody gets married. Fewer and fewer kids are raised outside of that context. It is not good. If you think it is good, come down here and say that. Say that is why you want to oppose the amendment.

It is worth asking also how we got here. No legislature has acted on this. I haven't heard about hearings in the State legislatures around the country. No referendum has passed. I served in the legislature for 8 years in Missouri

and was proud to do so. I served on the committees that considered family law. We debated a lot of issues involving family law. We changed the law a lot. It has not happened in this country. People have not adopted referendum. In fact, all the actions have been the other way. To the extent that they have passed referendum or laws, they have all been in support of traditional marriage.

So how did we get here?

We got here because a majority of the Massachusetts Supreme Court decided people should have the right to same-sex marriage. Because of the way our Federal system works, it is very likely—whether people want to admit this or not—that other courts will force people in other States to recognize same-sex marriage because one State has. That is the way our system works. It may not happen, but it is quite likely to happen.

When I heard about that decision by the Massachusetts Supreme Court, I asked myself: What about everybody else's rights? What is the most basic political right people in this country, and indeed throughout the free world, have? What is the political right that people in this country have fought and died for for hundreds of years? We see people around the world now heroically fighting for this. The first and most basic right is the right of the people to govern themselves.

The Framers thought that right was so self-evident, you didn't have to argue for it. Maybe we should restate it for the Massachusetts Supreme Court. It means that the only just government is the one that derives its powers from the consent of the governed. That means that every act of any governmental body has to be the result of a process in which the people have, at some time, consented.

In this country, people have to consent to the acts by which they are governed. Typically, they could do that through the process of a representative democracy. They elect people or defeat them, depending on whether they agree with them. We would not tolerate it for a second if a President got up one day and said: I don't like the way our society is functioning; I am going to issue a decree and everybody has to do it differently now.

It would not matter whether we agreed, we would say you don't have the authority to do that. It is because of that basic right of self-government that judges are supposed to construe and apply the law, not invent and impose the law.

Now, the construction may be strict or liberal. Provisions of the Constitution may be vague. But the construction has to be a faithful construction—whether it is strict or liberal—to the proper exercise within the American constitutional system of the judicial power. Even if a provision of the Constitution is so vague that we are not certain what the right answer, the right interpretation is, it doesn't mean

there are no wrong interpretations. It doesn't mean there are no interpretations which clearly are outside of the scope of what the people who wrote the document said or intended.

I want to assert this before the Senate now: It is wrong to say the Constitution of the United States, or any of the several States, contains a right to same-sex marriage. It is intellectually dishonest to claim that the Massachusetts decision was one of interpretation and application, rather than invention and imposition. They were not interpreting the Constitution; they were imposing what they wanted on the people of Massachusetts, without their consent.

In this country, you don't do that. I have been around legislative bodies a long time. I have won some battles and lost some. Sometimes I think I have lost a lot more than I have won. Certainly, when I served in the minority in the Congress and in the legislature, I lost more battles than I won. That is the way the system works. I can live with that. But I don't like being told I have no right to participate. I don't like being told my views are such that I cannot petition the representative process to get what I want out of it.

Unless we pass a constitutional amendment, we will allow the courts of this country to disenfranchise tens of millions of Americans on an issue that is of greater importance to them on a day-to-day basis—because it involves the way in which their children and other people's children are going to be raised—than most of the issues we discuss. If we cannot agree in this body on anything else, we can agree on this: Everybody should have the right to advance their point of view in the legislative process on this issue, and that we can trust the good sense of the American people to produce the right result in the end. I am willing to do that, but the only way we can do that is by passing a constitutional amendment. That is what this country is about.

I have just a few minutes. I will deal with some of the arguments that have been raised against this. One is that this is political. Well, I have been in legislative bodies a long time. When people start talking about a bill or an argument being political, they are really saying that we know if we have to vote on this, we are going to vote in a way that people probably don't like back home, and we would really rather not vote on it.

Let me say this. This is not a battle that my friend from Colorado sought when he introduced this amendment. This battle is being forced upon us by the courts of the country. If you don't want to vote on this, get the Massachusetts Supreme Court to reverse itself. We will go back to what we had before, and gladly so.

Another argument is that we are holding up other business. I say to the people who are making that argument, as I said at great length on the floor of the Senate the other day, you are filibustering the other business. If you

want to go to other business, stop filibustering it. You filibustered the class action bill last week, the welfare bill, the Energy bill, medical malpractice, and judicial nominations. You can filibuster if you want.

Unfortunately, here we allowed very broad filibustering. But one thing you cannot do is filibuster and then accuse everybody else of being obstructionists. That isn't right. Let the other measures go and we will go with them.

Another argument is that we should show more respect for the Constitution and that we should not amend the Constitution. You know, that is kind of a selective argument. That says basically you can amend it through the courts. The courts can amend it any way they want, without regard to the right of the people to govern themselves; but we cannot amend it through the process that the people have provided to amend it. The argument is kind of cheeky. It says we can get court decisions that exclude you from participating in the normal process, so you cannot pass a law to do anything about it. But then, if you go to the constitutional amendment process, which is the only process we have left open to you, you are not showing any respect for the Constitution.

Look, my time is running out. I see a colleague who may want to add a word or two at the end. You are either for protecting traditional marriage or you are not. There is no way around this debate. The courts are forcing it on us. They have changed the law in Massachusetts. People are getting married there and filing lawsuits in other States to challenge those State laws. This is here. We are either going to do something about it or we are not. You are either for protecting traditional marriage or you are not. It is not about homeland security. It is about whether you really think that marriage, as we have understood it for thousands of years, is important in some sense, even if you cannot explain it, to the kind of society we live in. I think so. I know most of the people think so.

My tone has been one of frustration. I am sorry about that. This frustrates me. It is something that, clearly, we ought to do. I don't know anybody who has come down here and argued against traditional marriage. Let's pass this constitutional amendment, work on it for a reasonable amount of time, get it in as good a shape as we can, and do the business the people expect us to do. Let them make their own decisions about their own culture.

I yield the floor.

I thank the Senate, and I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I ask unanimous consent that we allow the Senator from Texas an additional 10 minutes to discuss the Hispanic conference that she is having here.

The PRESIDING OFFICER. Is there objection?

Mr. SCHUMER. Reserving the right to object, I ask unanimous consent to modify the request of my friend from Colorado that after the Senator from Texas speaks on the Hispanic convention for 10 minutes, the Senator from California and I be given an additional 15 minutes to talk about the renewal of the assault weapons ban.

The PRESIDING OFFICER. Unfortunately, the Chair will not be able to preside and has to object to the unanimous consent request.

Mr. SCHUMER. Mr. President, I have no objection to the Senator from Texas speaking for 10 minutes. I ask unanimous consent that when the Senate resumes business at 2:15 p.m., at some point between 2:15 p.m. and 5 p.m. today, we be given 15 minutes to talk about this issue.

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

The Senator from Texas.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, I appreciate this opportunity to talk about the Federal marriage amendment before the Senate. It is important that we focus on this very important issue and look at the reason we are taking it up.

Some people come up to me and say: Why are we doing this now? We already have the Defense of Marriage Act. Additionally, people say: Is this such a pressing issue that it needs to be discussed right now?

I cosponsored this amendment because if we wait until the Defense of Marriage Act is taken through the courts and potentially declared unconstitutional, questions would arise about what marriage is in our country.

I do not think many would disagree that the traditional concept of marriage is what must be protected. Traditional marriage has been the foundation of our families for generations, in fact, centuries. It is best for our children now, and is the best chance our children have for brighter futures.

Inevitably, single-parent households exist due to death or an inability to keep marriages together. But it is proven, that if possible, a married couple, a man and a woman, raising a family give children the best chance to succeed in their lives.

Today, same-sex couples from 46 States have traveled to Massachusetts, California, and Oregon to receive marriage licenses with the intention of returning to their respective States to challenge their State's laws. Forty-two States have specific laws defining marriage as the union of a man and a woman. My State of Texas has such a law.

Activist judges and lawyers have been using the judicial system to undermine the traditional definition of marriage without public consent or debate. This is not just an attack on our families, but also on our democratic form of government. Elected representatives of the people are supposed to make the laws of our country.

In 1996, Congress enacted the Defense of Marriage Act—it was passed 85 to 14

on the Senate floor—to protect marriage by allowing States to refuse to recognize an act of any other jurisdiction that designates a relationship between individuals of the same sex as a marriage.

I have heard arguments that DOMA would not withstand a full faith and credit Constitutional challenge, but we continue to see courts, such as the Massachusetts Supreme Court, and officials in California deny the laws of this country and their particular States.

I do not think the Constitution should be amended lightly. I would like to see our Constitution amended only when it is absolutely necessary to correct a fundamental problem. However, this is one of those times. This is one of those times when we have judges acting as legislators. This must be stopped and can only be stopped by the Constitution.

The full faith and credit clause of our Constitution says:

Full Faith and Credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records, and Proceedings shall be proved, and the Effect thereof.

The full faith and credit clause should not be used by the courts to validate marriages because marriages are not legal judgments, they are civil contracts. Unfortunately, we are witnessing a change where activist judges are making laws with their judgments, and the full faith and credit clause faces enormous challenge.

Currently, there are 11 States facing court challenges to their marriage laws. Recent court decisions indicate that neither State attempts to define marriage nor DOMA may be sufficient to protect the ability of States to define marriage. At least seven States will have State constitutional amendments on their ballots in 2004 to define marriage as between a man and a woman.

In my State of Texas where the legislature passed a law defining marriage as between a man and a woman, controversy now exists about how State courts must treat civil unions. The State attorney general has said that Texas does not recognize Vermont civil unions, and, therefore, no divorce or separation must be granted in Texas for this union.

These are just a few of the questions that are beginning to arise because of the acts of judges in Massachusetts and local officials in California.

It is very important that elected representatives make this decision. People must have the right to hear the discussion, talk about it, and be represented by their elected officials. That is the issue here.

I do not think we will have the votes on Wednesday to proceed to this critical issue, but this is an important step toward starting the debate. Marriage between a man and a woman that produces children and strong families is

fundamental to our society and demands this safeguard. This is the core and fabric of our society.

I hope in the next few days, weeks, and months we have a civilized debate. This is not about being anti-homosexual. Not at all. I think everyone believes gays and lesbians should have the ability to lead their lives as they choose, as should all consenting adults. But we don't want to tear down traditional marriage and the American family. We need to protect traditional marriage. We should not allow some States to impose their definition of marriage on other States. States must have the right to accept or reject anything that has not been demonstrated the will of the people through their representatives.

I appreciate being given the time to speak on this issue. It is an important issue for our country, and I hope we will carefully consider the ramifications if we do not take action to protect traditional marriage and the American family.

I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Nevada.

#### FEDERAL MARRIAGE AMENDMENT—MOTION TO PROCEED—Resumed

Mr. REID. Mr. President, I have spoken to the manager of the bill for the majority and I want to say a few brief words now and then I will yield 30 minutes to the Senator from Wisconsin. Following that, Republicans will speak for whatever time they desire and the Democrats will then follow with remarks by Senator DURBIN for up to 30 minutes.

I simply ask unanimous consent that following my brief remarks, Senator FEINGOLD be recognized for up to 30 minutes; following his remarks the time revert to whatever the majority feels appropriate; following their remarks, that Senator DURBIN will be recognized for up to 30 minutes; then trying to balance out this time, following the reversion back to Republicans, Senator LAUTENBERG will be recognized for up to 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, the Reno Gazette-Journal, a newspaper that has been in existence for many years, a Gannett newspaper in Reno, NV, which is certainly not a bed of liberalism, published a very short editorial today. It says:

The plan to redefine marriage in a constitutional amendment could not be a better election year wedge. The fact that Lynne Cheney, champion of conservative causes, parted company with her husband, Vice President Dick Cheney, on same-sex marriage is illustrative of just how divisive it's become.

Typically, vice presidents support their presidents and political wives back their husbands, regardless of personal feelings. This time, the human aspect of the debate was too much for a political wife to overcome.

As the mother of a lesbian, Lynne Cheney, of necessity, would be finely attuned to all the arguments. And no one should expect a parent to disregard an offspring for a political agenda. Anyway, it is debatable that an amendment would help a traditional conception of marriage. And, some Senators indicate they are less than willing to try.

The administration is wading into deep waters, fracturing families, and merging the church and the state. That's not the way the system is supposed to work. It would be best for government to leave this issue alone.

I am not an avid reader of the Washington Times. In fact, I didn't read it today. But it was brought to my attention and I did read the Washington Times:

GOP split on marriage proposals. Senate Republican leaders, who had been seeking a clear vote on a constitutional amendment on same-sex "marriage," yesterday found themselves outmaneuvered by Democrats and divided over which of two proposals to pursue.

President Bush and Senate Republican leaders support the Federal Marriage Amendment, which defines marriage as the union of a man and a woman and restricts the court's ability to rule on the issue. But some Republicans want to vote on an alternative, simpler version—leaving Republican leaders scrambling. . . .

Let's understand where we are on this issue. Senator DASCHLE, in good faith, Friday, came to the floor and said we need to get to the business at hand. There is an important marriage amendment pending about which people on both sides of the aisle have strong feelings. Therefore, it would be better that we vote on the amendment, the one that has been on the Senate floor. We were told at that time by the majority leader that sounded like a pretty good idea, that he would have to check with his caucus.

Surprisingly, Friday we were unable to get that unanimous consent agreement entered. Monday we come back—no deal. In the morning, we were told they want to vote on two constitutional amendments regarding marriage. In the afternoon, we were told they want to vote on three constitutional amendments on marriage.

It is a simple choice. We are willing to vote on the legislation before this body, S.J. Res. 40. Why don't we do that? The reason we are not going to do it is because the majority has decided they want the issue. They do not care how the votes fall; they want the issue. That is wrong. Everyone should understand this is a march to nowhere, and the majority knows that.

I don't know what is happening around here. Class action is an issue

for which there were enough Members here—Democrats and Republicans—to pass it. The majority would not even allow a vote—not a single vote—on that issue. They want the issue.

They want to bash Democrats as being opposed to any reform of the tort system.

On medical malpractice, on asbestos, on class action they want the issue. They don't want to resolve the issue. One would think the people in the State of Ohio, in the State of Texas, in the State of Nevada, in the State of Wisconsin, in the State of Illinois, and in every other State would know how Senators feel on the amendment before this body.

They are not going to get that chance because we are going to be forced into a procedural vote. That is wrong.

We are willing to vote on S.J. Res. 40. We have said that. We keep saying that, but, no, the issue is more important than the merits of this matter, which is too bad.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, the Constitution of the United States is a historic guarantee of individual freedom. It has served as a beacon of hope, an example to people around the world who yearn to be free and to live their lives without government interference with their most basic human decisions.

I took an oath when I joined this body to support and defend the Constitution. I am saddened, therefore, to be standing on the floor today debating a constitutional amendment that is inconsistent with our Nation's history of expanding freedom and liberty. It is all the more unfortunate because it has become all too clear that having this debate at this time is aimed at scoring points in an election year. Even a leading proponent of this amendment admits that we are engaged in a political exercise, pure and simple.

Paul Weyrich, president of the Free Congress Foundation, recently stated:

The President has bet the farm on Iraq.

So the proper solution, according to Mr. Weyrich, is to "change the subject" from Iraq to the Federal marriage amendment.

Mr. Weyrich also recently stated:

If [President Bush] wishes to be reelected then he had better be up front on this issue, because if the election is solely on Iraq, we're talking about President Kerry.

I am loathe to come to that kind of conclusion. But I believe it to be the truth.

There we have it. This proposed constitutional amendment is a poorly disguised diversionary tactic that is essentially a political stunt.

Will this proposed constitutional amendment create jobs for mothers and fathers, husbands and wives, and stop the flow of American jobs overseas?

Will this proposed constitutional amendment secure a good education for our children? Will this proposed constitutional amendment improve the

lives of American families on any of these issues? Obviously not.

Instead of Congress and the President getting to work on issues that would help American families, we are spending time—in fact a lot of time—on the Senate floor on a poorly thought out, divisive, and politically motivated constitutional amendment that everyone knows has no chance of success in this Chamber. What is even more troubling is that this effort risks stoking fear and encouraging bigotry toward one group of Americans.

So here we are, debating a constitutional amendment in search of a justification. This debate is not really about supporting marriage. We all agree that good and strong marriages should be supported and celebrated. The debate on this floor today is about whether we should amend the U.S. Constitution to define marriage. The answer to that question has to be no. We do not need Congress to legislate for all States, for all time, on a matter that has been traditionally handled by the States and religious institutions since the founding of our Nation. For that reason alone, this amendment should be defeated.

At the outset, let me state in the strongest terms I can that I object to the Senate discussing and debating this proposed constitutional amendment without it first going through the Senate Judiciary Committee. We are here today debating a proposed amendment to our Nation's governing charter. In fact, this is the very first time this particular amendment has even been brought before the Senate, and neither the Judiciary Committee nor the Constitution Subcommittee has debated and marked up this proposal.

One might ask why the supporters of this proposed amendment feel the need to rush to the floor and bypass the committee process. I suspect it is because they fear they do not have enough votes on the committee to approve the amendment and report it to the floor. It may also be that the time it would have taken to examine the amendment and debate it in committee would have interfered with the predetermined political schedule for considering it on the Senate floor. Or perhaps that committee consideration would expose the weaknesses in the amendment and reduce support in the Senate. But in any event, the decision to bypass the committee process is highly unusual and very much to be regretted.

Senate leadership has not previously made a habit of bypassing the committee process when it considers a constitutional amendment. In fact, in this session of Congress alone, the Constitution Subcommittee has held markups on three proposed constitutional amendments: the victims' rights amendment, the continuity of government amendment, and, most recently, the flag amendment. The Judiciary Committee should be allowed to serve its proper role in marking up proposed

constitutional amendments before they are brought to the Senate floor.

Respecting the committee process for any piece of legislation is important. But it is absolutely necessary for proposed amendments to the Nation's Constitution. Amending the Constitution should not be taken lightly. A rush to debate and pass this amendment—particularly since it raises so many questions—is not in the best interests of this body or of this country.

I might add that in the past quarter century, only two constitutional amendments were considered by the full Senate without committee consideration. One of these amendments, involving campaign finance restrictions, was discharged from committee by unanimous consent so it could be debated at the same time as campaign finance reform legislation. The other amendment to be brought directly to the Senate floor was an amendment to abolish the Electoral College and provide for the direct election of the President. What happened on the Senate floor to that amendment is very instructive.

In 1979, the current chairman of the Judiciary Committee, the Senator from Utah, was serving in the position that I hold today, the ranking member of the Constitution Subcommittee. He strongly objected to allowing a constitutional amendment to be brought to the Senate floor without first going through the Constitution Subcommittee and the Judiciary Committee.

Senator HATCH stated the following during the debate in 1979:

As the ranking minority member of the Committee on the Judiciary, Subcommittee on the Constitution, I feel very strongly that there are ways to propose constitutional amendments and there are ways not to propose constitutional amendments. In this particular case, I think this is not the way to propose a constitutional amendment, and especially one that has the potential of altering the basic democratic federalism of the American political structure.

He went on to say:

To bypass the committee is, I think, to denigrate the committee process, especially when an amendment to the Constitution of the United States of America, the most important document in the history of the Nation, is involved.

I could not agree more with the words of a then somewhat junior Senator who is now the distinguished chairman of the Judiciary Committee. His view then is exactly my view now, and I think the whole Senate should take his position very seriously.

His position was supported by another distinguished Republican member of the Judiciary Committee, Senator Alan Simpson of Wyoming, who said the following:

We are talking about amending the fundamental law of the land—the law that controls the creation and enforcement of all other laws, the law that embodies the procedural consensus and most basic values of all Americans, that gives our nation much of its unity and our government its legitimacy. We should consider proposals to amend the Con-

stitution more carefully than any other measure that comes before us.

Senator Simpson continued:

I think the American people would strongly disapprove of what is being attempted here. This kind of procedure should not be used for a constitutional amendment. It is bound to adversely affect—to some degree the legitimacy of the process. I know it will affect us all greatly if this amendment is passed without adequate consideration by the present Senate.

And he added the following, and having served with Senator Simpson, I can imagine the gentle irony in his voice:

Perhaps I will eventually learn that Senators do not have time to make considered decisions even on amendments to the Constitution. . . . However, I am not at that point yet. I trust it will never be bad form in the U.S. Senate to demand respect for the legislative process.

Finally, let me quote the then-ranking member of the Judiciary Committee, Senator Strom Thurmond, who served in this body for nearly a half century and as Chairman of the Judiciary Committee for 6 years. Senator Thurmond strongly supported his colleague, the Senator from Utah. He said:

The best place to study these issues is before the full Judiciary Committee of the U.S. Senate. I see no reason why this committee should be short circuited by this bill not being referred here. If a bill of this nature is not going to be referred to a committee to consider it, I do not know why we need Committees in the U.S. Senate.

Senator Thurmond concluded:

The Judiciary Committee is the proper machinery for referral of this resolution. It is set up under our rules for considering a measure of this kind. It should be utilized and should not be sidestepped as is attempted to do here with this procedure.

This debate, which took place just over 25 years ago, had a good outcome. The Senate voted to send the constitutional amendment back to the Judiciary Committee. Those Senators who urged the Senate not to bypass the committee process prevailed.

Now, a quarter of a century later, we are in a similar situation. All of the Democrats on the Judiciary Committee sent a letter to the Committee Chairman a few weeks ago, urging him to follow regular order on this amendment and let the full Committee and Subcommittee on the Constitution debate and mark up this constitutional amendment. I ask that our letter be printed in the RECORD.

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

JUNE 25, 2004.

HONORABLE ORRIN G. HATCH,  
Chairman, Senate Committee on the Judiciary,  
Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Last week, the Republican leadership announced that it will bring the Federal Marriage Amendment ("FMA") to the floor of the Senate during the week of July 12. Press reports indicate that this particular date was chosen because some want to have a vote on this amendment prior to the Democratic convention at the end of the month. We urge you to prevail upon your colleagues in the leadership to

allow the Judiciary Committee and the Subcommittee on the Constitution, Civil Rights, and Property Rights to debate and mark up the amendment prior to its being taken up on the floor. The Judiciary Committee has a long and productive tradition of considering amendments to the Constitution. We believe that breaking with that tradition in this instance would be a serious mistake.

The FMA has never before been considered by the Senate. It is a controversial measure sure to inspire heated debate on the floor and in the country. So far, four hearings have been held on this topic in both the Senate and the House. Religious leaders, legal scholars, legislators, psychologists and other health professionals, and advocates for children and families are divided on the need to amend the Constitution in this way. It seems clear to us that there is no consensus in the Senate, or in the country, that this amendment is needed or appropriate.

Furthermore, while the language of the FMA has recently been modified, there is still significant doubt as to its intent and effect. In these circumstances, we believe it is premature to consider the amendment at all, but at the very least, consideration by the Judiciary Committee may clarify and even narrow the issues for the floor.

As you know, it is highly unusual for a constitutional amendment to come to the Senate floor without committee action. In the last decade, constitutional amendments relating to a balanced budget, term limits, flag desecration, and victims rights have all gone through the Judiciary Committee prior to receiving floor consideration. The only amendment that received a floor vote without first being marked up in committee was Sen. Hollings' campaign finance constitutional amendment. That measure was discharged from committee by unanimous consent so it could be debated on the floor during debate on campaign finance reform legislation.

You will undoubtedly recall that during the 96th Congress, a constitutional amendment providing for the direct election of the President and Vice-President was brought directly to the Senate floor. You argued strenuously at that time for "regular order": "As the ranking minority member of the Committee on the Judiciary, Subcommittee on the Constitution, I feel very strongly that there are ways to propose constitutional amendments and there are ways not to propose constitutional amendments. . . . I think this is the way not to propose a constitutional amendment. . . . To bypass the committee is, I think, to denigrate the committee process, especially when an amendment to the Constitution of the United States of America, the most important document in the history of the Nation, is involved." Cong. Rec. 5003-5004 (Mar. 14, 1979). Your arguments prevailed and the Senate agreed to recommit the amendment to the Judiciary Committee.

Mr. Chairman, you were right in 1979 that the proper course to follow when an amendment to the Constitution of the United States is proposed is to allow the Judiciary Committee to consider it and report it to the floor before the full Senate is asked to debate it. That is the course that should be followed here. We hope you will continue to protect the jurisdiction of the Committee in discussions with those who want to rush the Senate into a premature vote for political reasons.

Thank you for your consideration.

Sincerely,

Patrick Leahy, Herb Kohl, Charles E. Schumer, Edward M. Kennedy, Dianne Feinstein, Richard J. Durbin, Joseph R. Biden, Jr., Russell D. Feingold, John Edwards.

Mr. FEINGOLD. Unfortunately, our pleas have fallen on deaf ears. The Judiciary Committee, which in the last decade has considered and reported to the floor constitutional amendments dealing with a balanced budget, term limits, flag desecration, and victims' rights has been bypassed for this Federal marriage amendment. I have not heard a compelling argument explaining why the committee process should be ignored in this case.

In fact, I have not heard even a remotely persuasive argument of any kind why the committee process should be bypassed.

The committee process is even more important for this amendment than for some of the amendments we have considered recently. This amendment is being considered for the first time in the Senate. Changes have been made to the language of the amendment within the past few months. Just yesterday, we heard that further changes are being contemplated by some supporters of the amendment. There is significant doubt about how this amendment will be interpreted and what effect it will have on a whole variety of state and local laws and ordinances. It is exactly in this situation that the committee process can be very helpful. Issues can be explored in depth and modifications can be offered to clarify the meaning and effect of the amendment. It is not clear what would happen in our committee if we were given the opportunity to mark up this amendment. But I know we would have a much better idea of what the amendment does and doesn't do than we have today.

The Framers of the Constitution deliberately put into place a difficult process for amending the Constitution to prevent the Constitution from being used as a tool for enacting policies better left to the legislative process. A proposed amendment must pass both houses of Congress by a two-thirds majority, not a simple majority. After a proposed amendment has passed both Houses, it must be ratified by three-fourths of the states.

Citizens for the Constitution, a bipartisan blue-ribbon committee of former public officials, journalists, professors, and others, has suggested a set of guidelines for evaluating proposed amendments to the Constitution. The members of this committee are people who do not necessarily agree with each other on the substantive merits of proposed amendments, but they do agree that a deliberative, respectful process should be followed.

Citizens for the Constitution reports that in the history of our nation, more than 11,000 proposed constitutional amendments have been introduced in Congress, but only 33 have received the needed congressional supermajorities and only 27 of those have been ratified by three-fourths of the States. The bar for amending our Constitution is very high indeed.

One guideline from Citizens for the Constitution, is particularly relevant

to our discussion today. The guidelines ask, "has there been a full and fair debate on the merits of the proposed amendment?" In this case, the answer is no. There has not been a full debate. We have had four hearings in the Judiciary Committee but there are still unanswered questions about this amendment. This is especially troubling because the sponsors of the amendment have changed its text during the course of our hearings and even stated conflicting interpretations of their amendment. The committee process could help us sort these issues out and narrow them for the floor. But the committee process has been abandoned for this amendment. That is a real shame.

The current procedural situation highlights the problem with bypassing the Judiciary Committee. The Senator from Colorado introduced the first version of the Federal marriage amendment in November of last year. A revised version was then introduced the morning of a hearing in the Judiciary Committee in March of this year.

Now, after bypassing the committee to bring the amendment to the floor of the Senate, we hear that supporters want a vote on yet another version of the amendment. We had four hearings in the Judiciary Committee on the issue of same sex marriage, but none of them concerned this new text that the leadership now wants to bring to a vote. That is why we needed a subcommittee and committee markup on this amendment. So alternative language could be considered and debated. That didn't happen here and that is why there is "disarray" among supporters of the amendment as one press report put it this morning. So instead of an up or down vote on the amendment before us, we will most likely have a procedural vote tomorrow. And the reason for that, make no mistake, is that this amendment simply was not ready for floor consideration. It wasn't ready. It should have gone through the Judiciary Committee.

Aside from my objection to the failure to follow the proper process and allow committee consideration of this amendment, as was so eloquently argued 25 years ago by the Senator from Utah, Senator Simpson and Senator Thurmond, I also object to this amendment on the merits.

There is no doubt that the proposed federal marriage amendment would alter the basic principles of federalism that have served our nation well for over 200 years. Our Constitution granted limited, enumerated powers to the Federal Government, while reserving the remaining issues of government, including family law, to State governments. Marriage has traditionally been regulated by the States. As Professor Dale Carpenter told the Constitution Subcommittee last September, "never before have we adopted a constitutional amendment to limit the States' ability to control their own family law."

Yet, that is exactly what this proposed amendment would do. It would

limit the ability of states to make their own judgments as to how best to define and recognize marriage or any legally sanctioned unions.

Surely both Republicans and Democrats can agree that marriage is best left to the States and religious institutions.

One of our distinguished former colleagues, Republican Senator Alan Simpson, opposes an amendment to the Constitution on marriage. In an op-ed in the Washington Post last September, he stated:

In our system of government, laws affecting family life are under the jurisdiction of the states, not the federal government. This is as it should be. . . . [Our Founders] saw that contentious social issues would be best handled in the legislatures of the states, where debates could be held closest to home. That's why we should let the states decide how best to define and recognize any legally sanctioned unions—marriage or otherwise.

Columnist William Safire has also urged his conservative colleagues to refrain from amending the Constitution in this way. Commentator George Will takes the same position.

I recognize that the current debate on same-sex marriage was hastened by a decision of the highest court in Massachusetts issued last fall. That decision, the Goodridge decision, said that the state must issue marriage licenses to same-sex couples. But the court did not say that other States must do so. And it did not say that churches, synagogues, mosques, or other religious institutions must recognize same-sex unions. Even Governor Romney, who testified before the committee at our last hearing, admitted that the court's decision in no way requires religious institutions to recognize same-sex unions. No religious institution is required to recognize same-sex unions in Massachusetts or elsewhere. That was true before the Goodridge decision, and it remains true today.

I might add, that this Federal amendment would appear to interfere with the will of the people of Massachusetts who have already taken steps to respond to their court's decision. It would very likely nullify the state constitutional amendment that is currently pending in Massachusetts.

Now, the supporters of the Federal marriage amendment would have Americans believe that if same-sex couples are allowed to marry in Massachusetts, we will soon see courts in other states requiring those States to recognize same-sex marriages, too. But this is a purely hypothetical concern, hardly a sound basis for amending our Nation's governing charter.

As Professor Lea Brilmayer testified at a Constitution Subcommittee hearing, no court has required a State to recognize a same-sex marriage performed in another State. And as Professor Carpenter testified, "the Full Faith and Credit Clause has never been understood to mean that every state must recognize every marriage performed in every other state. Each state may refuse to recognize a marriage

performed in another state if that marriage would violate the public policy of that state."

In fact, Congress and most States have already taken steps to reaffirm this principle. And these actions so far stand unchallenged. In 1996, Congress passed the Defense of Marriage Act, a bill I did not support, but it is now the law. DOMA is effectively a reaffirmation of the Full Faith and Credit Clause as applied to marriage. It states that no State shall be forced to recognize a same-sex marriage authorized by another state.

In addition, 38 States have passed what have come to be called "State DOMAs," declaring as a matter of public policy that they will not recognize same-sex marriages.

There has not yet been a successful challenge to the Federal or State DOMAs. Of course, it is possible that the law could change. A case could be brought challenging the Federal DOMA or a State DOMA, and the Supreme Court could strike it down. But do we really want to amend the Constitution just in case the Supreme Court in the future reaches a particular result? We should all pause and think about the ramifications of our action before we launch a preemptive strike against the governing document of this Nation.

Former Representative Bob Barr, the author of the Federal DOMA, strongly opposes amending the Constitution. He believes that amending the Constitution with publicly contested social policies would "cheapen the sacrosanct nature of that document."

He also warned:

We meddle with the Constitution to our own peril. If we begin to treat the Constitution as our personal sandbox, in which to build and destroy castles as we please, we risk diluting the grandeur of having a Constitution in the first place.

My colleagues, those are the words of the author of the Federal DOMA statute. That is what he said about the wisdom of trying to amend the Constitution in this manner.

Concerns have also been raised that the Federal marriage amendment could prevent the people of a State from choosing to recognize civil unions or grant domestic partnership benefits at the State level. The proposed amendment could be construed to challenge already existing civil union and domestic partnership laws or to bar future attempts to enact such laws. Representative Barr also warned that the proposed marriage amendment could apply to not only States, but private sectors as well. Certainly, our hearings in the Judiciary Committee did not lay these concerns to rest. If anything, they made them stronger.

We should not seek to amend the Constitution in a way that would reduce its grandeur. Under our long-standing system of federalism, we should leave the regulation of marriage to the States and religious institutions and get to work on the real issues that Americans are facing and deserve our attention and action.

As I stand here, there are Americans across our country out of work, languishing in failing schools, struggling to pay the month's bills, or worrying about their lack of health insurance. Instead of spending our limited time this session on a proposal that is destined to fail and will only divide Americans from each other, we should be addressing the issues that will make our Nation more secure and the future of our families brighter.

I urge my colleagues to oppose this ill-advised and divisive constitutional amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I think under the previous consent order we would now go to 30 minutes on this side and then over to the Senator from Illinois for the next 30 minutes. We may, in fact, depending on who shows up, try to divide our 30 minutes among several Senators. I ask unanimous consent that we be allowed to do so in case there is any doubt.

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

Mr. CORNYN. Mr. President, I am delighted that we are finally beginning to have a real debate on the floor of the Senate on the importance of preserving traditional marriage. Up until this point, I am sorry to say, we really hadn't had much of a debate because our attempts to raise this issue, starting on Friday, had been met mainly with silence from the other side. But we have had a number of Senators—Senators BOXER, REID, now FEINGOLD—who have spoken and stated their objections. I would like to respond briefly. I believe then that Mr. INHOFE, the Senator from Oklahoma, will be here. I will certainly turn to him.

First of all, we are told by the distinguished Democratic whip that Republicans have raised a political issue. I would suggest to you that when judges in Massachusetts and elsewhere threaten to mandate same-sex marriage on the people of this country without the opportunity for the people of this country or their elected representatives to cast a vote or to have a voice in that decision, that is not a vote in favor of democratic government, one preserved by our Constitution that recognizes the sovereignty of a free people, not of a few life-tenured judges or perhaps judges who none of us have had a chance to vote on or to express any disapproval of in terms of judges from Massachusetts who have radically redefined the institution of marriage in that State.

Contrary to the hopeful expressions by some of my colleagues and perhaps others in the media, this is not an issue that can just be confined to one State, the State of Massachusetts, because, in fact, same-sex couples have gone to that State and have taken advantage of this new law and then moved back to their States of residence, 46 different States. And then, of course, we understand the process. And then a number

of those have, in turn, filed lawsuits in their home States seeking to force legal recognition on their same-sex marriage that was conducted in Massachusetts in their home State.

This is not an isolated event. This is part of a long-term litigation strategy. Indeed, we know that even as long ago as when the Defense of Marriage Act was passed by this body overwhelmingly—I believe it was 85 Senators who voted in favor of it on a bipartisan basis—there were some Senators back then who, of course, didn't vote for it, such as the Senator from Wisconsin, as is certainly his privilege. But we know that others did not vote for it at the time, including Senator KERRY, who said at the time:

DOMA is unconstitutional, unnecessary, and unprecedented. This is an unconstitutional, unprecedented, unnecessary, and mean-spirited bill.

At the same time, of course, 85 of his colleagues in this body on a bipartisan basis sought to express their confidence in the importance of preserving traditional marriage back then. Then, of course, there were other Senators who made the same expression.

Legal scholars have for some time now, including Laurence Tribe from Harvard Law School, Cass Sunstein, and others, expressed their opinion as a legal matter that the Defense of Marriage Act is unconstitutional, and then we have, most recently, the most recent edition of the Harvard Law Review, which is entitled "Litigating The Defense of Marriage Act, The Next Battleground For Same-Sex Marriage." This literally sets out a roadmap for any lawyer who wants to challenge the preservation of traditional marriage in their State or, indeed, in any State in the United States by seeking a judicial declaration in a court that the Federal Constitution mandates same-sex marriage.

So this is not some political issue that we or the leadership on this side of the aisle dreamed up. This is a debate that has been raging for some time now, at least since 1996, when Senator KERRY, Senator KENNEDY, and others expressed on the public record that they believed the Defense of Marriage Act was unconstitutional at the time. They were parroting the statements of legal scholars and others to the same effect.

So this is, in my view, a question of whether we the people have a say. As Abraham Lincoln said, we are a government of the people, by the people, and for the people. But what our opponents on the other side of the aisle and on this issue would say is, look, we have four judges in Massachusetts who have laid down the law in Massachusetts, and there is really nothing you can do about it. The fact is, it has now been exported to 46 other States, and there are approximately 10 lawsuits presently pending to seek to force the recognition of those same-sex marriages in those States, and this is part of a national litigation strategy.

I say to those who think we ought to sit on the sidelines and remain spectators and remain silent, we are not going to remain silent, we are not going to stand still, nor did the Framers of our Constitution contemplate the people standing still when, by virtue of the passage of time and experience, or in this case when judges seek to amend the Constitution under the guise of interpretation, none of the Framers, no part of the Constitution contemplates that the people of this country should just remain silent.

If we want a government of the people, by the people, and for the people, this is an important debate. I want to say something before I defer to the Senator from Oklahoma, who wants to speak, just by way of response—and I will reserve the rest of my remarks for the remaining time we have allotted in this 30-minute timeslot.

The Senator from Nevada, the distinguished Democratic whip, has chastised this side of the aisle, the Republican majority leader, for refusing to accept their offer for an up-or-down vote on the Allard amendment. What he didn't tell you is they stipulated that it must be without any amendments being offered on the floor. In other words, their offer attempted to stifle debate and stifle the right of Senators to offer amendments. They know, as we all know, there are other amendments that have been discussed over the last year or so. I think if we want to have a full, fair, and honest debate, since there are concerns there wasn't adequate deliberation in the Judiciary Committee, this is the place to have it. We ought not to try to stifle debate or the right of any Senator to offer an appropriate amendment.

At this point, I will reserve the remainder of our allotted time and ask that the Senator from Oklahoma be recognized.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. I thank the Senator from Texas.

Mr. President, I have been watching, with a great deal of interest, the debate that has been taking place. I took some time last night to get what I believe to be very salient quotes. One is by an Irish poet, William Yeats:

I think a man and a woman should choose each other for life, for the simple reason that a long life with all its accidents is barely enough time for a man and a woman to understand each other and . . . to understand is to love.

I think there are several of us in this room, including the Presiding Officer, who understand very well what Dr. Yeats is talking about.

The next one comes out of the Talmud, the Jewish oral interpretation of the Torah:

A wife is the joy of a man's heart.

Mark Twain said:

After all these years, I see that I was mistaken about Eve in the beginning; it is better to live outside the Garden with her than inside it without her.

Homer, the Greek philosopher, said:

There is nothing nobler or more admirable than when two people who see eye-to-eye keep house as man and wife, confounding their enemies and delighting their friends.

William Penn said:

Between a man and his wife nothing ought to rule but love.

Andrew Jackson said:

Heaven will be no heaven to me if I do not meet my wife there.

Those things sound good and poetic. I happen to have been married for 45 years. My wife and I have 20 kids and grandkids and it started just with us. We think about the tradition in this country and how it has been this way as long as we can remember.

I have heard people say on this floor, when talking about this issue, that this perhaps should be a State issue. As a general rule, you will not find anybody who is a stronger supporter of State rights than I am. But this is a national issue. The definition of marriage is and has been a national issue.

In the late 19th century, Congress would not admit Utah into the Union unless it abolished polygamy and committed to the common national definition of marriage as one man and one woman.

In 1996, Congress passed a Defense of Marriage Act into law, which defines marriage as one man and one woman for the purposes of all Federal law.

Another, and perhaps more compelling, argument that this should be handled on a Federal level is that people constantly travel and relocate across State lines throughout the Nation. Same-sex couples are already traveling across country to get married. As a result of this mobility, same-sex couples with marriage certificates will become entangled in the legal systems of other States in which they live. They will do business, buy and sell property, write wills, commit and suffer torts, go to the hospital, get divorced, and have custody battles over their children.

A State-by-State approach to gay marriage will be a logistical and legal mess that will force the courts to intertvene and require all States to recognize same-sex marriages. This is the only possible outcome.

This issue needs to be addressed now. The definition of marriage must be addressed, and it must be addressed now. Activist lawyers and judges are working quickly through the courts to force same-sex marriage on our country.

In June of 2003, the U.S. Supreme Court signaled its possible support for same-sex marriage when it struck down a sodomy ban in Texas. That was *Lawrence v. Texas*. I am sure the junior Senator from Texas is very familiar with that.

Earlier this year, the Massachusetts Supreme Court ruled that same-sex couples could marry, and that ruling went into effect on May 17. The State's high court's ruling clearly ignored tradition—even its own State legislature.

In response to the courts ruling, the Massachusetts Senate drafted a "civil

union" bill specifically designed to satisfy the court's edict while preserving traditional marriage.

Despite the fact that all legal rights and benefits were provided in the civil unions legislation, the court rejected this alternative legislation, insisting on redefining marriage.

In his dissenting statement, Massachusetts Supreme Court Justice Sosman said:

It is surely pertinent . . . to recognize that this proffered change affects not just a load-bearing wall of our social structure but the very cornerstone of that structure.

The majority stripped the elected representatives of their right to evaluate "the consequences of that alteration, to make sure that it can be done safely, without either temporary or lasting damage to the structural integrity of the entire edifice."

Even Massachusetts Gov. Mitt Romney, in his testimony on June 22, 2004, before the Senate Judiciary Committee, stated:

Marriage is not an evolving paradigm, as the court said, but it is a fundamental and universal social institution that bears a real and substantial relation to the public health, safety, morals, and general welfare of all the people of Massachusetts.

We need an amendment that restores and protects our societal definition of marriage, [and] blocks judges from changing that definition . . . at this point, the only way to reestablish the status quo . . . is to preserve the definition of marriage in the federal Constitution before courts redefine it out of existence.

Not only has the Massachusetts court ruling affected that State, it has and will continue to open the floodgate of similar decisions by other State courts across the country.

Lawsuits are already pending in 11 States to ask the courts to declare that traditional marriage laws are unconstitutional. Same-sex couples from at least 46 States have received marriage licenses in Massachusetts, California, and Oregon and have returned to their home States. Many of these couples will now sue to overturn their home State's marriage laws. There is already a lawsuit in Seattle to force the State to recognize same-sex marriage in Oregon.

Unfortunately, the Federal Defense of Marriage Act, DOMA, does not protect States from lawsuits such as these. State and Federal courts are poised to strike DOMA down under the equal protection and due process clauses in the Constitution. This would essentially force recognition of same-sex marriages.

Why protecting traditional marriage matters: Marriage is about much more than romantic love. I know from my experience. My wife Kay and I have been married for 45 years. We understand these things. For the purpose of society and our legal system, marriage is the ideal environment for raising children and thriving communities.

Our laws protect marriage between a man and a woman, not because of love or romance, but because marriage provides a good, strong, stable environment for raising children and is good

for society as a whole. The evidence of the benefits to children being raised by a mother and father is overwhelming.

In societies where marriage has been redefined, potential parents become less likely to marry and out-of-wedlock births increase. This is because marriage loses its unique status in society as the institution where childbearing and parenting is centered. It becomes little more than an optional arrangement, not the presumptive locus of family life.

According to a February article in the Weekly Standard by Stanley Kurtz:

A majority of children in Sweden and Norway are born out of wedlock.

A majority, that is more than half of the children are born out of wedlock.

He goes on to say:

Sixty percent of first-born children in Denmark have unmarried parents—not coincidentally, these countries have had something close to full gay marriage for a decade or more.

In 1989, Denmark had legalized de facto gay marriage, and Norway and Sweden followed in 1993 and 1994, respectively.

Additionally, according to Barbara Dafoe Whitehead, codirector of the National Marriage Project at Rutgers, State University of New Jersey, in her testimony before the Senate Health, Education, Labor and Pensions Committee on April 28 of this year, marriage has many benefits. She is speaking clinically when she gives these evaluations.

It can be a source of "economic, educational, and social advantage for most children. Children from intact families are far less likely to be poor or to experience persistent economic insecurity. Estimates suggest that children experience a 70-percent drop in their household income in the immediate aftermath of divorce and, unless there is a remarriage, the income is still 40-45 percent lower 6 years later than for children from intact families."

Ms. Whitehead goes on to say:

Children from intact married parent families are more likely to stay in [and do better in] school.

In fact, according to Patrick Fagan, a fellow at the Heritage Foundation, in his testimony before the Senate Subcommittee on Science, Technology, and Space on May 13 of this year:

U.S. children from intact families that worship God frequently have an average GPA of 2.94 while children from fragmented families that worship little or not at all have an average GPA of—

Some 30 percent or less.

Ms. Whitehead also says:

Marriage provides economies of scale, encourages specialization and cooperation, provides access to work-related benefits such as retirement savings, pensions, and life insurance, promotes saving, and generates help and support from kin and community.

On the verge of retirement, one study found married couples' net worth is more than twice that in other households.

A study of retirement data from 1992 by Purdue University sociologists found that individuals who are not continuously married have significantly lower wealth than those

who remain married throughout the life course.

That is significant because we have been talking about the emotional side. We have been talking about the things that I think are no-brainers, that most of the American people, in spite of the arguments to the contrary, talk about. But there are economic reasons. There are reasons of prosperity and happiness that are being dealt with in this resolution.

I have quotes from a number of Senators and conservatives. They have done such a good job, those who are in this Chamber. In listening, I have found a few points they said that are worth repeating.

My colleague, Senator ALLARD from Colorado, believes our Founding Fathers never envisioned that we would be changing the very structure of marriage, that we would be changing this core structure of society. We are in danger of losing a several-thousand-year-old tradition, one that has been vital to the survival of civilization itself.

This small group of activists and judicial elite, as my colleague from Kansas, Senator BROWNBACK, said, "do not have a right to redefine marriage and impose a radical social experiment on our entire society."

"This is not a battle over civil rights, it is a battle over whether marriage will be emptied of its meaning in contradiction to the will of the people and their duly elected representatives."

This is an "assault on the American family," as my colleague, Senator CORNYN, the junior Senator from Texas, said.

And my colleague from Alabama, Senator SESSIONS, said:

If there are not families to raise . . . children, who will raise them? Who will do that responsibility? It will fall on the State.

This, to me, is one of the most troubling outcomes of the whole gay marriage issue. As my colleague from California, Senator BOXER, said, we have "misplaced priorities" in addressing this issue right now. I say to my colleague, I do not think our priorities are misplaced when we are looking at creating a whole new class of children from these gay marriages who could end up completely dependent on the State, on the taxpayers—the American people.

I do not think our priorities are misplaced when we are concerned about following in the footsteps of countries where out-of-wedlock births have skyrocketed. And I do not think our priorities are misled when some activist, rogue judges and others are undermining the legislative process in taking away the voice of our elected officials.

Additionally, several prominent, respected conservative voices in our country have spoken out against the idea of gay marriage and in support of the traditional definition.

According to "Focus on the Family," headed by Dr. James Dobson—I was just on his program a little while ago:

Family is the fundamental building block of all human civilizations.

Marriage is the glue that holds it together. The health of our culture, its citizens, and their children is intimately linked to the health and well-being of marriage.

Chuck Colson, a man who most people in this body know quite well, was the founder of Prison Fellowship. He has this to say about the prospect of gay marriage:

The redefiners of marriage are working tirelessly. Their agenda is to tear down traditional marriage and make it meaningless by removing its distinctives.

He goes on to say:

Marriage, as an institution between a man and a woman, is basically for procreation.

Homosexual marriage, therefore, is an oxymoron. There is no such thing. It is something else.

It is two people coming together for recreation, not for procreation. Procreation can only happen between a man and a woman.

Every society has recognized this, going back to the beginning of recorded history. Societies recognize that it is in their self-interest to preserve this institution and to give it a distinct status under the law.

Marriage is the institution that civilizes and propagates the human race. It is where children are raised and learn the ways of right and wrong. Their consciences are formed in the family.

Finally, the Reverend Billy Graham's son, Franklin Graham, was in my hometown of Tulsa a couple of weeks ago. He said:

There is a real movement for same-sex marriage. We could lose marriage in this country the way that we know it.

That is really what this is all about. We can dance around it and try to cater to certain groups, but I find something that has served me well for a number of years when something like this comes up, and that is to go back to the law, go back to the Scriptures. In Genesis 2:18, 21–24, God said:

It is not good that man should be alone; I will make him a helper comparable to him . . . and the Lord God caused a deep sleep to fall on Adam, and he slept; and He took one of his ribs, and closed up the flesh in its place. Then the rib which the Lord God had taken from man He made into a woman, and He brought her to the man. And Adam said, "This is now bone of my bones and flesh of my flesh. She shall be called woman, because she was taken out of man." Therefore a man shall leave his father and mother and be joined to his wife, and they shall become one flesh.

In Matthew 19:4–6, Jesus said:

Have you not read that He who made them at the beginning made them male and female, and for this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh? So then, they are no longer two but one flesh . . .

The reason I read these two Scriptures is because they were quoted at a very significant event that took place 45 years ago. It was when my wife and I were married.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Nevada.

Mr. ENSIGN. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There is 2 minutes remaining.

Mr. ENZI. I ask unanimous consent that I be given an additional 3 minutes for a total of 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nevada is recognized for 5 minutes.

Mr. ENSIGN. Mr. President, I rise today to speak on a topic that is very important. That is the preservation of the most important structure in our society. I rise to speak on the topic of marriage and the need for the Federal Marriage Amendment. But before I do, I want to thank my good friend from Oregon, Senator GORDON SMITH, for the speech he gave on this very topic last Friday. His speech was eloquent and his thoughts profound. For those who did not have the opportunity to see or hear the speech, I strongly encourage them to read it. I also want to thank the floor manager of this resolution, Senator CORNYN from the State of Texas, for his thoughtful commentary and his leadership on this issue. And so I thank both Senators.

I have given a considerable amount of thought on the topic of the Federal Marriage Amendment over the last weeks and months. My thoughts have focused on what the meaning and purpose of marriage is. All words have meaning. The word marriage has meaning deep rooted in our culture. There are certain words that have such an important meaning that they invoke strong emotions within each of us. For me, marriage is one such word. The word marriage represents an institution with historically universal understanding. Its meaning is one that has been constant throughout time and across all cultures. I can think of no other word, and no other institution, that enjoys such a special status with such an important meaning.

For me personally, I understand the importance that the presence of both a father and mother has in the life of a child. I understand this because, for a time, I was raised by a single mom. I do not, in any way, want to suggest that single parents are not doing their best to raise their children. As a single mom, my own mother did her very best to take care of me, my brother and my sister.

Single parents are doing right by their children. Single parents, like my mom, deserve to be praised. But those circumstances are not the ideal in which to raise children. Marriage is that ideal.

When I was nine, my mom met and married the man who is my dad. With their marriage, there was finally someone in our home who was a strong male role model for me and my brother. I finally had a positive example of what it meant to be a father and a husband. Someone I could look up to and someone I could emulate. My dad's presence in our house made an immediate impact on me in a way that my mother alone simply could not. His presence

also impacted me in ways that has helped me love and care for my own wife and my own children.

The presence of a mother and father in the life of a child is crucial. Mothers and fathers bring their own special qualities to their own relationship and to the approach they take to raise their children. It has been said that a boy will look to his mother as the type of woman he wants to marry and his father as the model for how to treat her. For that reason, and so many more children need both a father and mother. That is the universally recognized ideal on which marriage is based.

Marriage recognizes the ideal of a father and mother living together to raise their children. Marriage is the ideal that is the cornerstone on which our society was founded. This Congress, and all previous Congresses, have enacted laws to further that ideal. In fact, in 1996, this Senate passed the Defense of Marriage Act by a vote of 85 to 14. The House of Representatives also passed DOMA overwhelmingly. My own State of Nevada has adopted a DOMA Amendment to our State constitution. As required by our State's constitution, this amendment was adopted two times by the voters of my State. So I would hope that no one in this body would take issue with the statement that marriage between one man and woman is the ideal. Congress overwhelmingly adopted legislation agreeing with that statement only 8 years ago.

For those who say that the Constitution is so sacred that we cannot or should not adopt the Federal Marriage Amendment, I would simply make two points. First, marriage, and the sanctity of that institution, predates the American Constitution. It predates the founding of our Nation and even the landing at Plymouth Rock. Marriage, as a social institution, predates every other institution on which ordered society in America, and the world as a whole, has relied including even the church itself. Second, the Founding Fathers envisioned the possibility that future generations may need to amend the Constitution. In their wisdom they allowed the amendment process to begin either with Congress or with the States. So we are considering this amendment, in the manner contemplated by the Founding Fathers, which is to say consistent with the Constitution itself.

It is with concern that I have read about how a few unelected judges and some locally elected government officials have taken steps to redefine marriage to fit their own agenda. It is not right to mold marriage to fit the desires of a few, against the wishes of so many, and to ignore the important role that marriage has played in our history.

During the course of this debate, I have heard many people suggest that the Federal DOMA law, which I referenced earlier, is not under attack. And that an amendment is premature

so long as DOMA is still law. But because of last year's Supreme Court decision in *Lawrence v. Texas*, many Constitutional scholars believe that Federal DOMA, and State DOMAs adopted in 41 other States, that defined marriage as between one man and one woman will most certainly be struck down.

Judicial activism is a huge problem in America. The Constitution is a living document in that it can be amended by the process our Founders set up, but not by activist judges. So the question before us today is: Will the Constitution be adopted in the manner proscribed by that document or by unelected judges?

It does not appear that this amendment will pass this year. In fact, it may take years to adopt this amendment. But it is critical to have this debate and vote here in Washington, DC so that the States can continue the debate and so that the people know exactly where each one of us stands on this issue.

In the end, for a healthy society, we need to have a tolerant society but also a society which strives for the ideal. That ideal is for children to be raised by one father and one mother bonded by the institution of marriage.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

The Senator from Illinois is now recognized for 30 minutes.

Mr. DURBIN. Mr. President, for those who are witnessing this debate on the floor of the Senate, it is a historic moment. It is rare the Senate engages in a debate on the question of amending this document, the Constitution of the United States. There are so many things that divide us on the floor of the Senate, between Republicans and Democrats, but there is one thing we are united behind, and that is our oath of office. That oath of office is explicit. This, in part, is what it says. Each of us takes this oath. To the best of our ability we will:

... preserve, protect and defend the Constitution of the United States.

Isn't it interesting that when this Constitution was written, our Founding Fathers wanted to make certain that whoever served as President, Vice President, Member of the House or Senate, would not swear their loyalty to the United States of America but would swear their loyalty to this document. You could not become a Member of this body unless you were prepared, under oath, to say you would preserve, protect, and defend the Constitution of the United States.

The Founding Fathers understood the importance of this document they had written. They knew it embodied within its four corners the basic principles of America. It wasn't a dead document. It was a living document which could be changed. But I think the oath of office which each of us takes is a reminder of our solemn responsibility when it comes to this Constitution.

We may propose amendments to laws, make motions on the floor, pass resolutions, make our speeches, but I am one who believes when it comes to this document we have a special responsibility. It is a responsibility which requires respect and humility—humility.

Before this Senator from Illinois will propose a change in one word in this Constitution of the United States of America, I have to be convinced, I have to be absolutely sure it is essential—essential for this union to continue and essential for the rights and liberties of every American citizen.

Oh, we debate bills back and forth. We change sentences, we change punctuation, we make wholesale changes in the law. But the laws come and go, as Members of the House and Senate come and go. This document endures.

Over 11,000 times Members of the Congress have proposed changing this document. Over 11,000 times they have come to the floor of the House or the Senate and said: The Founding Fathers didn't get it right, they didn't consider this possibility. And over 11,000 different times, overwhelmingly, their suggestions have been rejected. Why? Because of the respect and the humility which each of us brings to this debate on a constitutional amendment.

Today, those who are witnessing this debate are witnessing another attempt to amend the Constitution of the United States. How often has it been done? Since Thomas Jefferson's Bill of Rights—which originally proposed, I believe, had 12 amendments; only 10 were originally approved—we have only amended this document 17 times. One time we realized we made a mistake. We passed an amendment prohibiting the sale of liquor in the United States and a few years later we repealed it. But by and large, only 17 times in the course of the history of the United States of America has this Congress said this document is insufficient; this document does not meet the needs of America; this document must be changed.

To those who are following this debate, and to my colleagues, I will tell them the proposed amendment before us today does not meet the test. It does not meet the requirement to say to those who founded this Nation and to all who carried on since that we need to pass this Federal marriage amendment. I believe it is plain wrong. It is wrong in three specifics.

First, we are talking about the institution of marriage. Traditionally, marriage is defined by each and every State. One State establishes a certain age of eligibility. Another State will establish a certain blood test that may need to be taken. Another State will limit whether certain members of families can marry. All of these provisions and limitations on marriage are State and local responsibilities. Not once will you find in this Constitution of the United States the requirement that the Federal Government in Washington es-

tablish a standard for marriage in America. So what we are discussing today is a proposed amendment to the Constitution that is clearly outside of the purview and scope of this Constitution which we have sworn to preserve and defend.

Second, there is no court ruling that brings us to this moment in this debate. It is not as if some Federal court or even a State court has said this Constitution requires that people of the same gender be allowed to marry. Not one single court in America has said that. So we come here today, the argument being made that we should preempt the possibility that at some time in the future some court will decide that in fact a marriage between people of the same gender in one State must be upheld in other States. There has never—repeat, never—been a case in any State or Federal court that says that. Yet we come to the floor of the Senate today as if the decision were handed down last week and we must stand up once and for all to preserve the right of marriage to be confined to an institution between a man and a woman. It is traditionally a State decision on what defines marriage. There is no controversy that brings us to the floor today.

What is even worse, we come to this debate with this constitutional amendment which has been proposed, and we come to the floor to debate it without a single markup by the Senate Judiciary Committee to debate the language that is being proposed. Does that show respect for the Constitution? Does that show the appropriate humility which every Member of Congress should have? Of course it does not. Those who wrote this amendment were changing it by day. And now they want to change it again. They tell us the language given to us last week has to be changed again—maybe twice.

Does this strike you as a work in progress? Does this strike you as the kind of language which should be put in this enduring document? Or does it strike you that we are taking a roller to a Rembrandt; that we are suggesting changes in our Constitution which have not met the test, the test that they address an issue of enduring significance and that the language crafted should stand beside our Bill of Rights?

Today they argue: We need to make a few amendments in this language. We have been thinking it over this week.

What is wrong with this picture? Shouldn't we take a step back and ask whether this is necessary? Ask whether, in fact, there is a court decision which requires it? Ask whether the language which we are proposing is language which will endure for generations to come?

If we cannot answer each of those questions in the affirmative, then for goodness sakes why don't we move on? I will tell you why we are not. Because this debate is not about changing the Constitution—no. They say in politics for everything that is done, there is a

good reason and a real reason. The good reason that is being given for this debate is to change the Constitution. That is not the real reason. The real reason is to change the subject of the President's election campaign because the Republican side of the aisle and those who are supporting this administration don't want to debate this Presidential election campaign on the issues most Americans identify as important in their lives. They don't want to debate the President's economic policy and the squeeze it has put on middle-income families. They don't want to debate what is happening in Iraq. They want to change the subject. They want to debate the future of marriage in America. That, to them, is more important and that is why we are here today. That is why there are statewide referenda in many battleground States like Missouri. And that is why we are hellbent to consider this amendment literally days before a certain political party coincidentally has its convention in the State of Massachusetts. That is what this is all about—changing the subject of the Presidential campaign.

Oh, they tell us in the Judiciary Committee: Incidentally, we are going to bring the flag-burning amendment up again, too. We have had this amendment up before us at other times, but they are anxious for us to vote on this again before the election campaign.

Do you know what I think we need? I don't think we need an amendment to the Constitution. I think we need a permanent law of the land that says there will be no constitutional amendment which will be proposed in a Presidential election year. Frankly, that will cause many of my colleagues to suppress the urge to use this Constitution as some sort of a political platform to try to win votes in an election.

When you take a look at this particular amendment, you find, of course, that we are considering and taking up many days of debate rather than considering other issues we ought to be talking about here on the floor of the Senate.

Do you recall the press conference last week when the Secretary of Homeland Security, Tom Ridge, told America of the danger of al-Qaida, a real danger; that they are plotting massive casualties to be brought on victims in America? We didn't know where or when, but he warned America, along with the Director of the FBI.

Then you probably read yesterday speculation about whether we might have to postpone a Presidential election because of terrorism. And you think to yourself: For heaven's sake, I guess America is still in danger; and sadly we are. Then you might think to yourself: I certainly hope the men and women serving in the Senate are doing everything they can to make our Nation safer. That is a natural reaction, one which you might expect.

All you have to do is look at the calendar of business of the Senate on the desk of every Senator and turn to the

back page. You will find the status of appropriations bills that have not been considered by the Senate. Among the first two bills on the list is the Homeland Security appropriations bill—sitting on the calendar of the Senate for almost a month.

We are warned by this administration that our security is in question, that America may be in danger, and we are told by the Republican leadership on the Senate floor that we don't have time to appropriate the money to make America safer. Instead, we are going to debate a constitutional amendment over an issue that has not even reached the point in any court in the land to require a constitutional amendment.

That is just one of many issues that we could be considering.

What have we done to try to reduce the squeeze on middle-income families from increased costs for health care, increased costs for prescription drugs, increased costs for gasoline, increased costs for college education? The answer is nothing. We are too busy debating a constitutional amendment about an issue that does not exist. It says something about the priorities of the leadership.

We have not passed a budget resolution this year. We have 12 appropriations bills, including the Department of Homeland Security, that have not been enacted. This is all about changing the subject.

Paul Weyrich, CEO and chairman of the Free Congress Foundation, was very direct and blunt. He recommended that the President "change the subject" from Iraq to the Federal marriage amendment. It won't work because we pick up the newspaper every morning and we are reminded of the brave men and women in uniform who are literally risking their lives in Iraq. We cannot, we should not, and we will not forget them. And our attention will not be diverted from the danger to their lives and the prayers and hopes of their families. Yet that is the political agenda. That is what is before us.

We have bypassed the Judiciary Committee. The suggestion has been that we take this amendment which has been proposed, change it one, two, three, or four times, and vote on it. But the changes may include adding other amendments to it. Is that possible? Could we put in more than one constitutional amendment? Of course. So we have turned into not a Senate but a constitutional convention. Is that what we are supposed to be doing, rather than appropriating money for homeland security, rather than addressing the timely issues that America's families are facing? I hope not.

We have had one hearing on the text of a proposed amendment, and it was less than 24 hours after a new version had been written. This constitutional amendment is changing on a regular basis.

I might say that Senator CORNYN of Texas, on Friday, came and spoke on the Senate floor. He said those who op-

pose this constitutional amendment, as I do, "have chosen to boycott good faith desire to have an honest discussion about the issue." That was his quote. Senator ALLARD and others have said similar things.

For the record, the Judiciary Committee, the committee of jurisdiction, has held four hearings on this issue. Senators FEINGOLD, KENNEDY, and I attended all four of those hearings. There was no boycott involved. We attended those hearings and asked questions about this issue. But there was never a markup. It was brought to the Senate floor with changes that are being made as we speak.

In the past, Senator HATCH, now chairman of the Senate Judiciary Committee, rejected this. He said you can't bring a constitutional amendment to the floor without at least going through the Judiciary Committee and looking at the language and seeing if there are better words. Here is what Senator HATCH said in 1979:

To bypass the committee is, I think, to denigrate the committee process, especially when an amendment to the Constitution of the United States of America, the most important document in the history of the Nation, is involved.

That is what Senator HATCH said 25 years ago. But that is not the process he has followed as chairman of the committee today. He has taken a much different path.

This would be, incidentally, only the second time in history in which we would have enacted an amendment to the Constitution of the United States which would restrict the rights of American citizens.

Historically, our amendment process has been to expand the rights and liberties of Americans, African Americans, women, and others to give them voice in the democratic process. This would be the second time in history in which we would restrict the rights of Americans. The other time, as I mentioned earlier, we said with the prohibition amendment that we would restrict the right to sell liquor and alcoholic beverages in America. That is the one other time we did it. We did it because of a temperance crusade brought on by some religious groups and others, and then realized a few years later that it was wrong. This would be only the second time in history when we would use the amendment process to restrict the rights of American citizens.

We have no controversy at hand. The proposed amendment would be unique in that no constitutional amendment has been ratified in response to a State court ruling. There are four constitutional amendments that overrule Supreme Court decisions, but no constitutional amendment has ever been ratified in response to a nonexistent Supreme Court ruling. That is the case here.

As I listened to those on the other side arguing earlier, I couldn't believe some of the things they said. The Senator from Texas said when judges in

Massachusetts mandate same-sex marriage on our Nation, they export that marriage to other States. That is not a fact. There is nothing that has happened in the State of Massachusetts which has changed the marriage laws in Illinois, in Wyoming, in Nevada, in Texas. Nothing they have done changes the standard for marriage in my State.

He went on to say that it is a question of whether the people shall have a voice in this process. I certainly believe the people of America should have a voice in the promulgation of law. But in this situation, the people of Massachusetts have a voice and have a process and have before them a constitutional amendment which will eliminate same-sex marriage but protect the rights of civil union. The people of Massachusetts will ultimately vote on that question as will their legislators.

If you want to give the people of Massachusetts a voice in the process, they already have it. They are exercising it. There is no need for a constitutional amendment to either embellish it or reduce it in any way.

Then, the Senator from Texas said we on the Democratic side were trying to stifle debate on this constitutional amendment by not allowing the Republicans to amend it two, three, four times, or more. We are not trying to stifle the debate. That is what this is all about. This exchange is about debate. But how can you debate a moving target? How can you debate a proposal to the Constitution of the United States which may change 15 minutes from now, an hour from now, tomorrow, or Thursday? Shouldn't the Republican majority that brings this to the floor meet their solemn obligation to put language before us befitting the Constitution and not make this a construction project, a work in progress? That is what they want to do.

The Senator from Nevada on the Republican side said earlier that judicial activists are taking away the power of the legislative branch. That is not a fact. What happened in Massachusetts happened under the Massachusetts Constitution, which is being amended by their legislature as required and submitted to the people of Massachusetts. If the people are to have the final voice on this issue in Massachusetts, that is exactly what is going to happen.

The text of this proposed constitutional amendment, incidentally, is contradictory and unclear. There are some who oppose same-sex marriage but believe that civil unions should be allowed, as they are in many States, and as recognized by many private companies. But the language of this proposed Federal amendment, as it stands today—it may change—says:

Neither this Constitution nor the Constitution of any State shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than a union of a man and a woman.

The operative words that should have been debated in the committee, and

should be debated here are "the legal incidents thereof."

What does it mean? Let me give a practical example. In the District of Columbia, they have enacted a law that if you have a partner you are living with of the same gender, you can declare that for purposes of being covered by your partner's health insurance. If one person in that household, two men or two women, is working, and one is not, the person working can claim the partner living at home as covered by the same health insurance policy just as it applies to men and women in marriage.

What is wrong with that? What is so scandalous about that, that people desperate for health insurance coverage would have someone they love and share a home with be covered by health insurance?

Yet this constitutional amendment would put that and other legal incidents of marriage, such as civil unions, in jeopardy.

Let me note what has been said by Vice President CHENEY. He was involved in a debate with Senator LIEBERMAN 4 years ago in the Vice Presidential race, and this issue came up. Let me read what Vice President CHENEY said when it came to the issue of defining marriage:

It's really no one else's business in terms of trying to regulate or prohibit behavior in that regard. . . . I think different states are likely to come to different conclusions and that's appropriate. I don't think there should necessarily be a federal policy in this area.

That is what Vice President CHENEY said. I think he is right.

Let me read what Vice President CHENEY's wife said. I am sure it took courage for her to say it, but she did just this week. Lynne Cheney, the wife of Vice President CHENEY:

People should be free to enter into their relationships that they choose. When it comes to conferring legal status on relationships, that is a matter left to the states.

I am sure that did not make the Vice President or his wife popular in the White House, maybe not among their Republican colleagues, but they are right. This is a decision which clearly should be left to the States.

Today at lunch, the Senate Historian told us a story of Aaron Burr, a man who had served as Vice President and a man who left the Senate under extraordinary circumstances on March 1, 1805. This is what Aaron Burr said as he left the Senate about this Senate:

. . . is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here, in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrenzy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.

You don't hear many speeches like that on the floor of the Senate anymore, but Aaron Burr was correct. This is where the debate has to take place. This is where this debate on this con-

stitutional amendment has to end. This is where Members of the Senate who have sworn to uphold, protect, and defend this Constitution of the United States will remind our colleagues to take a step back and show the respect and humility which this document deserves. To let this constitutional amendment process be taken captive by those who are trying to win votes in November is wrong. Whether it is done by Republicans or Democrats, it is just wrong. I think the American people understand that.

There are strong feelings about a man and a woman that are shared by me and by others, but we also have strong feelings about this document, a document which I have taken an oath under God to uphold and defend. And I will do that by opposing this amendment.

Mr. REID. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. REID. Is the Senator aware, through the Chair I direct this question, in the State of Nevada, on two separate occasions, there was a vote by the people of the State of Nevada on whether they should include in the Nevada State Constitution a prohibition for gay marriage; is the Senator aware that took place?

Mr. DURBIN. I was not aware.

Mr. REID. I say to my friend, it has taken place. It was long and arduous. It took a period of years to accomplish.

Would the Senator agree that the State of Nevada had the right to do that; whether they agree with the conclusion or not, didn't they have the right to do that?

Mr. DURBIN. Certainly.

I say to the Senator, that is the argument that has been made on the other side, that the people should be allowed to speak on the issue, and if that is the case, in Nevada, Illinois, or wherever it might be, then honoring that decision would seem to be consistent with the establishment of all America.

Mr. REID. Through the Chair, I further question my friend, is the Senator aware in that debate over a period of years that lots and lots of money was spent in ads for and against the amendment, door-to-door activities took place, many more grassroots activities, editorials in newspapers, all in the State of Nevada? Whether you were for or against the ban on same-sex marriages, these activities took place in the State of Nevada; and now in the State of Nevada, in its constitution, there is a prohibition.

The people of the State of Nevada had a right to do that; didn't they?

Mr. DURBIN. I believe they do. I think the Senator is correct.

Mr. REID. Is the Senator also aware that we have been told the reason we are not going to vote on this amendment, Resolution 40 now before the Senate, is that Senator GORDON SMITH has another amendment he wants to offer and he does want a vote? Has the Senator been told that is the fact?

Mr. DURBIN. Yes, I have.

Mr. REID. Through the Chair, I direct this to the Senator from Illinois. From today's Congressional Daily, p.m. edition, it says: Senator GORDON SMITH, Republican from Oregon, today denied that he has insisted the Senate vote on his alternative constitutional amendment banning gay marriage, telling reporters he favors Minority Leader DASCHLE's proposal to vote up or down on the underlying amendment sponsored by WAYNE ALLARD, Republican from Colorado.

Is the Senator from Illinois aware that Senator DASCHLE has requested on more than one occasion that we have an up-or-down vote on the resolution that is now before this Senate, that we have all been studying and doing our best to understand, that we should vote up or down on this? Does the Senator agree that is what we should do?

Mr. DURBIN. Yes, I do. Let's bring this to a vote. The sooner, the better.

Mr. REID. The Senator is aware, however, is he not, as stated by the majority, this is a work in progress? They, obviously, are not sure what they want to vote on. Or is it just a political issue and they want to vote on nothing, they want to have another class action where they had victory in their grasp but they did not want to work on the substance; they wanted to maintain a political issue that Democrats were obstructing, which we were not? Is the Senator aware, it could be the same situation?

Mr. DURBIN. I say there is a striking similarity. It appears they want to vote more than they want an amendment. Let's be honest about what it is about. They want to put some Senators on the spot. Trust me, the ads will be running, if they have not started already, in States across the Nation. If you oppose this constitutional amendment, they will say you are against traditional marriage. Virtually every one of our colleagues on both sides of the aisle, for that matter, support traditional marriage between a man and a woman.

I have been married 37 years, and I think the Senator from Nevada may have been married longer. I respect this institution and have committed my life to it with my wife. I think we all understand that. But understand, as well, a "no" vote on this amendment will be used for political purposes to change the subject of the election campaign.

I say to the Senator from Nevada, as my time is closing, there is one point I would like to make. Things have changed in my life experience, and in many others', over the time I have been in the Congress and even before. There was a time when, if there were gay members of a family, people just did not talk about it. No reference was made to it; very little was said about it. It was the aunt or uncle who never got married and no one has talked about it.

That is changing in families across America. People have had the courage

to come forward and say: I have a different sexual orientation. For some reason, God has made me with a different nature. I think more and more families are accepting of that fact, as they should be. I don't know what God's plan was in bringing a man or woman to this Earth with a different sexual orientation, but in many cases they have.

All we have said, those Members on our side, is though we may not support gay marriage or marriage of the same sex, we ask for tolerance and understanding.

The phone calls I have been receiving in my office have been phone calls generated by people who sincerely support this amendment and many who have some different agenda. It is, unfortunately, a very strident and hateful agenda. I hope that whatever the outcome of this amendment, we will say to the American people: Be tolerant; be understanding. Some people are different but they are our family. They are our neighbors. They are our fellow Americans.

This proposed constitutional amendment is divisive and unnecessary, and contains many ambiguities and unresolved issues that have not been examined or considered by the Senate Judiciary Committee.

We have less than 30 legislative days left this year. There already are more pressing issues than we could possibly address in that short time, without spending this week on a proposed constitutional amendment that even its supporters acknowledge does not have the votes to succeed.

In light of Secretary Ridge's announcement last week, we should be focusing our attention on homeland security, including port and rail security.

We must address the everyday needs and concerns of American citizens, especially those being squeezed in the middle class.

Since President George W. Bush has come to office, average weekly earnings have risen only 1 percent, while gas prices have risen 25 percent; college tuition has risen 28 percent; and family health care premiums have skyrocketed by 36 percent.

Unfortunately, this Senate has ignored these concerns and has done nothing to increase wages. For example, we have not increased the minimum wage in almost 7 years, and the benefit of that increase has been completely erased by inflation.

Even worse, unless Congress acts to restrict the President's proposed overtime regulations before our August recess, those regulations will slash the paychecks for thousands of Americans currently receiving overtime compensation by 25 percent.

Finally, we still have not passed a budget resolution this year and have 12 appropriations bills that must be enacted.

So why are we debating this constitutional amendment instead of addressing these more pressing issues?

I suggest that there is an effort here to try to divert American families from their real concerns.

In fact, this is a strategy that was advocated by Paul Weyrich, CEO and chairman of the Free Congress Foundation, who recommended that the President "change the subject" from Iraq to the Federal Marriage Amendment.

We must not allow for such politicization of our Constitution—our Nation's most sacred document. That is why I believe we must ban the proposal of constitutional amendments in a Presidential election year—certainly within 6 months of an election.

By considering this issue outside of Presidential election years, we may be better able to consider the implications of this proposal without added political pressures. This may be one reason why only 3 of the 27 amendments to our Constitution have been passed by Congress in Presidential election years.

Of course, I do not mean to imply that those who support this amendment have only political motives. Some of my colleagues on the other side of the aisle sincerely believe that no issue is more important than this one.

However, the Judiciary Committee simply has not given this proposed constitutional amendment the thorough and measured consideration worthy of a possible change to our constitution—certainly not if one believes this is the most important issue facing our society today.

During the 108th Congress, the Senate Judiciary Committee has held hearings on four proposed constitutional amendments: victims rights, flag desecration, the continuity of Congress, and this one.

Three of those proposed amendments have been debated and marked up by the Constitution Subcommittee, following the long-standing tradition of our committee. The amendment today is the only one that bypassed this traditional consideration.

It is ironic that the victims' rights and flag desecration amendments have followed the committee's traditional process, even though both have been considered by the Senate in the past, while this proposed amendment—which has never been considered by the Senate before—bypassed the full committee and subcommittee markups and barely even had a hearing.

Although the Judiciary Committee and Constitution Subcommittee have held four hearings on the issue of same-sex marriage, only one hearing was on the text of a proposed constitutional amendment—and that hearing was held less than 24 hours after this new version of the proposed amendment was introduced.

Furthermore, unlike our committee's hearings on the victims' rights amendment and flag desecration amendment, the only hearing on the text of this proposed amendment did not have a representative from the Department of

Justice to share the administration's views.

On the issue of hearings, before I go further, I would like to respond to Senator CORNYN, who on Friday said that in committee hearings on this issue, Senators who oppose this constitutional amendment "have chosen to boycott a good-faith desire to have an honest discussion about this issue." Senator ALLARD and others have made similar comments.

For the record, the Judiciary Committee—as the committee of jurisdiction—has held four hearings on this issue. Senators FEINGOLD, KENNEDY, and I attended all four, and at each one, Democratic Senators outnumbered Republican Senators.

This is hardly evidence of a refusal to engage in an honest discussion. In fact, just the opposite is true: We are asking for a full and thorough debate—but in the committee of jurisdiction, where such consideration is not only appropriate, but necessary, before we debate this proposal on the Senate floor.

This request is the same as the one made by Senator HATCH in 1979, when a constitutional amendment regarding the direct election of the President and Vice President bypassed the Judiciary Committee and was debated on the floor.

In that debate, Senator HATCH, then ranking member of the Constitution Subcommittee, said:

To bypass the committee is, I think, to denigrate the committee process, especially when an amendment to the Constitution of the United States of America, the most important document in the history of the Nation, is involved.

Senator HATCH's argument prevailed, and the proposed constitutional amendment was referred to the Judiciary Committee by unanimous consent.

Unfortunately, Senator HATCH has taken a different path with this proposed constitutional amendment, which is only the second constitutional amendment in more than a decade to be debated on the Senate floor after being placed directly on the Calendar without committee referral or report.

I believe anything less than full consideration and debate by the Judiciary Committee not only would denigrate the committee process, but also would be a disservice to those who sincerely believe this is the most important issue facing our country. Without such examination, many issues in the proposal before us today will remain unresolved and unclear.

The most important issue we must resolve is whether a constitutional amendment regarding marriage is necessary.

I am aware that Article V of the Constitution provides for amendments, and I agree that the Constitution is a living document.

However, as James Madison wrote in *The Federalist No. 49*, the Constitution should be amended only on "great and extraordinary occasions."

Our Nation has heeded that advice, and although there have been more

than 11,000 proposed constitutional amendments since 1789, we have amended our Constitution only 27 times, including the adoption of the Bill of Rights in 1791.

We must continue to approach constitutional amendments with great humility and respect. To do otherwise would be to take a roller to a Rembrandt.

The last time Congress submitted a constitutional amendment that was ratified by the States was more than 30 years ago, when the voting age was lowered to 18. That amendment was appropriate because it followed the principle of six other constitutional amendments that expanded voting rights.

By contrast, the proposed amendment we are considering today would be the first constitutional amendment to restrict the rights of individuals since the 18th Amendment regarding Prohibition was ratified in 1919. Fourteen years later, that amendment was repealed.

This proposed amendment also would be unique in that no constitutional amendment has been ratified in response to a State court ruling.

Furthermore, although there are four constitutional amendments that overruled Supreme Court decisions, no constitutional amendment has been ratified in response to a non-existent Supreme Court ruling. In other words, this proposal is a solution in search of a problem.

In 1996—another Presidential election year—Congress passed the Defense of Marriage Act, under which no State can force another State to recognize the marriages of same-sex couples. In other words, each State has its own power to define marriage.

In the 8 years since DOMA was passed, it has never been successfully challenged. Although many have speculated that it may be unconstitutional, not a single Federal judge in this country has indicated that DOMA is unconstitutional or unlawful in any way, shape, or form. DOMA is still good law.

Our country now has a preemptive foreign policy. I do not think we should have a preemptive Constitution. This proposed amendment would preempt the possibility that the Defense of Marriage Act will be found unconstitutional. That is premature and therefore inappropriate for an amendment to our Constitution.

The concerns I have raised thus far are reason enough to oppose this constitutional amendment. However, I have not even discussed the text of the proposal itself.

This constitutional amendment States the following:

Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

These two sentences are contradictory. The first sentence states that marriage must be between a man and a woman. But the second sentence suggests that marriage other than between a man and a woman would be permissible as long as that recognition occurred through a statute, rather than constitutional means.

Which is it? Does this proposed constitutional amendment permit States to enact laws that would allow marriage to consist of the union of same-sex couples? If so, the first sentence must be modified. If not, the language in the second sentence must be more explicit to reflect the fact that this constitutional amendment would take away the right of States to define marriage within their borders.

Furthermore, the overall intent and scope of the first sentence also are unclear. At first, this language seems straightforward enough. However, there are at least two ambiguities regarding this sentence.

First, Representative MARILYN MUSGRAVE, the House sponsor of this proposed constitutional amendment has stated the following:

In summary, the first sentence of the FMA is designed to ensure that no governmental entity . . . at any level of government . . . shall have power to alter the definition of marriage so that it is other than a union of one man and one woman.

However, as Representative Bob Barr noted in his testimony before the Judiciary Committee, the scope of this first sentence is not limited to government actors. According to Representative Barr, this sentence "appears to bind everyone in the United States to one definition of marriage."

As a result, religions that marry couples of the same sex in religious ceremonies may be barred from doing so. This blurs the line between church and State and threatens the Free Exercise Clause of the First Amendment.

While I take the sponsor at her word that this is not her intention, the language again is ambiguous and must be clarified.

Secondly, it is uncertain whether arrangements such as civil unions and domestic partnerships could exist at all under this first sentence of the Federal Marriage Amendment.

Although Senator ALLARD and Representative MUSGRAVE have stated that this sentence should not apply to civil unions or domestic partnerships, lawsuits have been brought in California and Pennsylvania that challenge domestic partnership laws based on the States' definition of marriage as being between a man and woman.

Dennis Archer, president of the American Bar Association, agrees that there is ambiguity and sent a letter to the Senate which States the following:

Despite the claims of the resolution's authors, it is unclear whether a State would be prohibited from passing laws permitting civil unions or domestic partnerships and providing State-conferred benefits to the couples involved.

Based on these lawsuits and the ABA's opinion, the language of this

amendment must be more explicit regarding whether civil unions and domestic partnerships could exist.

The second sentence also is full of ambiguity and undefined terms.

For example, what does the term “legal incidents thereof” entail?

I asked Professor Phyllis Bossin, who is Chair of the American Bar Association Family Law Section and who testified before the Judiciary Committee on behalf of the American Bar Association, what this phrase meant.

She said there were hundreds of such rights and responsibilities and provided a list of dozens of them, including the following: the right to visit in a hospital; the ability to authorize medical treatment; family health insurance; the ability to consent to organ donation; eligibility for life or disability insurance; interstate succession, which is when a spouse dies without a will; the right to adopt; domestic violence laws; the right to seek compensation for wrongful death; and the ability to file joint petitions to immigrate.

I ask unanimous consent that Professor Bossin’s list of selected legal incidents of marriage be submitted for the RECORD.

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

RESPONSE OF PHYLLIS G. BOSSIN ON BEHALF OF THE AMERICAN BAR ASSOCIATION TO QUESTIONS FROM SENATOR RICHARD J. DURBIN

A PROPOSED CONSTITUTIONAL AMENDMENT TO PRESERVE TRADITIONAL MARRIAGE, MARCH 23, 2004

(1) The Federal Marriage Amendment (S.J. Res. 30) states the following: “Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.”

(a) What does the phrase “legal incidents” of marriage mean?

Answer: “Legal incidents of marriage” are those rights that exist as a matter of law by virtue of the marital relationship itself. Among the hundreds of such rights and responsibilities, some are:

(1) Family law: (a) Distribution of property upon divorce (particularly marital or community property); (b) Right to seek spousal support (alimony, maintenance); (c) Right to seek custody, visitation, parenting time; (d) Automatic presumption of parentage for children born during marriage; (e) Right to adopt; (f) Application of common law marriage (in states that recognize common law marriage); (g) Right to enter into prenuptial agreements; (h) Right to change name at time of marriage; (i) Domestic violence laws (including restraining orders and right to occupy home); (j) Duty to support spouse during marriage; (k) Liability for family expense; (l) Automatic coverage of spouse under most auto policies; (m) Right to seek divorce; (n) Right to annulment; and (o) Right to seek/receive child support.

(2) Taxation: (a) Right to file jointly; (b) Tax rates; (c) Exemptions; and (d) Transfer of property between partners without tax consequences (gift or estate tax).

(3) Health Care Law: (a) Surrogate decision making (authorizing treatment or withdrawal of treatment); (b) Access to medical records; (c) Right to visit in hospital; (d) Consent to organ donation; (e) Consent to

autopsy; (f) Right to make funeral arrangements or dispose of remains; and (g) Family health insurance, including rights under COBRA.

(4) Probate: (a) Intestate succession (rights to property when one spouse dies without a will); (b) Protection from being disinherited (right to challenge will or elect to take against the will); and (c) Preferential status to be named guardian or executor/administrator.

(5) Torts: (a) Right to seek compensation for wrongful death and emotional distress; and (b) Right to seek compensation for loss of consortium.

(6) Government Benefits and Programs: (a) Survivor benefits (Social Security); (b) Military benefits (survivor, housing, health care, PX); (c) Eligibility (and consideration of family income) for welfare benefits; (d) Disqualification from programs because of status of family member; and (e) Disclosure requirements for public officials (and their family members).

(7) Private Sector benefits: Labor Law: (a) Family Health insurance, including rights under COBRA; (b) Eligibility for life insurance (such as group coverage for spouses); (c) Eligibility for disability insurance; (d) Right to take sick leave to care for seriously ill spouse; (e) Qualified Domestic Relations Orders (to divide pension benefits upon divorce between spouses); (f) Ability to roll over spouse’s 401(K) or other retirement accounts and tax deferral on income distributed by deceased spouse; (g) Discrimination based on marital status; and (h) Eligibility for family memberships and discounts.

(8) Real Estate: (a) Eligibility for tenancy by the entirety (traditionally only available to husbands and wives, a form of tenancy in which the joint ownership and right of survivorship generally cannot be eliminated as a result of one spouse transferring his or her interest to the other); (b) Need for spouse’s approval for real estate transaction; (c) Dower rights; (d) Homestead rights; and (e) Rent control protections, where applicable.

(9) Bankruptcy: (a) Joint filing.

(10) Immigration: (a) Joint petitions to immigrate; and (b) Preferred status for spouses or family members (immigrating separately).

(11) Criminal Law: (a) Privilege not to testify.

(12) Miscellaneous: (a) Benefits and rules pertaining to family farm; (b) Right to request and obtain absentee ballot; (c) Consideration of family income for purpose of student aid eligibility; (d) Access to campus housing for married students; and (e) Economic disclosure requirements of public officials (and spouse and family members).

Mr. DURBIN. Under the Federal Marriage Amendment, none of these legal incidents could be provided by Federal or State courts. For example, Professor Bossin cited a California trial court ruling that the State constitution requires a partner in a same-sex union be allowed to sue for the wrongful death of her partner. This proposed constitutional amendment would preclude such a finding by a court.

This amendment also would have prohibited Vermont from establishing civil unions, because a court had ruled that the law to create such relationships was constitutionally required.

These examples go far beyond the scope of “marriage,” but they do not tell even half of the story: Under the Federal Marriage Amendment, all State and Federal laws that provide any of these “legal incidents of marriage” could be struck down.

Senator ALLARD and others who support this amendment argue that it would allow State legislatures to provide the legal incidents of marriage through legislation, and that this amendment only constrains courts. However, a more critical analysis—which, again, should have been done at the committee level—demonstrates that this simply is not the case. For example, Professor Bossin has stated that the right to adopt is a legal incident of marriage. What if the Pennsylvania State legislature enacts a law to allow same-sex couples to adopt, and someone challenges the constitutionality of that law?

Under the second sentence of the proposed Federal Marriage Amendment, neither the State constitution nor Federal constitution shall be construed to require that the right to adopt—as a legal incident of marriage—be conferred upon a same-sex couple. Therefore, the court would have no grounds on which to uphold the constitutionality of this law, and the law would be struck down.

The possibility that even laws conferring the legal incidents of marriage could be invalidated raises serious questions about the intent and practical effects of the Federal Marriage Amendment.

This proposed constitutional amendment also undermines the democratic process regarding State constitutional amendments. In Massachusetts, the proposed State constitutional amendment that may be on the ballot in 2006 would define marriage as the union of one man and one woman, while simultaneously establishing civil unions for same-sex couples with “entirely the same benefits, protections, rights, privileges, and obligations that are afforded to persons [who are] married.”

However, under the plain reading of this proposed Federal constitutional amendment, the Massachusetts State constitution cannot be construed to require the legal incidents of marriage to be conferred to same-sex couples. In other words, even if the people of Massachusetts voted to ratify this State constitutional amendment, the second part of that amendment—the part that establishes civil unions—would be void because of the Federal Marriage Amendment.

Furthermore, because of the first sentence of the Federal Marriage Amendment, under no circumstance could the people or the State legislature define marriage as other than between a man and a woman. How, then, does the Federal Marriage Amendment achieve its goal of advancing the spirit and principles of democracy.

Finally, I believe that words should not be added or deleted from our Constitution or from proposed constitutional amendments in a careless manner. Therefore, I would like to know why the original version of this proposal was modified by removing the reference to “groups.” The first version of the Federal Marriage Amend-

ment, S.J. Res. 26, stated that marital status or the legal incidents thereof would not be conferred upon “unmarried couples or groups.”

The current version states that marriage or the legal incidents thereof shall not be conferred upon “any union other than the union of a man and a woman.” It appears to me this change was made because we are still struggling in some parts of our Nation with the idea of polygamy. Professor Bossin agrees that the current version of the proposed constitutional amendment does not explicitly prohibit polygamy, because polygamists enter into the union of a man and a woman—they simply do it multiple times.

Was it in fact the intent of the sponsors to leave the door open for polygamy? If so, why should polygamous groups be treated differently from same-sex couples? If not, why was the reference to “groups” deleted from the original version?

In addition to expressing my serious procedural and substantive concerns, I would like to address some of the arguments in support of this proposed constitutional amendment.

First, I have heard many Senators argue that this constitutional amendment is necessary to provide the American people with a voice and to protect marriage from so-called activist judges. As I already have noted, this proposed constitutional amendment actually undermines democracy by removing the power of the people and their elected representatives to define marriage in their States, to provide for civil unions in their State constitutions, or even to enact legislation to provide the legal incidents of marriage.

I also disagree that democracy is pitted against so-called judicial activism. As University of Colorado constitutional law professor Richard Collins said, judicial activism is “more of an insult than a philosophy.”

To argue that judicial activism is contrary to democracy is to suggest that a case like *Brown v. Board of Education* did not promote democracy in America. That was clearly an activist court, which took control of an issue that Congress and the President refused to address: discrimination in our public schools.

In *Brown v. Board of Education*, an activist Supreme Court said we are going to give equal opportunity to education across America. Doesn't that further democracy? When we celebrated the 50th anniversary of this decision earlier this year, did anyone argue that it didn't?

The same would be said of *Griswold v. Connecticut*, in which the Supreme Court said that families had the right to decide their own family planning and that the State of Connecticut could not dictate to them what family planning was allowed. It was a matter of privacy in family decisions. Was this an activist court in derogation of democracy that extended to these families and individuals their right to privacy?

In *Loving v. Virginia*, the Supreme Court said that a ban on interracial marriage was improper. Even though at the time, only 20 percent of the American people approved of such marriages, was that decision contrary to democracy or did it promote democracy?

Time and time again, judicial activism has promoted democracy. Of course, we must take care that the courts do not go too far. But to suggest that a constitutional amendment is necessary in this case simply because it was a court ruling—incidentally, by a court that consists of six Republican appointees and only one Democratic appointee—is controverted by the obvious legal precedent.

I also have heard many Senators argue that this constitutional amendment is necessary to safeguard the best environment for raising children. I agree that children raised by two parents are, in general, better off than children raised by a single parent. Many studies demonstrate this. But studies also demonstrate something else.

In 2002, the American Academy of Pediatrics—the largest pediatric organization in America—issued a report that stated the following:

[T]he weight of evidence gathered during several decades using diverse samples and methodologies is persuasive in demonstrating that there is no systematic difference between gay and nongay parents in emotional health, parenting skills, and attitudes toward parenting. No data have pointed to any risk to children as a result of growing up in a family with one or more gay parents.

Dr. Ellen Perrin, a professor of pediatrics at Tufts-New England Medical Center, who is considered to be the Nation's foremost expert on children raised by same-sex couples, has studied same-sex couples and concluded the following:

What we know for sure is that children thrive better in families that include two loving, responsible, and committed parents. We also know that conscientious and nurturing adults, whether they are men or women, heterosexual or homosexual, can be excellent parents. We have a lot of research as well as clinical experience that provide evidence for this fact.

This evidence is based on our Nation's experience with gay adoption. Every State except Florida allows gay people to adopt.

Some States, including my home State of Illinois, allow same-sex couples to jointly petition for adoption. Many others allow for second parent adoptions, a legal procedure which allows a same-sex co-parent to adopt his or her partner's child. These States have recognized that same-sex couples can step into the lives of adopted children and provide loving and supportive families.

Under this proposed constitutional amendment, it would no longer be possible for State courts to interpret their constitutions to allow same-sex couples to adopt. Same-sex couples only

would be allowed to adopt if explicitly permitted by State law—and as I have noted earlier, that State law could be challenged as unconstitutional and likely would be struck down.

Would that safeguard the best environment for these children? If this Senate is interested in the best environment for our children, we should fully fund No Child Left Behind, to provide all children with an educational opportunity and to fulfill the promise of *Brown v. Board of Education*.

We also should make college tuition more affordable, and we should provide families with affordable health care.

To conclude, I believe the definition of “traditional marriage” is an evolving one. One hundred and fifty years ago, “traditional marriage” in America did not include the ability of African American slaves to marry.

One hundred years ago, “traditional marriage” in some Western States did not include the ability of Asian Americans to marry. Just 40 years ago, “traditional marriage” in many States did not include the ability of African Americans to marry whites.

I understand that many supporters of this proposed amendment believe that the situation we face today is a fundamentally different one—that we must amend our Constitution to support the sanctity of marriage.

However, the sanctity of marriage is about the religious context of marriage, not the legality of it. We must be careful to separate the two.

Nothing in the Massachusetts Supreme Court ruling requires a church to conduct or to consecrate a same-sex union. On the other hand, if this proposed constitutional amendment were ratified, certain religious beliefs regarding the sanctity of marriage would be enshrined in our Constitution. This would go beyond the question of legality into sanctity, and I believe that we must maintain the bright line between the two that our Framers intended.

As one of my colleagues has said, “I support the sanctity of marriage, but I also support the sanctity of the Constitution.” Therefore, I urge my colleagues to reject this motion to proceed to a constitutional amendment that even the Republican leadership concedes is not ready for prime time.

Why else would they object to our unanimous consent request to have a vote on this resolution, without amendments?

The Republican leadership instead would prefer that we make it up as we go along, with one, if not two, amendments here on the Senate floor—amendments that could have been offered in a Constitution Subcommittee markup or in a full committee markup, had those not both been bypassed.

We are being asked to tinker with the words of our Nation's Constitution on the Senate floor, without even the benefit of committee analysis on the impact of these amendments. Unfortunately, this is not the first time we have considered a constitutional

amendment on the Senate floor that was a work in progress, with the sponsors trying to make changes in the midst of a floor debate.

During the 106th Congress, sponsors of the victims' rights amendment tried to make modifications to that proposal during the floor debate, and ultimately, the motion to proceed to that constitutional amendment was withdrawn. I believe that is the course we should follow here today. We either should vote on this resolution without amendments or withdraw this motion to proceed. If this motion is not withdrawn, I urge my colleagues to vote against it.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, to try and work out some housekeeping aspects of what we are doing today, under the order that was entered last evening, we are to be here until 8 o'clock with the time evenly divided. I ask the Chair how much time remains for the minority and the majority.

The PRESIDING OFFICER. The minority has 109 minutes, and the majority has 141 minutes.

Mr. REID. The minority has 109 minutes?

The PRESIDING OFFICER. Yes.

Mr. REID. I say to my friend, the distinguished Senator from Texas, I would appreciate his making contact with the majority leader at the nearest possible time. We have people who have requested time on our side of about 140 minutes. That doesn't work under the 109 minutes. So it would be my thinking that maybe we may need a little more time tomorrow to continue. I know we have cloture to take place tomorrow. The majority leader wanted ample time to debate. The Senator from Pennsylvania was on the floor yesterday and was concerned that there was not enough talk on our side of the aisle. I think we have taken care of that today. But if maybe he could check with his leadership to find out if we could stop at a reasonable hour tonight and then maybe have a couple of hours in the morning evenly divided prior to the vote on cloture. Right now we are going to have trouble cramming all of our time in with what we have left.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I will be glad to do as the Democratic whip requests and check with the majority leader about the time arrangements.

Mr. REID. If I may ask one other question of the Chair, I was off the floor when Senator SCHUMER asked consent that he and Senator FEINSTEIN be recognized before 5 o'clock. For how much time?

The PRESIDING OFFICER. For 15 minutes total.

Mr. REID. So that is also something we have to deal with.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized for 30 minutes.

Mr. CORNYN. Mr. President, I am elated that we are beginning to see engagement on this important issue by our colleagues on the other side of the aisle. I am always impressed with how articulate and forceful an advocate our colleagues on the other side are, particularly the two Senators who have spoken so far this afternoon, Senator FEINGOLD and Senator DURBIN, with whom I have the privilege of serving on the Senate Judiciary Committee. There are some important answers to the questions he raised. There are good answers that resolve each and every objection that has been raised to the amendment.

First of all, I would like to respond to the rhetorical question both Senator FEINGOLD and earlier Senator BOXER asked. They said: Why can't we let people live their own lives?

This amendment is not about making it impossible for people to live their own lives. Indeed, I agree we should let people live their own lives. Of course, we don't believe at the same time that they should be able to radically redefine the institution of marriage in the process.

From the very beginning of this debate—and I am grateful this has been a civil, respectful debate—we have made it absolutely clear the American people believe in at least two fundamental propositions when it comes to this issue. First and foremost, they believe in the essential dignity and worth of every human being. But at the same time—and this is not a mutually exclusive concept—they believe in the importance of traditional marriage as the most fundamental building block of a stable society and in the best interest of children. I and others on this side are here talking in support of this amendment and encouraging this debate because we believe very strongly that the positive case for traditional marriage must be made and we should not remain mere spectators on the sideline as judges in Massachusetts or anywhere else seek to amend the Constitution without the American people having a voice in the basic laws that govern our institutions or our lives. That is what this debate is all about.

I found it interesting. Again, I have to hand it to the Senator from Illinois. He is a skillful advocate. He must have been one heck of a lawyer practicing in private practice. I bet he won more than his fair share of his cases. But he speaks of our oath to support the Constitution. Certainly, I believe we all have taken an important oath to support the Constitution of laws of the United States. But I would like to direct my colleague's attention to provisions of the Constitution he may have overlooked in that broad generalization he made earlier about supporting the Constitution.

Indeed, one portion of the Constitution provides that "all legislative powers herein granted shall be vested in a Congress of the United States . . ." That is Article I, section 1. That is part

of the Constitution we swore to uphold. And indeed, under that same Constitution, courts are given only judicial powers, not legislative powers. What we find ourselves having to do in this debate is talk about the abuse of that judicial power, to in essence become a superlegislature and dictate a radical redefinition of the most fundamental institution in our society, the American family. But when courts get it wrong—and indeed, this is part of the genius of our Founding Fathers—the Founding Fathers knew that experience, the passage of time, or perhaps even a runaway judiciary might make it necessary for us to invoke another important part of the Constitution that we are here invoking today. That is Article V of the Constitution.

Indeed, to the best of my count, there have been at least six times when the Congress has amended the Constitution in order to overrule an erroneous constitutional interpretation by the Federal courts. So we make no apologies whatsoever in invoking the entire Constitution and the entire process. We make no apology at not sitting back and letting judges dictate what the rules are that govern our society, our families, and future generations.

Senator FEINGOLD and Senator DURBIN were concerned about the fact that this amendment did not go through the Senate Judiciary Committee. Actually, I was a little bit confused about Senator DURBIN's position. On the one hand, he said it did not go through the committee. On the other hand, he did concede the fact that there were four hearings of the Senate Judiciary Committee on this issue, starting last September, and the most recent of which was on June 22, 2004, when Governor Romney of Massachusetts appeared before our committee to talk about what he, as the Governor of that State, is doing to try to get a constitutional amendment to overrule the Massachusetts Supreme Court.

So we have had four hearings of the Senate Judiciary Committee. I know there have been at least two other committees of the Senate to consider this issue. It is important to put the concerns that were expressed by Senator FEINGOLD and Senator DURBIN in that context.

As far as the language we are debating is concerned, the so-called Allard amendment, that was introduced shortly before, I believe the day before the March 23 hearing we had this year on the Federal marriage amendment. Indeed, he had filed his original amendment—and this clarification was merely that—in November of 2003. So no Member of the Senate should be able to claim, in all fairness, of being surprised by this or being blindsided. Indeed, this is an issue that has been much discussed since actually before but at least since the time in November of 2003, when the Massachusetts Supreme Court first handed down its edict rewriting the Massachusetts Constitution to provide a mandate for same-sex marriage.

Now, there has been some concern expressed—and I will point out that the so-called Smith amendment, to which the Senator from Nevada alluded, is the first sentence of the Allard amendment. So it is impossible for me to understand how they can claim to be surprised by an amendment that is just the first sentence of the two-sentence Allard amendment. Insofar as Senator SMITH's position, whether he intends to offer it—and I cannot vouch for what Congress Daily says, but it seems to be pretty reliable—there is a lot of concern—and I am one on this side—that we stifle debate by not permitting a discussion of alternative amendments, especially one that makes up the first sentence of this two-sentence amendment on which we are having the motion to proceed.

So there is no surprise. There is no trickery, no attempt to blindside our colleagues on the other side of the aisle. This is about having a full, fair, and open debate. I think that is what we are doing.

I believe the Senator from Illinois expressed some concerns about the fact that no Federal court has yet mandated same-sex marriage under an interpretation of the U.S. Constitution, and that is true. The fact also is that there are at least four lawsuits currently pending attempting to do exactly that. Indeed, these are the latest lawsuits in a long line of legal opinions rendered by legal scholars, from Laurence Tribe and others, statements by Senator JOHN KERRY and Senator TED KENNEDY as recently as 1996 that the Defense of Marriage Act is unconstitutional.

This language, which I will read from an excerpt out of the Goodridge opinion in Massachusetts—and this is really, to me, very disconcerting. The Massachusetts Supreme Court said:

But neither may the Government, under the guise of protecting "traditional" values, even if they be the traditional values of the majority, enshrine in law an invidious discrimination that our Constitution, "as a charter of governance for every person properly within its reach," forbids.

In that excerpt, they have in effect defined traditional marriage as invidious discrimination. They went on to say:

For no rational reason, the marriage laws of the Commonwealth discriminate against a defined class; no amount of tinkering with language will eradicate that stain.

Here again, they are saying that traditional marriage is a stain on the Constitution, on the laws of the Commonwealth of Massachusetts, and no rational basis for those laws exists. This is language that I think the people across America would find very shocking. The fact is, they probably have not had the time or the means to try to find this language themselves. That is another reason it is important to have this debate. The Goodridge court goes on to say:

If, as the separate opinion suggests, the Legislature were to jettison the term "mar-

riage" altogether, it might well be rational and permissible. What is not permissible is to retain the word for some and not for others, with all the distinctions thereby engendered.

Translated into English, what the court said is you cannot preserve traditional marriage for some adult couples but not for same-sex couples. But what you could do, in Massachusetts and elsewhere, is eliminate the term "marriage" altogether. Shocking. Shocking.

Now, for those who think that we have somehow on this side of the aisle dreamed up this crisis, this threat, this assault to the American family and traditional marriage, let me read just another paragraph. This, again, is the Goodridge decision out of the Massachusetts Supreme Court, mandating same-sex marriage—four judges:

The separate opinion maintains that, because same-sex civil marriage is not recognized under Federal law and the law of many States, there is a rational basis for the Commonwealth to distinguish same-sex from opposite-sex spouses. . . . We are well aware that current Federal law prohibits recognition by the Federal Government of the validity of same-sex marriages legally entered into in any State, and that it permits other States to refuse to recognize the validity of such marriages. The argument in the separate opinion that, apart from the legal process, society will still accord a lesser status to those marriages is irrelevant. Courts define what is constitutionally permissible, and the Massachusetts constitution does not permit this type of labeling. That there may remain personal residual prejudice against same-sex couples is a proposition all too familiar to other disadvantaged groups. That such prejudice exists is not a reason to insist on less than the Constitution requires.

That is a direct critique and criticism of the Federal Defense of Marriage Act passed in 1996 by a vote of 85 Senators in this body on a bipartisan basis. If that isn't a direct signal that the next law under attack is the Federal Defense of Marriage Act, I don't know what is. In fact, we know that at least four cases are presently pending seeking to accomplish just that.

Now, there have been those who have expressed concerns, saying why in the world would we want to pass a constitutional amendment until a Federal court actually strikes down traditional marriage, even though the Supreme Court has, in *Lawrence v. Texas*, provided the rationale to do so, and that rationale has been adopted by the Massachusetts Supreme Court, interpreting their Constitution; why in the world do we want to amend the U.S. Constitution at this time?

I might interject that I bet old John Adams, who was the principal author in 1780 of that Massachusetts Constitution, never dreamed that four judges on the Massachusetts Supreme Court would so contort the meaning of that document as to create a right to same-sex marriage. That is one reason they didn't talk about it explicitly, either in the State constitution or in the Federal Constitution.

But in terms of why we shouldn't wait to address this matter, I point out

that Massachusetts is a good example of why. If we wait until it is too late, it may well take years for the American people, through the amendment process, to correct that error. In the meantime, we know that same-sex marriages will occur as they currently occur in Massachusetts, and those people will not just stay in one State but will move to other parts of the country to seek to have those marriages validated under the laws of their own State. But we do have an example of when States have chosen, based on a preliminary ruling suggesting same-sex marriage, to amend their constitution. So it is not unprecedented by any means.

As a matter of fact, in 1993 and 1996, Hawaii and Alaska courts issued preliminary rulings suggesting that same-sex marriage may be constitutionally required, and it was in 1998 that Hawaii and Alaska preemptively amended their constitutions before the highest court in those States went as far as the Massachusetts Supreme Court did in the Goodridge case. Indeed, in 2000, Nebraska and Nevada preemptively amended their State constitutions before suits were even filed.

I might add, there have been suits filed in Nevada seeking to force recognition of polygamist marriages under the rationale in *Lawrence v. Texas* and Goodridge, and, indeed, in Nebraska, there has been a Federal constitutional challenge to that State Constitution defense of marriage provision under this rationale of the *Lawrence* case seeking to have the Federal Government tell Nebraska it cannot recognize traditional marriage.

I want to move to the Allard amendment, which is two sentences. The first sentence basically says marriage is between a man and a woman. The second sentence seeks to preserve the right of the States to deal with the question of civil unions and to reserve that right to them as opposed to having a court mandate it.

I was a little baffled as to why the Senator from Illinois expressed some puzzlement at the meaning of that second sentence when, indeed, during one of the hearings we had in the Senate Judiciary Committee, he asked Professor Cass Sustein of the University of Chicago Law School:

Under this language, please explain whether a State legislature could pass a law to establish civil unions.

Professor Sustein responded:

I believe it could because no State constitution would be affected.

We have heard a number of objections raised that this is a State issue. We have seen charts being trotted out containing the quotations of various public figures. At one time, the Vice President, in a different context, said this should be a matter reserved to the States. And there was a quote from the Vice President's wife, Lynne Cheney, expressing her views, and I certainly respect both of them and their right to express their views. But the fact is this cannot be contained to one State.

It is interesting to hear folks on the other side of the aisle make States rights arguments to folks on this side of the aisle. The shoe is usually on the other foot because they are usually the ones seeking to have the Federal Government tell all the States what they should be doing rather than let each State—what Louis Brandeis once called the laboratories of democracy—work out these various policies.

The truth is, we are not only talking about whether a State should embrace a property tax or a sales tax or perhaps adopt an income tax. In my State, we do not have an income tax, and we are proud of it. We do not want an income tax in the State of Texas. Each State has a right to choose its own policies that way.

I firmly adhere to that and believe the States rights argument is absolutely true. But to suggest we can somehow, as a practical matter, contain this revolution, this radical social experiment mandated by the Massachusetts Supreme Court, in one State denies reality. The fact is people have, indeed, married, they have moved to 46 States and now we have at least 10, maybe more, lawsuits as part of a national litigation strategy to force other States to recognize the validity of that marriage. You would have to be blind to that effort to stand up here and say this is a State matter because it is not.

We know based on the legal arguments of scholars, based on the comments of Senator KERRY back when the Defense of Marriage Act was passed in 1996—something he did not vote for, by the way, and he now says he supports marriage as only between a man and a woman, but then he says he does not support a constitutional amendment either. He was not for the statute, he is not for a constitutional amendment, but he still claims to be in favor of traditional marriage. I don't know if, again, this is one of the nuances, quite frankly, that evades me of his reasoning process, but you simply cannot have it both ways.

Indeed, for reasons we have talked about already at great length, when as a matter of Federal constitutional interpretation by a court, same-sex marriages are required, no State constitution, no State law, nobody has a choice in that matter because our Federal Constitution, indeed, speaks for the entire Nation and not one State.

So no matter how much well-intentioned individuals may wish we can avoid this debate and say this is a local issue, this is a State issue, we do not need to be talking about it, that defies reality.

I know Senator DURBIN had suggested at the close of his comments that this is all an attempt to change the subject; that somehow we do not want to debate what is happening in Iraq, what is happening in the economy. I think the American people certainly know we have debated those issues, and we will continue to debate those issues. Frankly, I am proud of what we have been

able to accomplish in Iraq under a joint resolution passed overwhelmingly by this body authorizing the President to remove Saddam Hussein from power in that country, something that had been the policy of this Congress since at least 1998 when the Democrats advocated, and we all agreed—or at least those here at that time—in the Iraq Liberation Act. Regime change was a policy of the American Government under Democrat control, under a Democrat, President Bill Clinton. But it took the present President, George W. Bush, I believe, to follow through after Saddam thumbed his nose at 17 resolutions of the United Nations requiring him to open his nation up to weapons inspectors.

You want to talk about the economy, we are glad to talk about the economy. The economy is roaring back, thanks again to the policies advocated by this side of the aisle and led by President Bush who created more than 1.5 million new jobs this year alone. Indeed, home ownership is at an all-time high. The economy is roaring back, so we are glad to talk about that.

Finally, I have heard Senator DURBIN say it before and it makes you chuckle when you hear it—well, it is kind of funny. He says he believes no constitutional amendment should be debated—I cannot remember if he said “debated,” “filed” or “passed”—during an election year. We did not choose the timing of the Massachusetts Supreme Court's decision. I suggest what we are arguing for is a debate about the most fundamental institution in our society, and that is not a frivolous matter. That is an important matter.

Indeed, there are some, including this Senator, who believe it is the most important matter. Of course, those who have made the States rights arguments, all they need to do is read that Constitution once again, that Senator DURBIN spoke eloquently about, to recognize not only does it include a constitutional amendment process, but after two-thirds of the Senate and after two-thirds of the House have passed the resolution, three-quarters of the States have to ratify the amendment. So those who want to stand in this Chamber and say, We believe in States rights, we believe this ought to be handled by the States, the States retain a voice, a critical voice, a crucial, an essential voice in this process through the ratification process.

I believe this is an important issue. It cannot be solved at the local level. It is a national issue requiring a national response. It is not premature because to act only after a Federal court mandates same-sex marriage on a national basis under the guise of interpreting the U.S. Constitution, it will take too long for the people to speak and to overturn that decision and we will see something akin to what we see now happening in Massachusetts, despite the fact the people of Massachusetts have, through their representatives, at least initially, chosen to try to over-

rule that decision by a constitutional amendment.

The problem is that constitutional amendment cannot be effective until 2006. So what happens in the interim? What happens in the interim is what we see happening today, because of a dictate from the bench by four judges which now we see has a national impact.

I reserve the remainder of our time and yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Democratic whip.

Mr. REID. Under an order previously entered, Senator LAUTENBERG is to be recognized for 15 minutes. I ask unanimous consent that Senator MIKULSKI—she has been waiting patiently. She had some information that she was supposed to have come 40 minutes ago so she is waiting—have 10 minutes immediately following Senator LAUTENBERG. We have been going back and forth, but some of the speeches have been much longer than the others.

Mr. CORNYN. We have been going back and forth, and I certainly want to accommodate every Senator but I also know the Senator from Pennsylvania has been here as well.

Mr. REID. If I could ask through the Chair, how long does the Senator from Pennsylvania wish to speak?

Mr. SANTORUM. If Senator LAUTENBERG is speaking 15 minutes, I will speak for 10 or 15 minutes, if we want to go back and forth.

Mr. REID. Maybe we can try this: Following the statement of the Senator from New Jersey, the Senator from Pennsylvania would be recognized for 15 minutes and then Senator MIKULSKI for 10 minutes. We already have an order in effect that Schumer and Feinstein are to be recognized for 15 minutes total. So they would use their time immediately after Senator MIKULSKI completes her statement. I ask unanimous consent that be the case.

Mr. CORNYN. I have no problem with that as long as we continue to try to observe the back and forth so each side has an opportunity to speak.

Mr. REID. We would not go back and forth from MIKULSKI to FEINSTEIN because there is already an order entered regarding FEINSTEIN and SCHUMER, but they only total 15 minutes.

Mr. CORNYN. With that exception, I have no objection.

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

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in opposition to this proposed amendment to the Constitution as, by the way, has Vice President CHENEY and Mrs. Cheney. They are opposed. They are not taken by surprise on a moral issue. These are sophisticated people who understand government and who have a role to play. They are opposed to this amendment, and I think there is very good reason for that.

As Senators, many of us are from different backgrounds but we do all share a solemn oath to uphold the spirit and

the letter of the American Constitution. I would like to uphold the value and the commitment that the Constitution makes to all of us to protect our rights.

I have to raise a question, and that is, what is it that makes this the most important business we have in this body right now? Is this the only thing that we want to talk about for the American people to hear from the Senate? Or would a subject such as the killings that are taking place in Iraq, such as it was announced that three more were killed yesterday, be more important, and that we are stretching to have enough reserves to fight the battle and protect our troops in the best way possible but we need to have enough of them? Do the American people care about that?

Are the American people saying the issue that interests us most is whether a homosexual couple can marry, even though it is taken care of in many States and will continue to be? Are we saying, no, the war is not that important, we are going to lay it aside while notices go out to families, very often by a knock on the door that is an ominous calling that says your son, your daughter has been killed, your son, your daughter, has been seriously wounded?

No, we do not want to discuss that. We have to discuss gay marriage, and see whether we can change the Constitution, the Constitution which was designed to expand rights at any time that we saw a default in our system, whether it had to do with giving the vote to women or the vote to 18-year-olds or other expansions of rights.

No, we want to do the moral thing. We want to decide who is in charge of the morality of this country. The people are in charge of the morality of this country, not the people who are making speeches today.

When I think about what affects the American people, how about the people who work 35 or 40 years in a company and see their pensions disappear in front of their eyes because of the deceptive leadership of companies or falsification of records? No, no, the American people do not want to worry about that. They want to talk about this amendment. That is what they care about.

My phone is—no, it is not crowded. In fact, I do not get many calls at all about the morality of the constitutional amendment that has been proposed and, by the way, creates a constitutional convention so we can throw anything that we want on top of this.

No, the American people are not concerned about whether they can pay their bills or whether drug prices are going through the roof that they cannot afford or whether we can give an education to the children who want to learn in Head Start but do not know how. No, those are not the issues we want to talk about. We want to talk about whether a gay couple can engage in a relationship or a marriage.

Let the States of New Jersey, Massachusetts, and the other States that choose to give that right to give those citizens the same standing that other citizens within those States have. No, we do not want to discuss that. We want to discuss this issue. We want to discuss what is morally correct. What is morally correct is what the people want, and we ought to let them hear on this floor that we understand the issues that concern them.

I get calls from families who have people overseas, whether in Reserve units or regular enlistments, and they ask, what can we do to hasten my son's return? I want to see his face.

Go to Walter Reed hospital, as I and many others have done. I went there a couple of weeks ago after we buried a young soldier from New Jersey in Arlington Cemetery. Senator CORZINE and I, my colleague in the Senate, decided we should not only pay our respects to the dead but also our respects to the wounded, and we went to Walter Reed Hospital. In one of those rooms there was a young man sitting with his wife and he was staring blankly at the floor. It was not his lack of interest. It was his lack of sight. He could not see anything.

He said: I will not be able to see my 28-month-old daughter but I still want to hold her. I still miss her. I still love her.

We do not want to discuss those things. We want to discuss what is moral and change the Constitution to impose our value of morality on all of America. It is wrong. The proposed constitutional amendment before us would etch the markings of intolerance, discrimination, and bigotry into a document that is based on the enduring truth that everyone is created equal.

The constitutional amendment that is being offered today would do much more than ban same-sex marriages. It would also ban civil unions, saying they cannot really live together and share the values of our society, or domestic partnership laws, even if those relationships are specifically recognized by their fellow residents in their States by their State legislatures and signed by the Governor.

If enacted, I believe this amendment would create a permanent class of second-class citizens with fewer rights than the rest of the population.

In fairness and in good conscience, I will not support this mean-spirited proposal. Our Constitution is about expanding individual rights, not taking them away. The last thing the Constitution should do is mandate conditions for some people and another set of rights for a different group.

What is especially strange in this debate is we have the Republican majority looking to take away a State's right to determine the rules for marriage within its borders. I always thought the Republicans were States righters. I thought they always wanted to give power back to the States. That is what I thought they wanted to do.

In my home State of New Jersey, our State legislature, the duly elected representatives of the people of New Jersey, drafted, debated, and enacted a domestic partnership law. We ought to respect the State law, not stamp it out.

The State of New Jersey decided to establish a domestic partnership law. The Federal Government has no business telling us we cannot do it. It doesn't violate current Federal law and we should let that stand. States should continue to have the ability to decide whether same-sex couples should have the inheritance rights or pension rights or whatever other legal rights should be respected in a domestic partnership.

Domestic relations law, the law that governs family issues, has always been the domain of the State, not Federal law. The ability to decide matters of marriage has been with the States since the founding of the Republic. But now, those who typically advocate a smaller Federal Government—shrink government down to size, get rid of those people who are making their livings there, forget whether they contribute to the general well-being, we want to shrink Federal Government—now they are seeking to amend the Constitution to take power away from the States and put it in the hands of the Government so we can have people running around, morality police, making sure this couple isn't engaged in a relationship that would be prohibited by Federal law.

Once the Federal Government starts regulating marriage, you have to ask yourself what is next? Ten years from now what is going to stop Congress from prohibiting people getting married unless they pledge to have children? What is to stop this body from outlawing divorce or second marriages?

You have to ask yourself what is it that is driving this agenda? Why, in this election year, are we debating an amendment to the Constitution designed to restrict the rights of gay Americans? It is clearly not a legitimate legislative debate, as there are not near enough votes to pass this amendment. But that doesn't stop them from wanting to use the time to confuse the American public about what is important, what is important to the public which is worried about their jobs and the war and their kids. No. We want to discuss gay marriage.

I have come to an unfortunate conclusion about why we are doing this amendment. This is gay bashing, plain and simple. That is what this is about. This amendment is picking on productive members of our society, people who pay taxes, want to raise their families and contribute to their communities, as everyone else does. They want to be like everyone else in their conformity to law. This amendment attempts to divide America and it is shameful. It should not be that way.

When we see things that are shameful we should not be too spineless to respond. Look back on world history. There are notorious examples of those

who seek political advantage by picking on segments of society. It is a sad day when we see this dynamic happening here in the United States.

I urge my colleagues, reject this divisive amendment. Let's get on with the regular business that affects people's everyday lives. We can talk about this after the first of the year. It is not that urgent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. If you support a mother and father for every child, you are a hater. If you believe men and women for 5,000 years have bonded together in marriage, you are a gay basher. Marriage is hate. Marriage is a stain. Marriage is an evil thing.

That is what we hear. People who stand for traditional marriage are haters, they are bashers, they are mean spirited, they are intolerant. They are all these awful things. That would be the only reason we would come here is because we hate. It is because we are intolerant. It is because we want to hold people down, restrict their rights. That would be the only reason anyone could possibly come forward and argue that children need moms and dads.

Or is it the only reason? Isn't there a whole body of evidence out there, of 5,000 years of civilization, that shows as plain as this piece of paper I am holding up that children need mothers and fathers? That the basic unit of any successful society is moms and dads coming together to raise children?

Imagine what our Founders would say today, in a Constitutional Convention—which, by the way I suggest to the Senator from New Jersey this bill does not call for—that anyone who would come forward and suggest that holding marriage should be between a man and a woman is doing something that is hateful, something that is against the basic principles of equality within our Constitution.

The Senator from New Jersey said there is no room for debate on morality here on the floor of the Senate. It is up to the people to make this decision. I wish it were up to the people to make this decision. The Senator from New Jersey knows the people are not going to be able to make this decision. In fact, the people are being frozen out of this decision. They are being frozen out by State courts—I would argue, soon to be Federal courts. These are people who are not elected, people who are not accountable, people who are not democratic, but they are elitists dictating what they believe their world view should be for America.

The only way for the people to decide, I suggest to the Senator from New Jersey, is exactly the process we have before us. It is the only way for the people to decide. Leave it to the people. It is a great mantra. Leave it to the States. What those who suggest that we leave it to the States are suggesting is to leave it to the State courts. That has always been the secret

weapon of those who want to change our culture and change our laws without going through the process most of us think we have to go through to do that.

See, most people who are listening to my voice right now think that to change a law in America you actually have to get popular support for it, that you have to go before your legislature and petition your government. But, no, the Senator from New Jersey figured out a long time ago, as have many others who agree with his position, that the way you accomplish these social transformations that fight against this evil, hateful culture that believes in moms and dads and children being raised in stable families—the way you do that is you get people on these courts who can then dictate to the rest of us how we now shall live.

You have that supported and orchestrated through a variety of different ways, from colleges and universities to the media. Anyone who speaks out against this political thought is a hater. Anyone who speaks out for traditional truth, for truth that has been established in Biblical times, through natural law and a whole host of other cultures, in fact every civilization in the history of man—if you stand for that truth that was accepted by all for centuries, for millennia, you are a hater. You are someone who wants to oppress people.

I am willing to come here and debate the substance of what we are doing. It is an important debate: What will happen to marriage if we do nothing? That is an important debate. We should have that debate. But I am not suggesting the Senator from New Jersey or anybody else who comes here to defend a change in traditional marriage is doing so because they hate mothers and fathers, because they hate traditional marriage. I do not ascribe evil thoughts to them, nor should they to us.

There is the incredible intolerance of those who argue for tolerance.

You see, tolerance means you must agree with me and how I feel about an issue, and if you do not, you are intolerant. Someone who supports traditional values is by definition intolerant because they do not want me to be able to do whatever I want to do.

I never thought that was the definition of tolerance. I didn't think tolerance meant any individual should be able to do everything they want irrespective of the consequence to anybody else. I will check the definition. I don't think that is what tolerance means.

When we change the definition of something so central to the culture of any society—and that is what marriage is and what family is—it has profound consequences on children and thereby on the next generation.

I am not just making this up. It is real. It is so real it has been a given forever. I imagine this has been a given forever. All of a sudden, now something that is a given, that is a truth of every

major religion I am aware of, from natural law to philosophy, all of this given truth is now seen as pure animus, hatred. But it is not.

This constitutional amendment is based on a sincere caring for children, for family, for the future of this country.

The Senator from New Jersey suggested that conservatives should be for States rights and that we want to shrink government. Let me assure you, if we do not stop the change of the definition of traditional marriage, if we let marriage be just a social convention without meaning or without significance, we will shrink government because we have seen where marriage becomes out of favor—whether it is the Netherlands or Scandinavia, which I will talk about in a moment, or whether it is subcultures within this country in which marriage is seen as an out-of-date convention. In those cultures, children suffer. In those cultures, people do not get married. In those cultures, children are born out of wedlock and do not see their fathers and in many cases their mothers. Society dies.

You can say I am a hater, but I will argue that I am a lover. I am a lover of traditional family and children who deserve the right to have a mother and a father. Don't we want that? Is there anyone in the U.S. Senate who will stand up and argue that children don't have a right to a mom and a dad; that our society shouldn't be saying to all people that moms and dads are the best, an ideal, and what we should strive for? When we say that marriage is not that, then we say that children don't deserve that. Let me assure you they will not get that.

I will give you a couple of examples. The most dramatic is in the Netherlands. Senators CORNYN and BROWNBACK and others have talked about it. But this is a country where marriage was a very stable aspect of their culture. They had the highest marriage rate and the lowest divorce rate in Europe. They had the lowest out-of-wedlock birth rate in Europe—until what? Until a social movement began to change the definition of marriage. You can say a lot of other things happened in Europe during that time, true. But the Netherlands has always been, interestingly enough, the country that was able to dam the tide, stem the tide and preserve the traditional family until they began the process of changing the definition of marriage to expand it.

Look at what happened over that period of time: A straight and rapid descent in the number of people getting married and, not surprisingly, a rapid ascent in the children being born out of wedlock.

Is this what is best for children? Is this an argument of a hater? Is this an argument of someone who is intolerant or is this an argument of someone who believes that children deserve what is the ideal for our society?

What has happened in those countries that have allowed people of the same sex to get married? Sweden allowed same-sex unions. There are 8 million people in Sweden. How many same-sex unions? There were 749. Is it worth it that now 60 percent of first-born children born in Sweden are born out of wedlock? Is this worth it, 749?

By the way, the breakup rate of those marriages is two to three times what it is in traditional marriage. Is it worth it?

I ask kids today what marriage is about. For the longest time, when I asked them what marriage is about, they always answered it is about the love of two people. Look at what Hollywood said about marriage. If you look at what leaders in this country say about marriage, maybe that is what we think it is. You look at the pop stars and celebrities, and that is certainly what it is today. It certainly isn't about families and kids.

What are we telling our children? Is marriage just about affirming the love of two people? I can assure you that is the motive behind it. It is about affirmation of lifestyle, it is about affirmation of desires. Marriage and family is more than that. Principally, marriage and family has been held up not as an affirmation to make you feel good about who you are or who you love, but it is about the selfless giving for the purpose of continuing. It is about selflessness, not selfishness. It is not about me all the time. This is a society that is so wrapped up in "me." Make me feel good, make me affirmed—me, me, me. What about kids? What about the future? The greatest generation of America was the greatest generation of America. Why? Because they were giving of themselves for something beyond themselves.

The greatest generation that started the baby boom was a generation that understood what family was all about.

A young man walked up to me a year and a half ago in Wichita, KS, and handed me this bracelet, and I have worn it every day since. He said this bracelet describes what family is. That is what it is—f-a-m-i-l-y. It says it means family. Forget about me; I love you.

Is that the kind of family we are debating today?

There is a reason we are here. It is not because we hate anybody. It is not because we don't respect anybody. It is not because we don't dignify their worth and value as a person. It is because there is a group of people who are trying to change the definition that is central to the future of this country.

That is why we are here. We didn't pick this fight. We didn't start this battle. They went to the courts, not to the people. They went to the few elitists, and on of the most elitist liberal places in the world, Boston, MA, and said, you, the elite of the east coast, Northeastern United States of America, you take your isolated values

and then sweep them across this country. They didn't go to Omaha, NE. They didn't go to Peoria, IL. They go to San Francisco, to Seattle, to Boston, and to New York, and they impose the values across America.

That is not democracy. That is not allowing the people of Baltimore, the people of Reno, the people of San Antonio, the people of Providence, the people of Pittsburgh to speak.

We have a right to speak. The only way we can do that is through the process we have before us, article V of the Constitution, which says we have a right to amend the Constitution when things go too far. And things are going too far. I ask my colleagues to give the people a chance to speak.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. The next Democrat speakers in order following the statements of Senators SCHUMER and FEINSTEIN would be Senator KENNEDY for 15 minutes, followed by Senator DAYTON for 20 minutes. I ask consent that be in order on this side of the aisle.

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

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I wish to speak on the Federal marriage amendment and also on the motion to proceed.

Today I rise to talk about the Federal marriage amendment. I first will talk about timing and then about content. First, I will talk about timing. Marriage is not under a threat. It is not in any clear, imminent danger of being destroyed. What is in clear and imminent danger and what we have heard is under threat of possible attack is the homeland.

There are other issues families are facing that are eroding their very stability such as their economic situation and the cost of health care. If we really want to stand up and protect America and protect families, we would be focusing on these and other issues. This discussion is ill-conceived, ill-timed, and unnecessary.

Last week, Homeland Secretary Tom Ridge announced that al-Qaida is planning a large-scale attack on the United States of America. What should we be doing? We should be working on homeland security. We have a homeland security appropriations bill pending, waiting to come before the Senate. That is what we should be talking about today, not this amendment.

This is why I will vote against the motion to proceed as a protest that we are not meeting the compelling needs of the Nation. We need to show a deterrent strategy, to send a message to the terrorists: Do not even think you can affect our elections because we would be united across the aisle to stand up and vote for legislation to protect the homeland. To protect our ports, our cities, our transportation, our schools, and, yes, those moms and dads and children we have been hearing about

all day long. Instead, we are debating the motion to proceed to a constitutional amendment. America is united in the war against terrorism. We should not be divided in a cultural war.

Let's talk about another war, the war in Iraq. Right now, we have men and women returning with broken bodies, some who have lost their limbs. One cannot go to ward 57 at Walter Reed, the way I have, and see the young men and women who have lost an arm, lost a leg, lost hope, wondering if anybody is ever going to love them again, if they are ever going to be able to work again, and not want to do everything possible to help these young Americans.

That is why I am working now on a bipartisan basis with my colleague, Senator KIT BOND, on the VA/HUD appropriations bill so we can help our veterans, so we can have a prosthetic initiative to give them a "smart" arm with the best technology, to give them a smart leg so they can run the race for life and maybe give them back a life. That is what we should be focusing on, working on a bipartisan basis, solving the problems that confront the Nation.

This amendment is not about policy; it is about politics. It is not about strengthening families; it is about helping the other party get elected. If we were serious about helping families, we would be focusing on jobs, on health care, on the rising costs of college tuition. This proposed amendment does not help families. Why? It does not create one new job or keep one in this country. It does not pay for one bottle of prescription drugs that seniors so desperately need. This amendment does not send one child to college. No, this amendment does not help a family pay for health care for a sick child. What it does do is divide. Americans are tired of divisive debates. This amendment is just simply a distraction.

On the timing, I wish we would put it aside and address our Nation's real needs.

I also want to talk about the content should we move to proceed. I will vote against this amendment because it is unneeded and unnecessary. Congress in 1996 spoke on this issue. They passed something called the Defense of Marriage Act. What this legislation did was define marriage as between a man and a woman. It also allows each State to determine for itself what it considers marriage under its own State law, leaving the concept of federalism intact.

Maryland, my own home State, also has a law on the books that defines marriage as between a man and a woman. So when you look at Maryland law and you look at Federal law, this constitutional amendment is unneeded.

We talk about what the courts are doing. Well, I don't quite see that as the same level of threat as terrorism, or the loss of a job on a slow boat to China or a fast track to Mexico.

Some of my constituents are worried that churches will be forced to perform gay marriages. Under separation of

church and State, no law—not a Federal law, not a State law—can force a church, temple, mosque, or any religious institution to marry a same-sex couple. That will be up to their religious determination. Why? Because, again, under separation of church and State, we cannot dictate to a church what to do. Because of this constitutional commitment there can be no Federal law, for example, even under equal protection that could force the Catholic Church to ordain women. Our First Amendment provides this protection to religious institutions.

And so I reiterate that this amendment is unnecessary.

I also oppose this amendment because I take amending the Constitution very seriously. In our entire history, over 200 years, we have only amended the Constitution 17 times since the Bill of Rights. We have amended that Constitution to extend rights, not to restrict them. We amended the Constitution to end slavery. We amended the Constitution to give women the right to vote. We amended the Constitution to give equal protection in law to all citizens. We amended the Constitution to give citizens over age 18 the right to vote. We have never used the Constitution as a weapon or as a social policy tool against a minority of the population.

I am concerned that this amendment would condone discrimination. We should not embark on that path today. It is wrong. It undermines the integrity of the Constitution.

When the roll is called on the motion to proceed, I will oppose that motion. There are far more pressing needs for American families and those children we love.

When we amend the Constitution, it should be to expand hope and opportunity, not to shrink it.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I believe Senator SCHUMER and I have 15 minutes between us by unanimous consent agreement, and I ask that I be alerted when 8 minutes has passed.

#### EXPIRATION OF ASSAULT WEAPONS BAN

Ten years ago, I introduced an amendment to the crime bill which banned the manufacture and sale of semiautomatic military-style assault weapons. Senator SCHUMER, then a Member of the House, a member of the Judiciary Committee, introduced the same amendment in the Judiciary Committee. We were both successful. It passed the Senate, passed the House, was signed into law by President Clinton.

Over the past 10 years, gun traces to semiautomatic military-style assault weapons have decreased by two-thirds. The ban has worked. But 2 months from today, the Federal ban will expire.

Once again, new guns such as the Tec-DC9 will flood our streets. If you don't know what a Tec-DC9 is, I am

going to show you. This is Gian Luigi Ferri, who walked into 101 California Street and killed six people, wounding eight. And this is the Tec-DC-9 he was carrying with a 30-round clip. He had 250 rounds in additional clips with him. He is dead here, shot on the floor, but not until after he had either killed or wounded 14 people. The ban will expire despite overwhelming public support to renew it.

Seventy-one percent of all Americans support renewing the ban. So do 64 percent of people in homes with a gun. The ban is going to expire despite overwhelming support from law enforcement and civic organizations. As you can see, nearly every major law enforcement and civic organization in our country supports renewal: the Fraternal Order of Police, the Chiefs of Police, the United States Conference of Mayors, National Association of Counties, and on and on.

The ban will expire despite the stated public support of President George W. Bush and Attorney General John Ashcroft. As you can see from this letter, the administration has reiterated its official support for renewing the ban time and time again. From the Department of Justice:

As the President has stated on several occasions, he supports the reauthorization of the current ban . . .

And the ban will expire despite the support of a majority of Senators, 52. Despite all of this, it looks more and more likely that the National Rifle Association will win. The ban will expire, and the American people will once again be made less safe.

Although President Bush has said he supports the ban, the White House has refused to lift a finger to help us pass the renewal. They are instead playing political hot potato with the Republican leaders in Congress.

The Hill newspaper, on May 12, said that "an aide to [the Speaker] has said privately that if the President pushes for it, the ban will probably be reauthorized. But if he doesn't, the chances . . . are remote."

The Boston Globe reports that a White House spokesman said "Bush still supports the ban but is waiting for the House to act."

So the House will act only if the President asks them, and the President will act only if the House passes it. It is a classic catch-22.

One month ago, June 14, three former Presidents wrote to President Bush. Presidents Ford, Carter, and Clinton took the extraordinary step of writing a joint letter to President Bush asking him to work to renew the ban and offering their assistance to do so. Let me read just part of it:

We are pleased that you support reauthorization of the . . . Assault Weapons Act, which is scheduled to expire in September. Each of us, along with President Reagan, worked hard in support of this vital law, and it would be a grave mistake if it were allowed to sunset.

It goes on and expresses what this law means. I could not agree more. We

cannot go back to those days. We know these guns are used by gangs, by criminals, by grievance killers, by troubled children to kill their schoolmates. We also know from al-Qaida training manuals that al-Qaida has recommended that its members travel to the United States to buy assault weapons at gun shows. Why? Because it is so easy to do so.

As the threat of terrorism around the world increases, how can we let the ban expire and make it that much easier for terrorists to arm themselves with military-style weaponry? And make no mistake, gun manufacturers and sellers are keeping a close watch.

In mid-April, Italian customs seized more than 8,000 AK-47 assault rifles on their way from the Romanian Port of Constanta to New York and then to Georgia. These guns had a value of more than \$7 million.

Of course, shipping assembled AK-47s would be illegal under the ban and under a 1989 Executive order of the first President Bush that banned certain guns from importation. But according to ATF, importing these guns so they can be disassembled, sold for parts, and then reassembled would not be illegal, and now purchasers will be allowed to reassemble these guns into their banned form. This shipment was not an isolated example.

Here is an advertisement from Armalite, a company that makes post-ban rifles. As we can see from this advertisement, they are offering a coupon for a free flash suppressor for anyone who buys one of these guns so that on September 14, once the ban is expired, the gun can be modified to its pre-ban configuration. What do you need a flash suppressor for? If you have a flash suppressor on a gun and a 30-round clip in it and you are shooting at night at the police or at neighbors, you can't see where the gun flashes. The flash is suppressed. So if you are a criminal, you may need one. If you are a legitimate citizen, you don't.

This is the kind of thing we can expect, just 2 months from now: Companies gearing up to once again produce the deadly assault weapons, the high-capacity clips which are now banned, clips, drums, or strips of more than 10 bullets, and dangerous accessories we worked so hard to stop 10 years ago.

I hope that, before September 13, the President and the Congress can find the courage to stand up to the NRA, to listen to law enforcement all across the Nation who know that to ban these guns makes sense and saves lives.

Listen to the studies that show that crime with assault weapons of all kinds has decreased as much as 66 percent. The bottom line is that everyone knows this ban should remain law, but time is running out. We have 14 legislative days. Will the House of Representatives step up to the plate and find an opportunity to give the House an opportunity to vote to renew the military-style assault weapons legislation?

I ask unanimous consent to print the following editorials in the RECORD.

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

[From the Seattle Times, May 4, 2004]

#### EXTEND THE BAN ON ASSAULT WEAPONS

The clock is running out on a 10-year-old federal ban on certain types of semiautomatic assault weapons. Without bold action by President Bush, the common-sense law likely will expire in September.

Bush has said he will sign a bill to extend the ban if Congress approves one. But that's unlikely without his strong backing, and he knows it.

A strong majority of Americans support the ban on the manufacture, transfer and possession of 19 types of assault weapons, such as the AK-47, the Uzi and the TEC-9. So do the National League of Cities, the U.S. Conference of Mayors, the National Educational Association, the American Bar Association and many other organizations. They support it because it makes sense.

Seattle Police Chief Gil Kerlikowske is one of hundreds of law-enforcement leaders who back the ban. He says such weapons serve no legitimate purpose for people who aren't police.

He's right. These weapons aren't necessary for hunting or self-defense. They are for drug dealers, gang leaders and other criminals. They don't belong on America's streets.

In addition to banning 19 specific semiautomatic assault weapons, the 1994 legislation identifies specific characteristics that categorize a weapon as an "assault weapon." It also bans ammunition clips or magazines that hold more than 10 rounds. At the same time, it exempts hundreds of other weapons designed for legitimate uses.

The ban isn't perfect. Manufacturers can too easily get around the law by altering their weapons. Still, the fight to keep the ban in place is worth it. And it will be a fight.

The National Rifle Association is actively opposing extension of the ban. Republican Majority Leader Tom DeLay said there are not sufficient votes to reauthorize the law. A bill that would have protected gun manufacturers from lawsuits died in March when senators tried to include in the bill the extension of the assault-weapons ban.

If the ban expires Sept. 13, the country could once again manufacture and import these military-style weapons. We don't need them.

President Bush has said he supports the ban. It's time for him to start acting like it.

[From the San Francisco Chronicle, April 22, 2004]

#### RENEW THE WEAPONS BAN

The debate over the nation's assault weapons ban will be repeated this spring, with Sen. Dianne Feinstein arguing the need for extending her groundbreaking legislation. Lest she need any more ammunition, tragic news has provided it—the recent cold-blooded slaying of San Francisco police officer Isaac Espinoza at the hands of a killer wielding an AK-47 assault rifle.

That there is still strong opposition to extending the weapons ban in spite of its obvious merits speaks to the power of the nation's gun lobby, which has fought every effort for sensible gun control. Earlier this year, Senate Republicans killed their own bill aimed at granting gun dealers and manufacturers immunity from lawsuits filed by shooting victims rather than agree to extend Feinstein's legislation.

But none of the rhetoric from the National Rifle Association can stand up to the facts. The percentage of assault weapons used in crimes since the original ban passed has been

reduced by two-thirds. There is simply no justification for making military-style assault weapons available to the general public.

While the NRA seems to gloss over the worst incidents involving assault weapons, such as the horrific 1999 Columbine High School shootings, Bay Area residents cannot. Feinstein's bill grew out of the 1993 massacre of eight people at 101 California Street in San Francisco by a gunman armed with two semiautomatic rifles. The shooting death of officer Espinoza, allegedly at the hands of 21-year-old assailant, serves as a chilling reminder of the availability and danger of assault weapons.

The need for the ban is painfully obvious. Reasonable gun control is in everybody's interest, even those citizens who make up the NRA.

[From the Miami Herald, May 6, 2004]

#### ASSAULT-WEAPONS BAN IS ITSELF UNDER ASSAULT

If Congress allows the federal ban on assault weapons to expire, the law's public-safety successes will disappear with it. Lawmakers should not let that happen. The ban is saving lives.

The law prohibits manufacture and importation of 19 types of rapid-fire assault weapons and scores of copy-cats with similar characteristics. In the 10 years since the ban was enacted, its benefits have been undeniable: A U.S. Justice Department analysis shows that banned assault weapons used in crimes dropped by almost 66 percent between 1995 and 2001; they dropped 20 percent in the law's first year, to 3,268 in 1995 from 4,077 in 1994. Murders of police officers by assault weapons dropped to zero in late 1995 and 1996 from 16 percent in 1994 and early 1995.

For these reasons, police chiefs spoke as one last week in press conferences across the country. They want U.S. lawmakers to reauthorize the assault-weapons ban before it expires in September. So do government officials and, several studies show, the majority of Americans.

President Bush supports the ban, but he hasn't been vocal about it. Under pressure from the National Rifle Association to change his position, Bush appears reluctant to repudiate openly a group that supported his candidacy in 2000. But the data should give him ample reason to lead the push for the law's extension. Simply put, we all are safer because of the ban on assault weapons.

The ban will sunset on Sept. 13 unless Congress approves new legislation keeping it on the books and Bush signs it into law. Bipartisan legislation would extend the ban for a decade. But reauthorization faces the same heated firefight that the original proposal faced 10 years ago.

In 1994, the ban almost sank a multifaceted crime and safety bill. In addition to the ban on assault weapons, the bill contained other sensible measures: It added 100,000 police officers and funded programs to steer youths away from crime.

The NRA fought hard to persuade lawmakers to reject the ban. It argued that the ban trampled gun buyers' constitutional rights. Its heavy-handed tactics backfired. Several gun-owning lawmakers from both sides of the aisle resigned NRA memberships, and a congressional majority voted to approve the ban.

Lawmakers should stand firm again, rejecting a replay of the NRA's election-year fear-mongering. The law doesn't stifle gun ownership; it makes killing machines harder to obtain. The ban does not affect weapons owned before it went into effect. In 1995, two Columbine High School students got their hands on assault weapons. We know the carnage they left behind.

Assault weapons have no place in civil society. Congress should reauthorize the law that bans them.

[From the Hartford (CT) Courant, June 11, 2004]

#### RENEW ASSAULT WEAPONS BAN

Time is running out on efforts to extend the federal assault weapons ban, which is scheduled to expire Sept. 13.

There's no good reason why civilians should be allowed to own these rapid firing, military-style weapons, which are favored by criminals. The weapons have no legitimate use for self-defense or hunting.

Unfortunately, Republican congressional leaders are ready to do the bidding of the National Rifle Association, which has fought the ban since it became law a decade ago. President Bush favors an extension of the ban, but unless he pressures Congress to act, it's likely that nothing will happen.

That would be tragic. Once again, the nation's cities would be flooded with an array of high-powered weapons on streets and in homes. Police officials across the nation have pleaded with Congress to extend the ban.

Connecticut U.S. Reps. Christopher Shays, Rosa DeLauro and John Larson are among more than 100 House co-sponsors of the proposed extension. Sen. Christopher J. Dodd recently added his name as a Senate co-sponsor. The remaining members of Connecticut's delegation, Reps. Nancy Johnson and Rob Simmons and Sen. Joseph I. Lieberman, should join them.

The proposed extension also would tighten current law to close a loophole that has allowed manufacturers to sell the weapons simply by making cosmetic changes in the banned models.

Passage of the 1994 ban was an important step toward reducing mayhem with powerful guns. Let's not take a step backward.

[From the New York Times, June 21, 2004]

#### GUNS AND THE GIPPER

On last reflection on the death of Ronald Reagan:

In the debate over who can lay claim to the Reagan legacy, one aspect of the late president's record has gotten little attention.

That was Mr. Reagan's willingness to stand up to the National Rifle Association and support the cause of gun control when he thought it was right.

A decade ago, when the proposal to create a federal ban on military-style assault weapons was teetering between Congressional passage and defeat, Mr. Reagan personally lobbied Republican House members to take what he called the "absolutely necessary" step of outlawing the bullet-spraying semiautomatic guns favored by criminals. His effort proved crucial, as the legislation passed the House by just a two-vote margin.

True, it was only after Mr. Reagan left office that he woke up to the need for sensible national laws like the assault weapons ban and background checks for gun buyers. As president, he signed legislation weakening federal gun laws. Right now, President Bush has the chance to go the Gipper one better by waging a principled fight to renew the 10-year-old assault weapons ban, which is due to expire in September. The president is on record as favoring the ban's continuation. But he steadfastly refuses to do anything to rally lawmakers to renew and strengthen its proven, life-saving provisions. Mr. Bush may please anti-gun-control extremists by presiding over the extinction of the assault weapons ban. We doubt it would have pleased Mr. Reagan.

[From the St. Louis (MO) Post-Dispatch,  
June 25, 2004]

A LANDMARK SETTLEMENT  
GUN CONTROL

A court in West Virginia has approved a settlement requiring a gun dealer to pay \$1 million in damages to two New Jersey police officers seriously wounded by a robber who bought a gun through a straw party in West Virginia. This agreement marks the first time a dealer will pay damages for supplying a firearm to the illegal gun market. The lawsuit accused the dealer, Will Jewelry & Loan of Charleston, W.Va., of negligence and creating a public nuisance by selling a dozen handguns to a straw buyer. The straw buyer bought the weapons for convicted felon James Gray.

Dennis Henigan, an official at the Brady Center to Prevent Gun Violence in Washington, noted that the injured officers would have collected nothing had the U.S. Senate approved legislation in March to shield gun makers and dealers from civil lawsuits. For a time, it seemed that the National Rifle Association would pressure Congress to pass this bill. That was before Democrats succeeded in adding two amendments. One would have banned assault weapons, and the other would have required background checks at private gun shows. Furious Senate Republicans pulled the immunity bill and vowed to stall the two amendments by not allowing the House to consider them this year.

President George W. Bush can make a difference in this election year by keeping his promise to extend the 1994 ban on military-style assault weapons. The existing ban expires in September. Mr. Bush didn't mention the issue when he invited sporting groups to his ranch in Crawford, Texas, in the spring. Nor did Vice President Dick Cheney mention it when he held an antique rifle at April's NRA convention and accused Democratic presidential candidate Sen. John Kerry of being an enemy of gun makers and users.

The president appears to want to have it both ways. He says he favors instituting background checks and extending the weapons ban, yet he had urged the Senate not to add either rider to the gun immunity bill. Granted, some of the banned weapons, including the one Mr. Cheney held at the NRA convention, are prized by collectors. And gun enthusiasts point out that many of the banned weapons are no more dangerous than guns in general but have a bad reputation because of movies that glorify gun violence.

Trouble is, this violence spills over into real life. The memory of Columbine is still sharp for many Americans, although the carnage happened five years ago. Images of snipers picking off innocent people in the Washington, DC, area won't soon be forgotten. And the reckless use of handguns and rifles to maim and murder is a daily occurrence in our country.

Mr. Bush should give his unequivocal support to extending the ban on military-style weapons that are used mainly to kill people.

[From the Baltimore Sun, July 5, 2004]

THE LINE OF FIRE

They buried Carlos Owen, Harley Chisholm III, and Charles Bennett last month. The three Birmingham, Ala., police officers were serving an arrest warrant in one of the city's blighted neighborhoods when they were shot and killed. And the incident has left people in that conservative, gun-owning part of the country wondering whether maybe some weapons shouldn't be so widely available.

The gun that killed the officers was an SKS, a rifle similar to the notorious Russian AK-47. It's a military-style assault weapon

and, according to the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, a rifle often used against law enforcement officers. It fires a 7.62 mm round at 2,300 feet per second, a velocity that's capable of penetrating police body armor. Earlier this year, two other Alabama police officers were killed in the line of duty. An SKS was used in both shootings.

Why is this cop-killing gun allowed in circulation in this country? It's not outlawed by the 10-year-old federal assault weapons ban. The AK-47 was, but the makers of the SKS found a way around the ban by making some minor modifications. Yet their gun still has some of the most troubling qualities of an assault weapon—an ability to accept a high-capacity magazine and, even as a semi-automatic, spray a large number of large bullets powerfully and accurately.

That, and the fact that it's cheap and lethal-looking, has made the SKS a popular gun among criminals. An SKS can be purchased for as little as \$200. A used magazine capable of holding 40 rounds might cost an extra \$5. It's not a particularly useful gun for hunting. It's not even that popular with the general law-abiding public. All models of assault weapons represent less than 5 percent of the guns in circulation.

Yet here we are just a few months shy of the day the federal assault weapons ban is set to expire and there's little hope it will be renewed. It should be renewed—and expanded to cover guns such as the SKS. President Bush said four years ago that he supported an extension of the assault weapons ban. A majority of the Senate supports it, too. Right-wing House Republicans don't. President Bush could probably overcome that opposition, but he won't even talk about the issue. Clearly, he'd rather the whole thing went away quietly.

Of course it won't go away for the families of those murdered Birmingham police officers. While a renewal wouldn't take the existing SKS rifles off the street, letting the ban expire in September would open the door to even deadlier models. What message would that decision send to future cop-killers? A lot of Americans, gun owners and police officers included, have been left to ponder: What compelling reason is there to allow bad guys to own assault weapons? And how can the president of the United States continue to claim to support a ban but not lift a finger for the cause?

[From the Oregonian, July 5, 2004]

BACK TO ASSAULT WEAPONS

Summary: Without pressure from President Bush and action by Congress, the 1994 ban on military-style guns will expire.

When a man used an assault rifle to shoot three people at a California community center in 1999, then-presidential candidate George W. Bush declared, "It makes no sense for assault weapons to be around our society."

It still doesn't. President Bush promised during his first campaign to uphold a ban on assault weapons, but he isn't lifting a finger now to prevent the popular law from expiring. The assault weapons ban approved in 1994 by Congress and signed by President Clinton was written to sunset after 10 years. Time's up at midnight on Sept. 13.

The White House claims Bush supports extending the ban and would sign a bill renewing the law if Congress sends him one. But earlier this year, Bush helped defeat a gun bill that included the ban on assault weapons. The president also has done nothing to encourage Congress to act on the issue in the dwindling days of this session.

That's a dangerous mistake. Bush was absolutely right when he told voters that as-

sault weapons have no place in American society. These military-style weapons, with rapid-fire capabilities and large-capacity magazines capable of holding dozens of rounds of ammunition, are not hunting or sporting weapons. They are designed for just one thing: shooting people.

Polls show that Americans strongly favor renewing the ban on these weapons. In late 2003 an NBC/Wall Street Journal poll found that 78 percent of adults nationwide expressed support for renewing the federal ban. A University of Pennsylvania National Annenberg Election Survey found in April 2004 that even 64 percent of the people in households with guns favor the law.

Every major law enforcement organization in the nation backs the ban on assault weapons, including the Fraternal Order of Police, the National Sheriffs' Association and the International Association of Chiefs of Police. Every police agency understands the dangers of these weapons in the hands of drug traffickers, gangs and terrorists.

Yet House Speaker Dennis Hastert, R-Ill., and other GOP leaders seem determined to prevent the renewal of the assault weapons ban from even coming to a vote. We strongly urge members of the Oregon congressional delegation to join the bill to reauthorize the ban and to pressure the leadership to bring the matter up for a vote before the law sunsets in September.

While several studies show a marked decline since 1994 in assault weapons traced to crime, we'll concede that the federal ban has not been a fully effective defense against these guns. The law grandfathered existing assault weapons in 1994, and manufacturers have exploited loopholes in the law by producing copycat weapons with only cosmetic differences.

A responsible Congress, and one not in the thrall of the National Rifle Association, would tighten the law, fix the loopholes and make the ban on these weapons permanent. If that's too much to ask, we'd settle for the president to keep his word on this issue and demand that Congress renew the existing ban on assault weapons.

[From the San Jose (CA) Mercury News, July 5, 2004]

BUSH IS DOING NOTHING TO HELP EXTEND BAN  
ON ASSAULT WEAPONS

The federal law outlawing some of the most dangerous military-style guns will expire Sept. 13, leaving the nation more vulnerable to horrific crimes.

The Republican leadership in the House has bottled up the bill extending the 10-year-old assault-weapons ban. But President Bush will bear part of the blame if nothing is done.

The president has recently repeated his promise, first made when running for president in 2000, to sign an extension. But, unlike his push for the war in Iraq and a tax cut, he has not lifted a finger to see that the bill reaches his desk, and the gun lobby has vowed to keep it from getting there. Bush wants to have it both ways.

The ban has been only modestly successful in curbing the sale of rapid-fire semi-automatic weapons. Gun manufacturers have devised ways around it; copycat models and high-capacity magazines, imported from abroad, proliferate.

But the answer is to tighten and to expand the law, along the lines of California's smartly effective 5-year-old assault-weapons ban, and not to return to the days when a wannabe drug dealer or cop killer could buy an Uzi at a local gun shop.

Law enforcement groups are urging that the ban be continued. It would be a travesty if officers once again find themselves outgunned on the streets they are sworn to protect.

Mrs. FEINSTEIN. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Chair.

I thank my colleague from California for her leadership and her eloquence on this issue. She has done a wonderful job, and I hope that her pleas to the White House and to the House are heeded.

We stand on the floor today debating an amendment to the Constitution for which there is already a statute that does the same thing. We are ignoring basic needs. Instead of debating this amendment, why aren't we debating homeland security? Last Friday there was a warning issued to all of us, a severe warning, yet the Homeland Security bill, despite the warning that was issued to us on Friday, languishes.

We are here today to bring up another important issue—people's lives and these kinds of weapons, which thankfully have been banned on our streets for the last 10 years and, woeefully, may be back on our streets 2 months from today if we do nothing.

That is the bottom line. The assault weapons ban has been an amazing success. It is supported by the American people overwhelmingly. Yesterday a poll showed that 79 percent support renewal. Today a new poll showed that in the swing States, Midwestern and Southern States, where there are large numbers of gun owners, overwhelming majorities support the ban. Gun owners support the ban. Law enforcement supports the ban. The list that my colleague from California showed is lengthy and comprehensive.

So why wouldn't something that has saved lives, that has been so successful, that has helped bring down the crime rate not be brought up on the floor of the House and is in danger of lapsing? One simple word: Politics. Politics of a small few who seem to call the dance when it comes to dealing with issues like this Street Sweeper.

Point one is that these weapons are not made for hunting. They are not made for self-defense. They were designed by armies to kill a lot of people quickly. They are never used by good people, who certainly have a right to bear arms. In fact, recently al-Qaida told its membership in a training manual found by the U.S. military that terrorists should use America's weak gun laws to get serious weapons and to try to get assault weapons. Terrorists want these weapons, drug dealers want these weapons, criminals want these weapons. Police men and women do not want these weapons, hunters do not want these weapons, small store owners who carry a small sidearm for self-defense don't want these weapons.

Why do we have to be on the Senate floor pleading with the President and the House for renewal of a law that has been so successful? Again, one word: Politics. A small group of fanatical people somehow have an ideological mission that they must restore these

weapons to our streets. They don't represent gun owners. They don't represent the North or the South or the East or the West. They represent their own misguided ideology. But the President, who is on the campaign trail talking about leadership, cowers and shakes before this small group of ideologues. He has said he is for the renewal of the assault weapons ban. But according to the House leadership, he has not mentioned once to them that he would like the bill to be on the floor of the House of Representatives. The Speaker of the House says that we need the President to get this going. The President says the House should do it. It is a classic Abbott and Costello routine, a shell game, a classic duck the consequences, or the worst aspects of politics.

The bottom line is that if George Bush wanted the assault weapons ban to be renewed, it would be. All he would have to do is pick up the phone once and call Speaker HASTERT and say put it on the floor of the House; and on the floor of the House it would pass, just as it passed this body a few months ago when the Senator from California and I offered it. And then the President would sign it.

But the President thinks he can get away with this, that he can get away with this nasty little game; that he will keep happy his hard-core small number of supporters who believe these weapons should be on the streets, and he will not pay the price.

Mr. President, I cannot predict how our politics will work out in the next few months. But it is my guess that if this ban is not renewed, and AK-47s, Street Sweepers, and Uzis are back on our streets, starting 2 months from today, that the President will pay a political price for it. That is no solace to me. That is no solace to my colleague from California. We would much rather have this renewed, as everybody knows it should be.

No hunter, no gun owner has been hurt by the inability to carry an Uzi. Some criminals have been hurt, terrorists have been hurt, but no legitimate citizen who certainly has a right to bear arms. And I support the second amendment, but I don't support the view that it should be seen through a pi hole.

We make one last plea—and we have 13 legislative days left—to the President of these United States to step up to the plate, show real leadership, and ask that the assault weapons ban be put on the floor of the House of Representatives, and that it be renewed because it has been successful and good for just about everybody.

I ask unanimous consent to have several articles printed in the RECORD.

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

[From the New York Times, April 20, 2004]

TARGETING VOTERS IN THE WORST WAY

It is not quite the same as kissing babies, but Vice President Dick Cheney beamed as

he handled an antique rifle for his photo-op last weekend at the National Rifle Association convention. Mr. Cheney, the administration's most famous duck hunter, was on a reassurance mission, drawing cheers as he trumpeted President Bush's commitment to hunters' constitutional rights. Mr. Cheney attacked Senator John Kerry, the Democratic challenger, as a firearms wuss, despite Mr. Kerry's beady-eyed display last fall when he blasted pheasants from the Iowa skies in his own vote-hunting foray.

Mr. Cheney's personal visit signaled how much of a fence-mending charade the White House is staging to soothe the politically powerful gun lobby. Some N.R.A. members are still miffed at Mr. Bush's ostensible promise—left over from his 2000 campaign—to sign a renewal of the 10-year-old ban on assault weapons if that vitally needed measure should ever manage to be passed by the Republican-controlled Congress. But, of course, the Capitol's pro-gun leadership has already made sure that the president's promise bobs as lifelessly as an election-year decoy.

Banning assault rifles simply protects society from fast-fire attack weapons designed for waging war, not hunting. But Mr. Bush never once pressed Congress to pass the renewal. Instead, he spent his political capital on the gun lobby's outrageous proposal to grant immunity from damage suits to irresponsible gun manufacturers and dealers.

This is the Bush-Cheney team's true record on gun control. Too few voters are aware that the assault weapons ban will certainly expire in September while the president declines to lift a finger to save it. The law's demise looms as another national gun tragedy, even as politicians in both parties calibrate how much more pandering to gun owners will be needed in the hunt for votes in the swing states.

[From the Post-Standard, June 27, 2004]

CONSIDER THIS

The assault weapons ban might not have become law a decade ago without an assist from what some might consider an unexpected quarter—former president Ronald Reagan.

Already out of office, Reagan nevertheless expended what political capital he had left to lobby fellow Republicans. The measure passed the House by just two votes.

That same assault weapons ban, which has been doing its job keeping lethal weaponry out of the hands of criminals all these years, is set to expire in September. While President Bush says he'll sign a continuation of the ban, he doesn't appear willing to lift a trigger-finger on its behalf. And the assault weapons lobby seems to have Congress in its back pocket. Unless . . .

Well, unless the president is willing to spend a little of his own political capital, do the right thing and push for the ban. It shouldn't be hard. After all, he'd be doing it for "The Gipper."

[From the Detroit Free Press, May 7, 2004]

ASSAULT GUNS; MOMS MARCH FOR A NEEDED RENEWAL OF NATIONAL BAN

Thousands will gather on Mother's Day Sunday in Washington, D.C., including at least 500 mom people from Michigan, to join the Million Mom March and push Congress for a needed renewal of the assault weapons ban. Lawmakers should listen.

Renewing the ban is a modest and commonsense step that is supported by most Americans, while vociferously opposed by the powerful gun lobby.

Shikha Hamilton, president of the Million Mom March in Detroit, says the group wants to hold President George W. Bush to his

promise of support for the ban, which will expire in September unless Congress renews it.

The ban covers 19 kinds of assault weapons and has significantly reduced the frequency with which these guns are used in crimes.

To be sure, it has not solved the problem of gun violence. Manufacturers have gotten around the ban by making minor changes. People can legally, and easily, buy parts that, put together, will turn a legal gun into an illegal one. It's also obvious that all people must be held accountable for how they use guns.

That said, the 1994 ban has slowed the flow of assault weapons onto the street. Letting it expire would undo years of work by groups fighting for sensible gun laws.

Some pro-gun activists will try to depict Million Mom March as an extremist group trying to scrap the Second Amendment. It is not.

A modest federal law to restrict military-style guns whose only purpose is to mow people down ought to make sense to any member of Congress not under the undue influence of the gun lobby.

For more information on the march, go to [www.millionmommarch.com](http://www.millionmommarch.com)

[From the Atlanta Journal-Constitution,  
March 5, 2004]

#### PRY CONGRESS FROM COLD, DEADLY CLUTCH OF THE NRA

Those who say that negotiating with the gun lobby is like making a deal with the devil owe the archfiend an apology.

For months, the National Rifle Association has lobbied hard for passage of a bill that would make the gun industry immune to civil lawsuits. The measure—the NRA's top legislative priority—had already passed the House, and this week was close to passage in the Senate as well, until NRA lobbyists stepped in at the last minute and ordered that the bill be killed.

Why the sudden change of heart? Because Democrats and moderate Republicans had succeeded in attaching two quite sensible, reasonable gun-safety measures to the bill. One amendment extended the 1994 ban on military-style assault weapons that's set to expire in September; the other closed a loophole that permitted people to buy firearms at gun shows without having to undergo instant background checks.

Officially, President Bush backs both measures, although he has done nothing to support them. According to a recent survey by the Consumer Federation of America, the assault rifle ban is also supported by a majority of the nation's gun owners. The assault weapons ban is particularly important to law enforcement officers, who had pleaded with Congress to renew the ban and also close the gun show loophole. According to the Justice Department, the proportion of banned assault weapons traced to crimes had dropped by 65.8 percent since 1995, most likely as a result of that law.

Nonetheless, U.S. Sen. Zell Miller was among six Democrats who voted against renewing the ban on military-style assault weapons. "First of all, the term 'assault' was dreamed up to give the weapons included a bad name. Who could be for an 'assault weapons'? The definition is really 'semi-automatic,' and about 15 percent of all firearms owned in the U.S. meet the definition," said Miller.

Had the gun-immunity bill passed, it would have voided hundreds of pending lawsuits, including those filed by more than 30 cities devastated by gun violence and by dozens of shooting victims and their families. For example, it would have slammed shut the courthouse door to the families of the vic-

tims of Beltway snipers John Allen Muhammad and Lee Boyd Malvo. The families are suing Bull's Eye Shooter Supply, the Washington state gun shop where Malvo either bought or stole the semi-automatic rifle used to slaughter 10 people. Between 2000 and 2003, the gun shop somehow "lost" 230 other guns from its inventory.

Bull's Eye tried to have the case dismissed, but the courts ruled that the store had some responsibility to ensure its firearms didn't fall into the hands of criminals. The judge relied on the established legal principle that a person who carelessly furnishes a criminal an open opportunity to commit a crime can be held liable.

The NRA and its supporters want to give the gun industry an immunity to being sued that no other American industry enjoys. As they have demonstrated, they want that immunity only on their terms, with no compromise and no tolerance for any effort that might reduce the toll in lost and broken lives attributed to guns. And while that absolutist approach is troubling, the docile willingness of so many in Congress to accommodate that extremism is more troubling still.

[From the Los Angeles Times, May 16, 2004]  
NRA'S EYE IS FIXED ON BUSH

Just under four months from today, Americans will be able to walk out of a gun store with an AK-47 rifle, an Uzi or other weapon of mass murder under their arm.

Unless Congress acts—and Republican leaders show no inclination to do so—the 10-year-old federal assault gun ban will expire Sept. 13. A word from President Bush would get a renewal before lawmakers, a majority of whom would probably approve it. But the president is silent.

Most people, including most gun owners, are properly alarmed. A survey released last month by the University of Pennsylvania's Annenberg Public Policy Center found that 71% of those surveyed and 64% of gun owners wanted Congress to extend the ban.

But congressional leaders, too accustomed to taking marching orders from the National Rifle Assn., have stymied the reauthorization bill that Sens. Dianne Feinstein (D-Calif.), John W. Warner (R-Va.) and Charles E. Schumer (D-N.Y.) introduced last year.

The 1994 ban bars the manufacture and importation of 19 specific semiautomatic gun models and other models with similar features. These are not hunting weapons; what they do best is mow down humans, from factory workers to 6-year-olds in a school cafeteria. That's why Los Angeles Police Chief William J. Bratton and his colleagues in other cities steadfastly support renewing the ban. Bans by the states on such weapons, including California's, would stay in effect. But there would be no bar against Californians buying such guns in Nevada or elsewhere.

The NRA disingenuously insists that the federal law is flawed because it prohibits some guns while permitting virtually identical weapons cosmetically tweaked to evade the law's reach. But when Feinstein proposed a more inclusive ban, similar to California's, which defines assault guns by their generic characteristics, the NRA crushed it. It also blocked her effort to close a loophole in the current law that allows importation of high-capacity bullet clips.

However tempting it is to blame Congress for the stalemate over this bill, the leadership failure is really the president's. Bush has said he backs the ban. He also wants the NRA's political endorsement, which the gun group is withholding until after the ban expires. So Bush has put no pressure on Senate Majority Leader Bill Frist (R-Tenn.) or

House Speaker J. Dennis Hastert (R-Ill.) to move Feinstein's measure or its House counterpart.

If Bush says the word, Frist and Hastert will put the gun ban extension before their colleagues for a vote. And if Bush means it when he says his top priority is to keep Americans safe, he will do just that.

[From the Los Angeles Times, July 13, 2004]

#### RELOAD THE ASSAULT GUN BAN

Two months from today, the federal assault weapons ban dissolves like a wisp of gun smoke. Even though he proudly carried the National Rifle Assn.'s seal of approval in 2000, President Bush says he supports renewing the 10-year-old ban, but he has refused to push Congress in that direction. His word to congressional leaders would matter greatly now, just as his continued silence suggests that he values the NRA's support over Americans' safety.

The NRA's strategy is to get its friends in Congress to run out the clock on the assault weapons ban. Toward that end, House leaders have blocked any vote on bills to extend the ban for another decade, and a Senate bill amended with renewal language died in March. Yet congressional leaders are pushing for votes on time-wasting wedge issues such as proposed constitutional amendments banning same-sex marriage and flag desecration.

The 1994 ban bars the manufacture and importation of 19 specific semiautomatic gun models and others with similar features. These aren't hunting weapons, unless you consider a classroom full of 7-year-olds or swing-shift workers at a factory to be prey.

The NRA loudly insists that the law is flawed because it bars some guns while allowing nearly identical weapons that have been cosmetically tweaked. That's absolutely correct. But when Sen. Dianne Feinstein (D-Calif.), who sponsored the 1994 ban, proposed a more inclusive ban, like California's, which defines assault guns by their generic characteristics, the NRA crushed it. It also killed her effort to close a loophole in the current law that allows importation of high-capacity bullet clips. If the federal law does expire, California's assault gun ban would stay in effect. But there would be no bar against Californians buying these weapons of mass destruction in Nevada or elsewhere.

Bush justifies the war in Iraq by insisting that it has made this nation safer. But the president and his congressional allies risk making American cities and towns far more dangerous by their shameful failure to renew the assault gun ban. They have just 61 days left.

[From the Washington Post, May 25, 2003]

#### WEAPONS FOR TERRORISM

Some of the most efficient firearms sought by terrorists—international as well as domestic—may flood the markets of this country if Congress fails to renew a federal ban on semiautomatic assault-style weapons. The ban is scheduled to expire next year after a decade in force; House Majority Leader Tom DeLay (R-Tex.) announced at one point recently that the House would not even have a vote on the matter. But House Speaker J. Dennis Hastert (R-Ill.) then insisted that no final decision had been made, noting that he first wants to talk to President Bush, who has been on record as supporting the ban. That's the right position, but it will take more than presidential lip service to uphold it in an election year.

The 1994 law made it illegal to manufacture, transfer or possess 19 specific models of semiautomatic weapons. It also banned ammunition magazines that hold more than 10 rounds. If anything, the law needs to be

strengthened. A Congressional Research Service report released last week found that U.S. gun laws in general can be easily exploited by terrorist operatives shopping for weapons in this country. In the case of assault weapons, the gun industry has found clever ways to make cosmetic design changes in their models to get around the federal ban. Even so, according to the Brady Center to Prevent Gun Violence, every major law enforcement organization in the country has supported the ban. These groups point out that these firearms remain the weapons of choice for drug traffickers, gangs and paramilitary groups. As weak as the ban may be, evidence exists that the number of assault weapons traced to crimes dips when such laws are in place. In Maryland, for example, a ban on assault pistols took effect in June 1994. The Brady Center found that the number of these guns recovered by Baltimore police in the first six months of 1995 was down 45 percent from the comparable period the year before.

The ban on assault weapons needs time and broadening to have more effect. Reopening the gates to still more assault weapons makes no sense in civilized society. Congress and the president ought not make it any easier for terrorists, deranged people, drive-by shooters or criminals—foreign or domestic—to kill and maim.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I want to address the motion to proceed to the amendment now pending before the body, the Federal marriage amendment. One of the arguments that I hear again and again—I guess I am so shocked and amazed that somebody would actually make the argument that I perhaps have not done a very good job in responding to it.

For the record, I think it is important to respond to the argument that has been made twice this afternoon on the floor by the Senator from Wisconsin and the Senator from Maryland, that the constitutional amendment process is for expanding and not limiting rights. In other words, they think the only permissible purpose of a constitutional amendment is to expand, not limit individual rights, presumably including the right to same-sex marriage.

These are the same people who accuse supporters of wanting to “write discrimination into the Constitution.” I find the argument disturbing and offensive, but I also find it somewhat revealing. I wish that everyone who was engaged in this debate would take counsel in the words the distinguished Senator from Massachusetts, who is in the Chamber, once stated during the course of the debate on the Defense of Marriage Act back in 1996. Even though he did not support the Defense of Marriage Act at that time, he observed that “there are strongly held religious, ethical, and moral beliefs that are different from mine with regard to the issue of same-sex marriage, which I respect and which are no indication of intolerance.” I agree with those words.

To those who consider the traditional institution of marriage to be about discrimination, they have already, somehow, made same-sex marriage into a

right that is the status quo that those who want to preserve traditional marriage are trying to discriminate against. I don't know whether it is just a technique of argument to try to pin the idea of discrimination or of wanting to limit rights on those who basically want to preserve the status quo as it has existed in our civilization for 5,000 years, and certainly in this country for as long as it has existed or whether they actually have bought into the specious argument that somehow wanting to preserve the institution of traditional marriage for the benefit of the American family and our children is about limiting rights.

It is nothing of the kind. Indeed, both the NAACP and the American Bar Association have testified that they have no position on whether traditional marriage laws should remain on the books.

Now, setting that aside for just a moment, which is rather amazing in and of itself, if marriage were about discrimination, surely both the NAACP and the American Bar Association would oppose it. But it is not, and they did not. To the contrary, religious leaders in every community across America have expressed their support for traditional marriage. They recognize the importance of traditional marriage in their respective communities, including many communities that are all too familiar with the scourge of discrimination.

Indeed, during some of the hearings that we have had on this issue in the Senate Judiciary Committee, we had individuals such as Rev. Ray Hammond of the Bethel African Methodist Episcopal Church in Boston; Rev. Richard Richardson of the St. Paul African Methodist Episcopal Church in Boston; and Pastor Daniel de Leon, Sr., of Alianza de Ministerios Evangelicos Nacionales, otherwise known as AMEN, and Templo Calvario in Santa Ana, CA. Surely, these people, who have fought their entire lives against racial discrimination, and who support traditional marriage, cannot be labeled as bigots or wanting to limit rights or somehow wanting to write discrimination into the Constitution. To the contrary, they understand that it is traditional marriage that represents the status quo.

It was a basic assumption of John Adams when he penned the Massachusetts Constitution but which was rewritten at the hand of four judges on the Massachusetts Supreme Court.

It is those of us who are arguing for this constitutional amendment to preserve the status quo in this country who are doing just that and not attempting to limit rights. Rather, it is telling that those who make accusations are so intolerant of the democratic process contained in article V of the U.S. Constitution that provides a means for the people to express their views and to have a voice, to have a vote on something as important as this.

It is precisely because these activists believe traditional marriage is about discrimination that they believe all traditional marriage laws are unconstitutional and, therefore, must be abolished by the courts. These activists have left the American people with no middle ground. They accuse others of writing discrimination into the Constitution, yet they are the ones writing the American people out of our constitutional democracy.

As I have often said, and I think it is worth saying again, the American people believe in two fundamental propositions, at least, among others: One is the essential dignity and worth of every human being. This is not about wanting to limit rights or wanting to hurt anyone. This is about preserving something that is a positive social good in our society, that has stood the test of time, something that is important to the stability of our civilization, that is important because it is in the best interest of children.

I had the honor for 4 years to serve as attorney general of my State, and Texas is one of the few States where the attorney general has the privilege of enforcing child support obligations. I am very proud of the good work the men and women in my office did to improve our collection efforts by more than 80 percent in 4 years because they were literally able to put food on the table and a shelter over children who did not have that because they were denied the right given to them under our laws to have the financial support to which they are entitled. But it was there I became very aware of the challenges that confront children in a society that cares only about adults and thinks about children only as an afterthought.

We know, as Senator SANTORUM mentioned, the only place where we actually have some experience, some record of what happens when a radical experiment with the definition of marriage and traditional family takes place is we have this correlation with an increase in out-of-wedlock childbirths and more and more children who are at risk of a whole host of social ills.

As somebody who believes the family first and foremost is there to help those children as they grow, to avoid those risks and to grow up and be productive citizens, I do not think we ought to be taking any chances with the most important and fundamental institution we know of in our society that is designed to operate in their best interest, not coincidentally so that the American taxpayers do not have to continue spending their hard-earned money to provide services that might otherwise be provided by the family, or build more prisons or provide more opportunities for drug and alcohol rehabilitation, other risks that, unfortunately, too many of our children fall trap to today.

I found it very compelling that members of the minority community—African-American and Hispanic communities—particularly those who work in

places such as Boston and California and elsewhere, are some of the most passionate about the importance of maintaining the traditional family against this attempt to write them out of our laws and out of our Constitution.

It seems the supporters of traditional marriage are faced with an unhappy task: Either we give up the traditional institution of marriage to those activists who want to rewrite the definition, who see marriage as nothing more than discrimination, or we enshrine traditional marriage with the constitutional protection our children need and deserve.

I believe the traditional institution of marriage is too important to sit on the sidelines or to fail to have this important debate. I believe it is worth defending, and that is why I support this important amendment.

I see the Senator from Massachusetts in the Chamber. I will be glad to yield so he may address the Chamber.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, under the previous agreement, I believe I am allotted 15 minutes; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I yield myself 12 minutes.

Mr. President, we know there are many urgent challenges our country faces. The war in Iraq has brought sudden new dangers, imposed massive new costs, and is taking more and more American lives each week. At home, unemployment is still a crisis for millions of our citizens. Retirement savings are disappearing, school budgets are in crisis, college tuition is rising, prescription drug costs and other health care expenses are soaring, millions of Americans are uninsured, Federal budget deficits extend as far as the eye can see, we cannot even pass a budget bill, and our good friends, the Senator from California, Mrs. FEINSTEIN, and the Senator from New York, Mr. SCHUMER, spoke to the Senate about the importance of continuing the ban on assault weapons that has made such an extraordinary difference in helping to protect American lives and which is about to expire in the next several days. That is a matter we ought to be considering if we are interested in security and protecting the lives of American citizens, as well as if we are going to protect family values. But, no, that is not the opportunity we have under our Republican leadership.

We just celebrated the 40th anniversary of the great Civil Rights Act of 1964. Yet now, instead of dealing with the real priorities facing the Nation, the Republican leadership, President Bush, wants us to persuade Congress to write bigotry back into the Constitution by denying gays and lesbians the right to marry and receive the same benefits and protections married couples now have.

It could not be clearer that the Republican leadership has brought up this proposal for pure politics, not for its underlying merits. They are hoping to

use the issue to drive a wedge between one group of citizens and the rest of the country solely for partisan advantage.

The Republican leadership does not want a vote on the merits. Do you hear me? The Republican leadership does not want a vote on the merits.

Last Friday, Senator REID informed the Senate that the Democrats were willing to accept a time agreement with a straight up-or-down vote on the Federal marriage amendment on Wednesday. We have cleared it on our side to do that, he said; we are ready to move forward on it; we are ready to rock and roll. Those were the words of the Senator from Nevada. And the Republican leadership refused our offer.

Can you imagine that? We have listened to all these statements, all these speeches about let the Senate exercise its will, let's take action, this is urgent, important, and we agreed to do it and they said no. No, no, the Republican leadership refused our offer, and we question their sincerity about this amendment when we offer and agree to vote at a certain time and they say, no, no, we are not going to do that; we feel passionately about this amendment; we believe in the importance of our amendment, but we do not want to permit you to vote on this amendment.

In all my years in the Senate, I do not recall a single instance in which the party that supported a measure refused an up-or-down vote on its merits and instead manipulated the process to produce a cloture vote on a motion to proceed. That is what we are faced with. You ask us why we doubt their sincerity, why we question the timing of bringing this up, and the process and the procedure when we on this side say, OK, we'll vote on it, and you say no. Oh, yes, we are sincere about our motives, we care deeply about children, we care about the Constitution, we care about all of these issues, but we don't want a vote. That just doesn't add up.

Obviously, they fear that too many Republican Senators would vote against the constitutional amendment on its merits. In fact, it is possible that it would not even get a majority of Senators to support it. When it became clear that a majority of the members in the Judiciary Committee did not support this proposal, they simply bypassed the committee process altogether.

This is not a serious debate about our constitutional tradition and values. If it were, we would have a vote on this tomorrow, up or down, as the Democratic leadership has proposed. Instead, it is a procedural way in order to put people on the record. It is a sham. It is a desperate ploy to divide the Nation for political advantage. The rabid reactionary religious right has rarely looked more ridiculous. They know they don't have the votes to come even close to passing this amendment, but they have a sufficient stranglehold on the White House and the Republican leadership in Congress to force the issue to a vote anyway, in a desperate

effort to arouse their narrowminded constituency and somehow gain an advantage in the elections this year. My guess is their strategy will boomerang and that vastly more Americans will be turned off than are turned on by this appeal to stain the Constitution with their language of bigotry.

There is absolutely no need to amend the Constitution on this issue. As news reports from across the country make clear, Massachusetts and other States are already dealing with the issue, and doing it effectively, and doing it according to the wishes of the citizens of their States. Contrary to the claims of the supporters of the amendment, no State has been bound—listen to this—no State has been bound or will be bound by the rulings or laws on same-sex marriage in any other State. That is the constitutional law. You can hear it described in other forms out here, and surely it has been, but I have just stated the constitutional law.

Longstanding constitutional precedents make clear that the States have broad discretion in deciding to what extent they will honor other States' laws on sensitive questions about marriage and raising families. The Federal statute enacted in 1996, the Defense of Marriage Act, makes the possibility of nationwide enforceability even more remote.

So if it is not necessary to amend the Constitution, it is necessary not to amend it. In more than 200 years of our history, we have amended the Constitution only 17 times since the adoption of the Bill of Rights. Many of those amendments have been adopted to expand and protect people's rights.

Having endorsed this shameful proposed amendment in an effort to divide Americans and assist the faltering election campaign, President Bush will go down in history as the first President to try to write bigotry back into the Constitution. No one can now claim with a straight face that he has lived up to the campaign promise to be a uniter and not a divider.

The manner in which this amendment has been brought up to the Senate floor is disgraceful. The Republican leadership has decided to bypass the usual process of debating and marking up proposed constitutional amendments in the Judiciary Committee. They know they do not have the votes to pass it out of the committee. They also know they do not have the two-thirds majority they need to pass the amendment in the full Senate, but they have chosen to rush it to the floor of the Senate anyway, in an effort to embarrass Democrats before our convention at the end of the month.

It is Republicans who should be embarrassed. As Chairman HATCH once said:

It denigrates the committee process to bypass the Judiciary Committee, especially when an amendment to the Constitution of the United States of America, the most important document in the history of the Nation, is involved.

In the past 25 years, only 2 amendments out of 19 have been considered

on the Senate floor without having been referred to the committee first. In both these cases, the amendment was brought before the full Senate by unanimous consent. Trying to write discrimination in the Constitution is bad enough, but throwing the Senate rules out the window and proceeding with a discriminatory amendment that the majority of Americans do not want and a majority of the Senators don't support solely for the purpose of scoring points in a Presidential election campaign demeans this institution and all who have served in it.

This debate is about politics—an attempt to drive a wedge between one group of citizens and the rest of the country solely for partisan advantage. We have rejected that tactic before, and we should reject it again.

In the Goodridge case, the Massachusetts Supreme Judicial Court was interpreting the Massachusetts Constitution, not the U.S. Constitution. As a rule, the Federal Government has no authority to tell States how to interpret their own laws and constitutions. The Federal marriage constitutional amendment would change this fundamental principle of State sovereignty by imposing a rule of interpretation on State courts.

I am certainly glad it was not done at other times of American history. The Massachusetts Constitution was written by John Adams in 1780. He wrote it virtually himself, much of it copied by the Constitutional Convention in 1787.

In 1783, the issue of slavery came before the Massachusetts Supreme Court, and Massachusetts has the only constitution of all 50 States that has been interpreted as barring slavery. We were the first State of all the States to ban slavery, the only State that banned it in the constitution itself, Massachusetts, under John Adams, the only State, in 1783. And we had slaves in my State for 150 years before it.

So it is nice to hear our colleagues talk about Massachusetts and about our court and our judges there. I remind our colleagues, of the seven Massachusetts judges who voted, six were and are Republicans. Only one is a Democrat. Six are Republicans. I happen to be someone who supports the court decision in Massachusetts. I am proud of them.

But make no mistake, a vote for the Federal marriage constitutional amendment is a vote against civil unions, domestic partnerships, and other efforts by States to treat gays and lesbians fairly under the law. It is a vote against allowing States to decide these issues for themselves. It is a vote for imposing discrimination, plain and simple, on all 50 States.

Supporters of the proposed amendment claim that religious freedom is somehow under attack by States that grant the same rights and the same benefits to same-sex couples that married couples now have. But as the first amendment makes clear, no court, no

State, no Congress can tell any church, any religious group, how to conduct its own affairs. No court, no State, no Congress can require any church, any synagogue, any mosque to perform a same-sex marriage. Not a single church in Massachusetts or any other State has been required to do anything it doesn't want to do, and that will continue to be the case so long as the Federal marriage constitutional amendment does not take place.

The true threat to religious freedom is posed by the Federal marriage amendment itself, which would tell churches they cannot consecrate a same-sex marriage, even though some churches are now doing so. The amendment would flagrantly interfere with the decisions of religious communities and undermine the longstanding separation of church and state in our society.

As Rabbi Michael Namath, a member of the Union for Reform Judaism and the Central Conference of American Rabbis, explained in a recent forum:

Some religious traditions, including Reform Judaism, recognize the legitimacy of same-sex unions. Many Reform rabbis around the country routinely perform same-sex weddings. Yet some warn that if the FMA were adopted, performing a religious wedding ceremony for a same-sex couple might be unconstitutional, illegal. . . . The FMA would give the federal government express authority to bar religious groups from sanctioning same-sex marriage—and the authority to punish those that do.

. . . Court challenges on "free exercise" grounds may not succeed because the Federal Marriage Amendment, being the more recent addition to the Constitution, might supersede the "free exercise" clause. If so, this would undermine the foundations of our country.

The PRESIDING OFFICER. The Senator has used the 12 minutes.

Mr. KENNEDY. Mr. President, those who oppose gay marriage and disagree with the recent decision by the supreme judicial court have a first amendment right to express their views.

There is no justification for attempting to undermine the separation of church and state in our society or to write discriminations against gays and lesbians in the U.S. Constitution. Too often the debate over the definition of marriage and its legal incidence have ignored the very personal and loving family relationships that would be prohibited by a constitutional amendment.

More and more children across the country today have same-sex parents. What does it do to these children and their well-being when the President of the United States and the Senate Republican leadership say their parents are second-class citizens?

The decision by the Massachusetts court addressed the many rights available to married couples under the State law, including the right to be treated fairly by the State's tax laws, to share insurance coverage, to visit loved ones in the hospitals, to receive health benefits, family leave benefits,

and survivor benefits. In fact, there are now more than a thousand Federal rights and benefits based on marriage.

Gay couples and their children deserve to share in all of these rights and benefits, too. Supporters of the amendment have tried to shift the debate away from equal rights by claiming their only concern is the definition of marriage, but many supporters of the amendment are against civil union laws as well and against any other rights for gays or lesbians.

Just last month we saw a new dawn for civil rights in the Senate. On an amendment to the Defense authorization bill, we passed our bipartisan hate crimes legislation by an overwhelming majority, 65 to 33. Thanks in large part to the courageous and effective leadership of Senator GORDON SMITH, 18 Republican Senators joined all Democratic Senators in approving this needed protection against hate-motivated violence. Last month's vote on hate crimes showed the Senate at its best. The decision to bring up this divisive, discriminatory, and unnecessary amendment does just the opposite.

We have far better things to do in the Senate than write bigotry and prejudice into the Constitution. We should deal with the real issues of war and peace, jobs and the economy, and many other priorities demand our attention so urgently in these troubled times. I urge my colleagues to reject this discriminatory proposal.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, did the distinguished Democratic whip wish to be recognized?

Mr. REID. Did the Senator from Colorado have something he wanted to say?

Mr. ALLARD. I was going to yield some time to the senior Senator from Virginia.

Mr. REID. If I could be heard briefly, we on this side are seeing the end of people who wish to speak tonight. The only speakers we have remaining, following Senator DAYTON, are Senator CLINTON for 15 minutes and Senator JEFFORDS for 10 minutes. I ask unanimous consent that in the usual order we have been using today of back and forth, Senator CLINTON next be recognized, Senator JEFFORDS be recognized following that, and if the Republicans have speakers interspersed between those we understand that.

Mr. ALLARD. Let me understand the Senator's request. We have been alternating back and forth.

Mr. REID. We will continue to do that.

Mr. ALLARD. We will continue to do that on this side?

Mr. REID. I was saying, if the Republican side did not have a speaker we would go ahead.

Mr. ALLARD. No objection.

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

Mr. ALLARD. Mr. President, I yield the senior Senator from Virginia such time as he may consume.

Mr. WARNER. Ten minutes.

Mr. ALLARD. I yield him 10 minutes. It is always a pleasure to be able to recognize him because we all admire the work he does. I am particularly proud to be able to serve with him on the Armed Services Committee. He is the chairman and does a great job.

The PRESIDING OFFICER. The senior Senator from Virginia.

Mr. WARNER. I thank my distinguished colleague from Colorado. I commend him, as well as the Senators from Texas, Pennsylvania, and Alabama, and so many who have worked on this important constitutional amendment, S.J. Res. 40.

I have listened to the debate the past several days. I have actually gone back, together with my staff, and reviewed the CONGRESSIONAL RECORD of Friday and Monday. I feel obligated to indicate to the Senate my own views with regard to this resolution and what I intend to do.

First, I intend to vote in support of cloture on the motion to proceed to the Federal Marriage Amendment, S.J. Res. 40. I feel very strongly that the Senate should be accorded the opportunity to debate in full and to amend, if it is necessary, and I think it is necessary, S.J. Res. 40.

For that purpose, I hope cloture prevails and that we can, as a body, continue to address this very important legislation. It is of utmost seriousness.

My greatest concern throughout this process is the heavy weight that rests on all of us when we go to amend that document which has enabled this Republic—each morning we open the Senate by our Pledge of Allegiance to this Republic, which I think historians will agree is the longest continuous surviving republic in the history of the world. It is a remarkable document, the wisdom that is incorporated in our Constitution, the Declaration of Independence, and Bill of Rights.

Therefore, I think it is incumbent upon the Congress to proceed with the utmost care when amending our Constitution. I think that should be brought out in the ensuing debate if cloture prevails, and I hope it will, and I lend my support.

The proposed constitutional amendment reads as follows:

Marriage in the United States shall consist only of the union of a man and a woman. . . .

I unequivocally support that part of this resolution. The second part, which reads:

Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and woman.

Therein rests a concern that I have with S.J. Res. 40, and one I will work with others to address in the event hopefully that this Senate will continue its debate and the amendment process. I unequivocally support the first sentence, as I said. The time-honored tradition of marriage between a man and a woman ought to be protected in light of the attacks by certain opportunists in the judiciary on this time-honored part of our culture

and heritage, a culture and heritage that our Nation, a young nation, shares with nations far older than ours.

Again, the second sentence gives me this pause, despite the statements by many of my colleagues to indicate what they believe the intent is. I do not think it speaks to the clarity that the public is entitled to and wants, and this could lead to a great deal of confusion among the American public, and I do not want to create that confusion. It could lead to considerable litigation.

Perhaps of the greatest concern on my part, it could lead to some measure of hindrance of the ability of the several States, all 50 of them if necessary, to work their will through their legislatures on the very important issues that remain; namely, whether to recognize or not to recognize those other forms of relationships, particularly the domestic partnership relationships. For these reasons, I intend to align myself post-cloture with those Senators who seek to modify the resolution to retain only, and I repeat to retain only, the first sentence:

Marriage in the United States shall consist only of the union of a man and a woman.

I see in the Chamber the distinguished Senator from Utah. I wonder if I might pose a question. As I look at this language which gives me pause and I have spoken to, the second sentence, "Neither this Constitution, nor the constitution of any State, shall be construed to require," suppose a State wishes to enact those laws they deem necessary on behalf of the people of that State, either to recognize or not to recognize the domestic partnership. Suppose they wish to put that in as a part of their constitution subject to the passage of this amendment. How would this amendment then be construed? Would it overrule a state's subsequent amendment to its own constitution?

Mr. HATCH. If this amendment was passed as the Senator reads that language, it does not prohibit the States from having civil unions or civil accommodations.

Mr. WARNER. Suppose they wish to do it not by statute but actually by an amendment to their constitution? The Senator and I understand that a constitutional amendment has a greater longevity than a statute because what the legislature does via statute one day they can undo the next day.

Mr. HATCH. So long as the action of the State, either legislatively or constitutionally, does not change the definition of a marriage as only between a man and a woman, the State would have the right to do whatever it wants to in that regard. This just merely makes it clear that nothing in the amendment requires the States to—

Mr. WARNER. I understand very clearly the intent of this in the minds of many. The State legislatures can take such steps. I believe there is a measure of confusion that causes me to pause. But it reads that "neither the Constitution nor the constitution of any State," and what the Senator says is they wish to but legislation not in

the form of State law, but that constitutional provision would not then be overruled by this.

Mr. HATCH. The States would have great flexibility under this amendment. But they could not change the definition of the traditional terms. The Senator is correct in his interpretation.

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Thank you, Mr. President.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. . . .

With those immortal words 228 years ago, the signers of the Declaration of Independence set forth the founding principles of this country. They chose the word "unalienable" to mean that those rights were God-given. They were rights with which every person was born, not to depend upon the attitudes or ideologies of any government.

Eleven years later, after winning their War of Independence, after trying one unsatisfactory design of government, after many discussion, debates, arguments, and compromises, others signed their name to our United States Constitution. It was a remarkably far-sighted document—deserving of the word "visionary". It was intended to define, provide, and protect the rights of American citizens and the structure of their democratic government.

Unfortunately, their founding principles and idealism had some glaring deficiencies. When they said all men were created equal, they meant only men, and only white men. It took 130 more years before those constitutional rights were extended fully and equally to all citizens—to African-Americans, to women, and to everyone else. Those constitutional amendments signaled only the starting points, not the finish lines, to full opportunities, equal protections, and freedom from discrimination, harassment, and assault. Those paths were difficult, often dangerous, and sometimes even fatal for their travelers. Slowly, too slowly, unevenly, yet inexorably This country has progressed toward the realization of those God-given rights: life, liberty, and the pursuit of happiness, for every American citizen.

The life that God gives each of us; the liberty to be as God made us; and the right to pursue our individual needs, goals, and fulfillments—whatever necessary ingredients of our happiness. We receive no assurances of happiness, but the promise we have the God-given right to pursue it.

Today, we are a Nation of 293 million citizens. That is a lot of very different people pursuing a lot of very different forms of happiness. It is an enormous and continuous challenge for government to permit life, liberty, and pursuit of happiness and to decide where limits must be established.

The Constitution requires, however, that those limits must apply fairly and justly—and that those liberties can only be taken away for a compelling reason and through a due process.

People's differences are no longer legitimate reasons. Not different colors of skin, different religious beliefs, different genders, nationalities, or physical characteristics. People don't have to like other people's differences, but they must allow and tolerate them.

Allowing and tolerating differences is what separates democracies from dictatorships. Even dictatorships allow behaviors and beliefs which conform to their ideas and ideologies. However, they will not permit or tolerate behaviors and beliefs which differ from theirs. Those groups of people are persecuted, punished, and even murdered for their differences.

It is sometimes difficult for those of us who live in democracies to allow other beliefs and behaviors, which we dislike or disapprove of. It is especially difficult if those other beliefs or behaviors differ from our own moral or religious views. Although our Constitution separates "church and state," we do not willingly give up or even compromise our strongly held beliefs based upon our religious teachings or moral values.

Many Americans who oppose gay and lesbian relationships or marriages believe they are called to do so by God, by Jesus Christ, by the Bible, or by another religion's instructions. Recently, I reread the Bible's New Testament, which provides the foundation and instruction for my Christian faith. I reluctantly bring the Bible into this debate, because I often hear people, who denounce homosexuality, claiming that "the Bible" or "the New Testament" supports their views.

However, in the entire New Testament, there is only one reference to same-sex relationships, in Chapter Two of Paul's Letter to the Romans. Jesus Christ does not mention them even once in any of the four Gospels.

Instead, His overriding instruction was to love thy neighbor as thyself. That was his second great commandment, which superseded all the rest.

Jesus also warned several times to beware of false prophets. How could they be identified? He said that they spread hate, instead of love.

I do not understand how some religions developed their strong prejudices against gays and lesbians—prejudices which are not only unsupported by Jesus' teachings in the Bible, but which even violate his instructions to love one another, as I have loved you, to judge not, lest ye be judged, to spread love, not hatred.

Yet the discrimination against gays and lesbians in this country has been filled with judgment and hatred.

Thousands of American citizens have been fired from their jobs, evicted from their homes, harassed, threatened, assaulted, even murdered, because of their sexual orientations. Some other

Americans have spread that hatred and caused that harm, while professing their own religious piety and moral superiority.

Who has the authority to dispute that every human being is God's intentional creation; that we are different because God made us different, not superior, not inferior, just different, equal in the sight of God, equal in the U.S. Constitution?

There is a better way to resolve this widespread concern about the effects of couples' State court decisions on marriage—decisions which are being resolved by the legislatures and the people of those States, and which contrary to the "marriage is under terrorist attack" hysteria, as some politicians are promoting, do not threaten either the Federal laws or the State laws against same-sex marriages.

As others have noted, a 1996 Federal law, called the Defense of Marriage Act, already does what the proponents of this constitutional amendment want to do.

The Defense of Marriage Act was passed "to define and protect the institution of marriage." That law states:

In determining the meaning of any act of Congress or of any ruling, regulation or interpretation of the various administrative bureaus and agencies of the United States, the word "marriage" means only a legal union between one man and one woman as husband and wife.

The law goes on to say that no State shall be required to recognize a same-sex relationship treated as marriage anywhere else. That is the law of the United States of America, unchallenged Federal law. How much more protection could the institution of marriage need from the Congress? None.

The proposed constitutional amendment has not one whit of additional legal protection to what the Federal law already provides, so why are we being subjected to this charade of politicians' piety, an oxymoron if ever there was one? It is an election year, a Presidential election year. It is no coincidence that the defense of marriage law was passed in 1996, another Presidential election year.

One can only wonder how marriage managed to make it through the 2000 Presidential election without something being done to it then.

That is really what is going on. This political ploy is not about "saving marriage"; it is about saving politicians' jobs. Thank goodness we have Senator so and so, they will say back home, to save us from the heathen hordes. Thank goodness we have the President saving us, too. We may not have jobs or health care. We cannot afford prescription drugs or gasoline. They are bankrupting the Federal Government with deficits, they are destroying our credibility throughout the world, they made a mess of Iraq, they cannot find weapons of mass destruction or Osama bin Laden or whoever shut down Congress with anthrax or

ricin, but they are defending marriage—again and again and again and again. Let's reelect them.

It is a tragic day in America when politicians exploit the Constitution of the United States to get themselves reelected. It is a tragic day for millions of Americans who are being exploited by those politicians. This is a hurtful, hateful, harmful debate for America, one that only will get uglier, meaner, more divisive, and more dangerous if it moves on to State legislatures as the constitutional amendment requires.

It must be stopped here and now. That is why I will vote against the constitutional amendment. If my colleagues really do want to save marriage for now and for posterity, turn it over to the authority of established religions. In the many wedding ceremonies which I attend, marriage is described as an institution created by God. Yet those services conclude with "whom God has joined together let no one cast assunder."

If marriage belongs to God, as I believe it does, then our separation of church and state government should not interfere with its administration by the properly chosen religious authorities. Instead, government should adopt a different term to use for the legal rights and responsibilities under a civil contract, which I believe any two adults should equally be able to enter into. Giving marriage back to the churches, synagogues, and mosques and separating it from government is marriage's salvation and society's solution.

Let us direct our efforts to protecting America from al-Qaida. Leave the Constitution alone and leave marriage to God.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Utah.

Mr. REID. Will the Senator yield?

Mr. HATCH. I am happy to yield.

Mr. REID. Mr. President, we have two final speakers tonight, Senator CLINTON and Senator JEFFORDS. Following that, we would have no more speakers on this side.

So when the distinguished chairman of the committee finishes his speech, Senator CLINTON will be recognized and following that, Senator JEFFORDS.

Mr. HATCH. I think Senator BROWNBACK would like to be recognized. Following Senator CLINTON, Senator BROWNBACK will speak.

Mr. REID. How much time is left on both sides under the order already entered?

The PRESIDING OFFICER. There is 40 minutes on the Democrat side.

Mr. REID. Fine. And how about the majority?

The PRESIDING OFFICER. There is 75 minutes on the majority side.

Mr. REID. After the distinguished Senator from Utah speaks there will probably be no time left.

Mr. HATCH. He hopes. I have not noticed the great sense of humor lately of the Senator from Nevada but that was very good.

I will respond to some of the arguments that my colleagues have been making against this measure today.

First, I thank them for coming to the floor and making themselves heard. This is an extremely important issue and it deserves a serious debate. After all, we are talking about traditional marriage. We are talking about traditional marriage that has existed for more than 5,000 years that apparently is going to be overturned if we do not do something about it.

One argument I have heard from my colleagues on the other side of the aisle is on behalf of States rights. Yesterday, the distinguished Senator from California argued that we run the risk of violating the sacred rights of the States if we pass this amendment. This morning, her colleague from California, the junior Senator from California, made the same point. The distinguished Senator from Wisconsin, too, believes marriage should be defined in the States.

When Senators who normally argue for extending national power start citing George Will and Bob Barr, we should probably look at their arguments with a heightened level of scrutiny and maybe even security because there is something wrong here when these liberal Senators are using as their champions George Will and former Congressman Barr, who is one of the most conservative Congressmen who ever sat.

When legislators and other advocates who not only tolerate but actually embrace repeated judicial amendments to the Constitution—I will talk about judicial amendments to the Constitution—there is sudden resistance to popular amendments, the people's amendments, it must be taken with at least a grain of salt.

We are talking about judges taking over and amending the Constitution at will, which is what is happening in our society, and not only Justices of the Supreme Court but four liberal activist justices on the Massachusetts Supreme Court, binding every State through the full faith and credit clause to their concept of same-gender marriage. It was a 4-to-3 vote. Three liberal justices disagreed with the four liberal justices in Massachusetts.

They surely know, these friends of ours on the other side who are suddenly finding the importance of States rights, they surely know that by opposing a constitutional amendment to protect marriage, judges will continue imposing same-gender marriage over the will of the American people or over the will of the people in the States.

Their constituents deserve better than these misleading arguments. They know that.

We did not choose the schedule for this issue. It was chosen for us. And we do act reluctantly.

Let me pose a question. If this is such a political issue, why did President Bush and Vice President CHENEY indicate on the campaign trail in 2000

that it was premature to pursue an amendment? They both did, by the way. The American people were as opposed to amending traditional marriage then as they are now. The reason for this change in strategy is quite simple. In the year 2000, an amendment was premature. It is no longer.

In 1996, not one State required same-gender marriages—not one. Now, however, Massachusetts has. Massachusetts has, I have to say, because same-gender marriage is the law of the Commonwealth of Massachusetts, determined by four activist, liberal justices.

Today, 46 States, for the first time in history, have same-gender married couples living in them. That was not the case in the year 2000. And the argument that it was premature to call for a constitutional amendment was a good argument at that time, but not today, with 46 States with same-gender married couples living in them, and one State imposing its will through judicial legislation, if you will, on all 50 States.

Eleven States are having not only their traditional marriage laws but even a State amendment, in the case of Nebraska, targeted by committed interest groups. In Washington State, a couple married in Oregon is seeking recognition of their marriage. In New York, Attorney General Eliot Spitzer has amazingly concluded that even though New York law explicitly limits marriage to between a man and a woman, he—I guess the “god almighty” Attorney General of New York, Eliot Spitzer—will recognize same-gender marriages performed out of State.

He may be right because under the full faith and credit clause, that is what is going to be imposed on all States because of four avant-garde liberal justices in Massachusetts.

The list of legal challenges goes on. In the year 2000, when President Bush and Vice President CHENEY urged patience on this issue, traditional marriage was secure. The States could handle this issue on their own. Today, they no longer can, all because of four activist, liberal justices in Massachusetts versus three liberal justices in Massachusetts, in a 4-to-3 verdict.

Courts are poised to remove this issue from them, destroying the democratic principle of self-governance that some of these folks on the other side are arguing should never be done. Why, the States ought to have the right to determine these things for themselves.

Well, let me go over that one more time.

Courts are poised to remove this issue from the States, destroying the democratic principle of self-government that our Constitution was established to guarantee.

Gov. Mitt Romney, in his testimony before our committee last month, got the point and demonstrated the impact of his State court's decision to sanction same-gender marriage. I quote him:

The effect of one state recognizing same-gender marriage will not be confined to Massachusetts alone. Our state's borders are porous. Citizens of our state will travel and may face sickness and injury in other states. In those cases, their spousal relationship may not be recognized, and it would be likely that litigation would result. Massachusetts residents will move to other states, and thus issues related to property rights, employer benefits, inheritance, and many others will arise. It is not possible for the issue to remain solely a Massachusetts issue; it must now be confronted on a national basis.

We need an amendment that restores and protects our societal definition of marriage, blocks judges from changing that definition, and then, consistent with the principles of federalism, leaves other policy issues regarding marriage to State legislatures. That is how the States can control this. That is the right way to have the people in charge rather than four liberal justices imposing this on all of America.

Like I say, I think gay people have a right to their lifestyle, certainly in the privacy of their home. But they do not have the right to impose that lifestyle or to impose their views on everybody in America by changing the definition of marriage. They should not have that right.

The real threat to the States is not the constitutional amendment process, in which the States participate, but activist judges who disregard the law and redefine marriage in order to impose their will on the States and on the whole Nation.

Governor Romney's diagnosis is correct. At this point, a commitment to States rights is a recipe for depriving States of any authority over the matter.

And so our Republican leadership did what leaders do, they adjusted their direction. Because the situation today is vastly different than what we faced in 2000, we require a different solution.

Our goals are not what Mrs. BOXER, the distinguished Senator from California, has described. Nobody here is concerned about whether same-gender couples should care about each other. Nobody here denies them that right. Nobody here is even concerned about that. And nobody is concerned about whether they are moving in down the street.

What we are concerned about is the likelihood that the courts are going to amend the laws in every State in the land by judicial fiat. We are concerned that a small interest group is lobbying the courts to do its dirty work, hoping that judicial fiat will accomplish what it cannot achieve in open political debate.

In not one State has the legislature amended its laws to allow for same-gender marriage—not one. We are fooling ourselves if we think that the courts care. They have already begun their work to undermine traditional marriage. And rest assured, more is on the way. If the States think they have sufficiently protected their traditional commitments to marriage, they had better think twice.

What we are witnessing is an unprecedented usurpation of the people's will. But those who support this judicial disregard for popular authority do not bravely defend this irresponsible activism. Instead, they take the easy way out. It should be left to the States, they say. Easier said than done. The fact is, these decisions are already being removed from the people by judicial fiat, by four justices in Massachusetts, of all places. The laws of this country, the laws of every State in the Nation, will be amended to allow for same-sex marriage absent our action. The two distinguished Senators from California, and the distinguished Senator from Wisconsin, Mr. FEINGOLD, and many others, do not address this likelihood in the least—not in the slightest.

As Senator DASCHLE is aware, the people of South Dakota are adamantly opposed to judicial amendment of their traditional marriage laws, and I suppose in most other States as well—in fact, every other State. For that reason, he has said he opposes same-gender marriage. But what happens when a gay couple moves from Massachusetts to South Dakota and seeks to have its union recognized? On this point, which is really the only question in this debate, he and his allies fall silent. What happens? Under the full faith and credit clause, that marriage is going to have to be recognized.

Unfortunately, the will of those citizens will not matter in the least to a judiciary bent on securing same-gender marriage throughout the land. We have demonstrated through our discussion of the Lawrence case, the Romer case, and the Defense of Marriage Act, that the courts are ready to act. It is telling that in a constitutional debate we have not heard one peep from the opposition about these relevant legal precedents.

I can understand how these discussions might make the opposition uncomfortable. Their lesson is clear. Same-gender marriage will replace traditional marriage unless we act. It is that simple.

And you folks out there watching this, you better tell your Senators they better act on this or traditional marriage is going to bite the dust because of four activist, liberal justices from Massachusetts who had one more vote than the three who voted against them.

When we see cracks in a dam, we take steps to repair those cracks. We do not wait until the dam breaks and we have to build a new one. Well, the only way to repair the current legal situation on marriage is to pass a constitutional amendment. I wish it was not, but it is.

My colleagues are not addressing the legal concerns. Instead of arguing about the Constitution, some of them have taken cheap shots and contend that we are engaging in discrimination. Come on. We are in the 21st century. I don't know of anybody in this body who engages in discrimination. Certainly I don't.

Does this mean more than three-fourths of the States are bigoted? That is how many enacted the Defense of Marriage Act to preserve traditional marriage. Does this mean the vast majority of the American people are bigoted? Or that Senators JOHN KERRY and JOHN EDWARDS are? Of course not. What about Rev. Walter Fauntroy, former Member of Congress, the African-American pastor of Washington's New Bethel Baptist Church, and Bishop Wilton Gregory, the African-American president of the United States Conference of Catholic Bishops? The answer to all of these is no. Similarly, I do not think it is proper to conclude that the more than 60 percent of Senator BOXER and FEINSTEIN's own constituents who voted for traditional marriage are bigots either. They are not.

Those making these slanderous accusations are well aware that many of those in favor of an amendment have frequently pursued legislation to protect the rights of gay citizens. Our attempts to protect traditional marriage laws have nothing to do with the private choices of gay and lesbian citizens; they have everything to do with the right of the American people to protect traditional marriage, which, in addition to its private elements, is a public institution with clear public purposes—namely, the rearing of future citizens. Our efforts simply seek to maintain the right of the American people to decide this issue for themselves through their elected representatives, which will be taken away from them if we allow the Supreme Court of Massachusetts to dictate this rule of law to every State in the Union.

My colleagues making these arguments might want to at least look at article V of the Constitution. An amendment only becomes law once three-quarters of the States agree to it. In short, the States are the integral part of the amendment process. I have stopped trying to make sense of some of these so-called arguments of those opposed to protecting traditional marriage, but this one, that an amendment that requires the consent of the States would undercut the rights of the States, is particularly galling.

There is no going back now. This issue will be decided one way or another. Either the American people will amend the Constitution to protect traditional marriage or the courts will ignore the expressed commitments of citizens in every State and amend the Constitution to require same-gender marriage. The choice is ours.

I simply don't understand how the opposition can seriously claim that this issue does not merit our attention. I suggest it is one of the most important issues to ever come before either body of Congress. Without self-government, all of our other rights are for naught. That is exactly what is at stake. We are expanding rights through this amendment. We are further securing the rights of democratic commu-

nities to decide this most important of social policies on their own, rather than having them stripped from them by unaccountable and unrepresentative judges.

Let me make this last point absolutely clear: We are not restricting rights with this amendment. We are expanding the rights of democratic communities to decide issues for themselves.

Before I close, I would like to go through a few of these charts because I believe they make the case very well. This first chart says, "Not one legislature has voted to recognize same-sex unions." Think about it. In 1996, not one had voted to recognize same-sex unions, not one. All of the blue stands for the zero. But in 2004, we now have 46 States with same-sex married couples from Massachusetts and some of these other rogue jurisdictions. As you can see, there are very few States—only four—that do not have it: Maine, West Virginia, Louisiana, and Montana. Every other State has same-gender marriages within those States that will have to be recognized under the full faith and credit clause against the wishes of those particular States.

Look at this next chart: "States that define marriage as a union between a man and a woman." The red States or orange States are States that define marriage as the union between a man and a woman. The only ones that do not are Oregon, New Mexico, Wisconsin, New Jersey, Connecticut, Rhode Island, Massachusetts, and New York. They are the only States that have not defined marriage as only between a man and a woman. All other States have done that, including Alaska and Hawaii, the two that are out in the ocean there. That is a very telling chart. We have these people saying: We are taking the rights away from the people to decide these things. No. We are taking the rights away from the courts to tell everybody in America what they should do, and all these States that have enacted traditional marriage laws, all of these States are going to be overruled by four liberal, activist, radical justices on the Massachusetts Supreme Court.

Look at what Kevin Cathcart of Lambda Legal, one of the leading gay rights organizations, said:

We won't stop until we have [same-sex] marriage nationwide.

Justice Scalia was very prescient when he said:

The Lawrence decision leaves on pretty shaky grounds State laws limiting marriage to opposite-sex couples.

Evan Wolfson, director of Freedom to Marry, another gay rights organization, said:

But when Scalia is right, he's right. We stand today on the threshold of winning the freedom to marry. This is a big issue.

Professor Laurence Tribe, highly respected liberal spokesperson for the liberal cause, constitutional law professor at Harvard Law School, a person I personally enjoy listening to, very

bright, very fine teacher, he had this to say:

You'd have to be tone deaf not to get the message from Lawrence that anything that invites people to give same-sex couples less than full respect is constitutionally suspect.

Now, one last one here. This last one shows States with pending court cases involving same-sex marriage. The ones that are in the rust color, you will notice, are States with pending court cases involving same-sex marriage. These are the States where already we have pending cases: Washington, Oregon, California, New Mexico, Wisconsin, Indiana, Florida, North Carolina, West Virginia, Pennsylvania, Maryland, Delaware, New Jersey, New York, Vermont, and Massachusetts. Those are States where we already have pending cases forcing this on those States. I suppose that most all the others will, too, but they may not have to go into all the other States because any one of those States could also impose this, as Massachusetts has done as well.

We are talking about a very important issue, and that is that gays should have a right to their own way of living. I would certainly stand up to try and do what is right and fair for gay people in our society. I have. I have done it and taken a lot of criticism for having done so. I have been right to do so. But they should not have a right to redefine traditional marriage through four activist, liberal justices in the State of Massachusetts imposing their will on all of America because of the full faith and credit clause.

Even though 40 States have adopted the Defense of Marriage Act, most constitutional scholars agree that the Defense of Marriage Act will be ruled by these cases unconstitutional, and thus every State in the Union, against the will of the people, will have to recognize gay marriage, or will have their concepts of traditional marriage, which have been uniform throughout the country just blasted into smithereens—all, again, because of a liberal court in Massachusetts.

I hate to say this, but it is true. Our colleagues on the other side want liberal judges. The reason is because liberal judges can enact legislation from the bench. You will notice the word "legislation" should never be part of the judging process. But they can and will enact legislation, as these Massachusetts judges have done, which these liberals could never get through the elected representatives of the people in a million years. They don't want the people to decide this. They want the courts to decide it. That is what they say when they say they believe in States rights—that Massachusetts should determine for all of America how marriage should be defined.

As you can see, we are in a plethora of lawsuits. It is not going to stop until we take the bull by the horns and pass a constitutional amendment. I think most people would acknowledge that this amendment does not have the

votes at this point; it doesn't have 67 votes. But this debate is very important. I don't know of a more important debate in our country's history. If we undermine traditional marriage in our society, I think we are going to regret it.

I don't think judges should determine the sociology of our society. I don't think they should be legislating from the bench. I don't think judges should be making these decisions unilaterally, and a 4-to-3 decision was made in this particular case. I think the people ought to make this decision. We know that 40 States have already adopted the Defense of Marriage Act, which is likely to be struck down. I believe the other 10 States will adopt it before it is all over. This was done by four activist judges in Massachusetts versus three others who are also liberals, but they would not go as far as to strike down traditional marriage.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I have listened with great interest to the debate over the last several days. I believe there are many sincere positions being advocated on this floor on really all sides of this issue, because there are many sides. This is an incredibly important and quite solemn responsibility that we have before us.

S.J. Res. 40, this joint resolution, proposes an amendment to the Constitution of the United States relating to marriage. So maybe even more than the usual debate, this calls for each of us to be engaged, to be accurate, and to be thoughtful about the positions we take with respect to this proposed amendment.

Now, a number of my colleagues have come to the floor to speak about the solemn responsibility that we hold in our hands with respect to amending our Constitution. I am in agreement that the Constitution is a living and working, extraordinary human accomplishment that protects our citizens, grants us the rights that make us free, and we in this body took an oath; we swore to defend and protect the Constitution of the United States.

So to consider altering this document, one of the greatest documents in the history of humanity, is a responsibility no Member can or should enter into lightly, for what we do here will not only affect our fellow citizens in the year 2004, but it will affect every generation of Americans to come.

As Henry Clay once observed:

The Constitution of the United States was made not merely for the generation that then existed, but for posterity—unlimited, undefined, endless, perpetual posterity.

So we do owe an obligation to those we represent today and to future generations as we embark upon this very solemn undertaking. We should not amend the Constitution to decide any issue that can and will be resolved by less drastic means. We should not amend the Constitution to federalize

an issue that has been the province of the States since our founding—in fact, as Senator KENNEDY reminded us, even before our founding as a nation.

I believe marriage is not just a bond but a sacred bond between a man and a woman. I have had occasion in my life to defend marriage, to stand up for marriage, to believe in the hard work and challenge of marriage. So I take umbrage at anyone who might suggest that those of us who worry about amending the Constitution are less committed to the sanctity of marriage, or to the fundamental bedrock principle that exists between a man and a woman, going back into the midst of history as one of the foundational institutions of history and humanity and civilization, and that its primary, principal role during those millennia has been the raising and socializing of children for the society into which they become adults.

Now, if we were really concerned about marriage and the fact that so many marriages today end in divorce, and so many children are then put into the incredibly difficult position of having to live with the consequences of divorce, perhaps 20, 30 years ago we should have been debating an amendment to the Federal Constitution to make divorce really, really hard, to take it out of the States' hands and say that we will not liberalize divorce, we will not move toward no-fault divorce, and we will make it as difficult as possible because we fear the consequences of liberalizing divorce laws.

If one looks at the consequences of the numbers of divorces, the breakup of the traditional family, you could make an argument for that. If we were concerned about marriage, why were we not concerned about marriage when marriage was under pressure over the last decades because of changing roles, because of changing decisions, because of the laws in the States that were making it easier for people—husbands, wives, mothers, and fathers—to get divorced?

We searched, and I don't see anyone in the history of the Senate or the House who put forward an amendment to try to stop the increasing number of divorces in order to stem the problem and the difficulties that clearly have been visited upon adults certainly but principally children because of the ease of divorce in this society over the last decade. We didn't do that.

We could stand on this floor for hours talking about the importance of marriage, the significance of the role of marriage in not only bringing children into the world but enabling them to be successful citizens in the world. How many of us have struggled for years to deal with the consequences of illegitimacy, of out-of-wedlock births, of divorce, of the kinds of anomie and disassociation that too many children experienced because of that.

I think that if we were really concerned about marriage and that we believed it had a role in the Federal Constitution, we have been missing in action. We should have been in this Chamber trying to amend our Constitution to take away at the very first blush the idea of no-fault divorce, try to get in there and tell the States what they should and should not do with respect to marriage and divorce, maybe try to write an amendment to the Constitution about custody matters. Maybe we should have it be a presumption in our Federal marriage law that joint custody is the rule. Maybe we ought to just substitute ourselves for States, for judges, for individuals who are making these decisions every single day throughout our Nation.

We did not do that, did we? Can any of us stand here and feel good about all of the social consequences, the economic consequences? We know divorce leads to a lowered standard of living for women and children. Then, of course, if we were to deal with some of the consequences of out-of-wedlock births, the lack of marriage, we could have addressed that in a constitutional amendment. Perhaps we should have amended the Constitution to mandate marriage.

Is it really marriage we are protecting? I believe marriage should be protected. I believe marriage is essential, but I do not, for the life of me, understand how amending the Constitution of the United States with respect to same-gender marriages really gets at the root of the problem of marriage in America. It is like my late father used to say: It is like closing the barn door after the horse has left.

We hear all of these speeches and see these charts about the impact on marriage. We are living in a society where people have engaged in divorce at a rapid, accelerated rate. We all know it is something that has led to the consequences with respect to the economy, to society, to psychology, and emotion that so often mark a young child's path to adulthood.

So what are we doing here? Some say that even though marriage has been under pressure—which, indeed, it has—and has suffered because of changing attitudes toward marriage now for quite some years, even though most States are moving as rapidly as possible to prohibit same-gender marriages, we have to step in with a Federal constitutional amendment.

The States, which have always defined and enforced the laws of marriage, are taking action. Thirty-eight States—maybe it is up to 40 now—already have laws banning same-sex marriage. Voters in at least eight States are considering amendments to their constitutions reserving marriage to unions between a man and a woman. But the sponsors argue that we have to act with a Federal constitutional amendment because the full faith and credit clause of the Constitution will eventually force States, if there are

any left, that do not wish to recognize same-sex marriages to do so.

That is not the way I read the case law. With all due respect, the way I read the case law is that the full faith and credit clause has never been interpreted to mean that every State must recognize every marriage performed in every other State. We had States that allowed young people to marry when they were 14, and then States that allowed young people to marry when they were 16 or 18. The full faith and credit clause did not require that any other State recognize the validity of a marriage of a person below the age of marital consent according to their own laws.

Every State reserves the right to refuse to recognize a marriage performed in another State if that marriage would violate the State's public policy. Indeed, the Supreme Court has long held that no State can be forced to recognize any marriage. That is what the case law has held. But just to make sure there were no loopholes in that case law, the Congress passed and the President signed the Defense of Marriage Act, known as DOMA.

The Defense of Marriage Act has not even been challenged at the Federal level, and because the Supreme Court has historically held that States do not have to recognize laws of other States that offend their public policy, it is assumed that any challenge would be futile.

So what is it we are really focused on and concerned about here?

If we look at what has happened in the last several months—and there are others in this body who are more able to discuss this than I because it affects the laws of their States—as Senator KENNEDY said, in Massachusetts, a court decision will be challenged by a referendum. In California, San Francisco's action permitting the licensing of same-sex marriages was stopped by the California State courts. The DOMA law that was enacted already protects States from having to recognize same-sex marriage licenses issued in other States.

So I worry that, despite what I do believe is the sincere concern on the part of many of the advocates of this amendment, they have rushed to judgment without adequate consideration of the laws, the case laws, the actions of the States, and that their very earnest, impassioned arguments about marriage have certainly overlooked the problems that marriage has encountered in its present traditional state within the last several decades in our country.

The PRESIDING OFFICER (Mr. TALENT). The time of the Senator has expired.

Mrs. CLINTON. Mr. President, I ask unanimous consent for 2 more minutes.

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

Mrs. CLINTON. Mr. President, we all know this amendment is not likely to pass at this time because concern for

our Constitution and the solemn responsibility that falls to us with respect to amending it is a bipartisan concern. There are many on the other side who will not tamper with the Constitution to deal with the heated politics of the moment. Yet we are taking precious time away from other matters about which I worry, about which I am concerned, most profoundly the challenges we confront from our adversaries in al-Qaida and elsewhere who we know are plotting and planning against us.

I hope that once we hold the vote tomorrow—and the States continue to do what the States are doing—that we will get back to the business of both protecting and serving the American people and solving the problems they confront each and every day. Maybe we can come to some agreement that the Founders had it right and that the concerns that have been expressed about marriage will be taken care of as they traditionally have in the States which have held the responsibility since before our founding as a nation.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from New York yields the floor. The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield 15 minutes to the Senator from Oklahoma, the chairman of our Budget Committee and somebody I would like to recognize in a public way for all of the hard work he has provided for us in the Senate, particularly his hard work on the budget as the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 15 minutes.

Mr. NICKLES. I thank my colleague from Colorado for yielding. I compliment Senator ALLARD for his work on this amendment and on this issue. It is a very important issue.

I also compliment Senator HATCH for the very fine statement he made earlier, as well as Senators SANTORUM, SESSIONS, and CORNYN. Several of our colleagues have made very eloquent remarks about this amendment and about the fact that marriage is under attack. I want to come at it from a little different perspective.

I was the principal sponsor of the Defense of Marriage Act, which passed and was signed into law by President Clinton in 1996. I heard my very good friend from Minnesota, Senator DAYTON, mention that this is about politics, and I wanted to inform him as the sponsor of DOMA, the Defense of Marriage Act, it was not about politics in 1996, it was because in 1996 the Hawaiian Supreme Court was getting ready to legalize same-sex marriage, and under the general understanding of full faith and credit, if they recognized it, there would be a lot of same-sex couples running to Hawaii to be married and they would return to other States and those States would be required to recognize it.

We thought that was a serious mistake. We did not want that mixed court

decision in Hawaii to become the law of the land. So we passed the Defense of Marriage Act. It passed by a vote of 85 to 14.

I notice several of the people who are arguing against a constitutional amendment are arguing for States rights. Several of the people who have argued against this amendment also debated and voted against the Defense of Marriage Act, which was basically a States rights approach to the solution.

Now, let us frame this as an issue. Marriage is under attack. It is under attack in several respects. It is under attack by a liberal court in Massachusetts which wants to redefine marriage, including same-sex couples. They were not elected. It is under attack by mayors in some cities: the mayor of San Francisco, and the mayor of New Paltz, NY.

They wanted to legalize or grant licenses to same-sex couples. It happened to be against the law in the State of California. It is very interesting that a newly elected mayor would decide to defy State law, actually break State law, but he was doing it and gained great notoriety. He was on TV most every day. Then a mayor in New Paltz, NY, wanted to do the same thing. I am not sure what the State law in New York is. But marriage is under attack as defined by this Congress. The Defense of Marriage Act says marriage is between a man and a woman, and yet we had either an unelected court or mayors saying, no, they know better.

So if it is under attack, how is it protected? Is it protected better by a statute or by a constitutional amendment? That is a legitimate debate, and I respect people who say we have the Defense of Marriage Act, but many of the people who are making that claim voted against the Defense of Marriage Act, so I question whether they really believe in States rights or they are using it at this particular point. But it is under attack.

What has happened differently between now and when the Defense of Marriage Act passed in 1996, one decision was the Lawrence decision. Every once in a while I will sit in on a Supreme Court debate. I sat in just a month ago on the question on the Pledge of Allegiance, whether we could actually have in the Pledge of Allegiance "one Nation under God." In that case, the Ninth Circuit Court, which makes a lot of very absurd rulings, said we should not have "one nation under God." Thankfully, the Supreme Court rejected that argument. I enjoyed listening to that debate.

I wish I had attended the Lawrence v. Texas debate because I am absolutely astounded at their conclusion. Senator SANTORUM deserves great credit because he took a lot of flak, but he denounced that decision. He denounced it strongly, and he was right. I did not pay enough attention to the Lawrence decision, nor to the Texas statute, which probably should have been overturned or should have been repealed by

the Texas legislature. Possibly that is a debate for another day. They went a lot further than just dealing with the Texas statute.

In the Lawrence case, the Supreme Court found:

... a State's governing majority has traditionally viewed a particular practice as immoral is not sufficient reason for upholding a law prohibiting the practice . . .

Sorry about that, States, sorry if you had morality as part of the reason you are legislating, but the Supreme Court thinks that may not be enough.

That is a very troubling case. I have heard a lot of constitutional scholars and others say because of the Lawrence case the Defense of Marriage Act would probably be determined unconstitutional. I hope they are wrong.

The Defense of Marriage Act passed with 85 votes. I hope the Supreme Court will pay attention to the fact that it passed with 85 votes. That was not 51 to 49. So if they are going to overturn the Congress—incidentally, it passed in the House by an overwhelming margin, even greater than that, I believe. So I hope it will not be determined unconstitutional. But the Lawrence case does mean marriage is under attack.

When there is a mayor of San Francisco who decides in spite of State law that he is going to start granting marriage licenses or a mayor in New York or by a 4-to-3 decision in the State of Massachusetts—all of those things have happened since the Defense of Marriage Act passed. So it really boils down to which body, which element of our democracy is going to be making this decision? If we are going to redefine marriage and say that it is legal between same-sex couples, should that not be decided by State legislatures and/or elected Federal officials? It certainly should not be decided by an unelected 4-to-3 decision in one liberal court in the country. So to stop that 4-to-3 decision, particularly given the fact that there is a Supreme Court decision which seems to give credibility to that decision, maybe a constitutional amendment is in order. My guess is it probably will not pass until they do overturn the Defense of Marriage Act, and then I believe there really will be a revolt around the country. Then it might get the necessary two-thirds vote in both Houses of Congress and be ratified by three-fourths of the States.

Our forefathers showed great wisdom in making it very difficult to amend the Constitution. It has only been amended 27 times—only 17 if we take out the Bill of Rights—in the last 228 years. That is pretty remarkable. They made it very difficult to amend the Constitution.

We are dealing with something very fundamental when we are talking about how marriage is defined. Marriage is a very esteemed union between a man and a woman, a contract with Government recognition, with benefits, a sacred union, a sacrament in some religions, a very special relationship, not

to be changed or altered, frankly, by a 4-to-3 decision, by an unelected court, trying to redefine something so important. It should be decided by elected officials.

So we have a process. We have the statute process, which we have done, and we have a constitutional process which may be necessary in light of the Lawrence decision and in light of the State of Massachusetts, in light of the mayor of San Francisco, in light of mayors in other places around the country who wish to make such a fundamental change and do it without authority, without election, without backing.

In the State of Hawaii, when the State supreme court there tried to redefine marriage, there was an uproar and basically they passed a constitutional amendment that allowed the legislature to define marriage. The legislature defined marriage as a union between a man and a woman. The legislature stopped it.

Hopefully maybe legislative action would be enough, but my concern is that in spite of the fact that 38 States have passed identical legislation to DOMA, in spite of the fact that 4 additional States have passed something very close to it, 42 out of 50 States passing legislation basically defining marriage as between a man and a woman, is that there still might be a 4-to-3 decision that becomes the law of the land because of what I believe is an absurd decision based on the Lawrence decision. I hope that is incorrect, but I do want to fight to defend marriage as between a man and a woman. That can be done constitutionally. It can be done statutorily. I do think that people, through their elected officials, should be making this decision instead of an unelected 4-to-3 decision in a court. This is vitally important.

So, again, I compliment my colleague, Senator ALLARD, for his leadership on this issue. I hope people will take this very seriously. The benefits of marriage are great. Undermining marriage has great negative consequences for our country, and I hope our colleagues will weigh those decisions very closely and at least support the motion to proceed. It is a legitimate debate as to whether the amendment should be one sentence or should it be two sentences, should it be rewritten or tweaked one way or another. We will not know unless we pass the motion to proceed. So I urge our colleagues to support the motion to proceed in tomorrow's vote.

Mr. ALLARD. Mr. President, I thank the Senator from Oklahoma for a very fine statement. He brings a special perspective to this debate because he was the initial sponsor of the Defense of Marriage Act.

Mr. MCCAIN. Will the Senator yield for a unanimous consent request?

Mr. ALLARD. I yield to the Senator from Arizona.

Mr. MCCAIN. I ask unanimous consent I be allowed to follow the Senator from Kansas for a period of 12 minutes.

Mr. JEFFORDS addressed the Chair. The PRESIDING OFFICER. The Senator from Vermont is recognized.

Is there an objection to the unanimous consent request?

Mr. JEFFORDS. Mr. President, I have another engagement I am supposed to be at now.

Mr. ALLARD. I do not believe it is going to interfere with you. You are next, then I think Senator BROWNBACK.

Mr. MCCAIN. You are up. Then I asked unanimous consent to follow the Senator from Kansas.

Mr. ALLARD. You are next. The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I find it sad and unfortunate that the Senate is spending crucial time on this divisive issue, driven so obviously by partisan politics rather than sound public policy. We know this amendment has no chance of passage, so why are we here? Just a week after Secretary Ridge detailed the real threats that the Nation faces right here at home, why are we instead debating the vague and questionable dangers to the institution of marriage. We should be working to fund homeland security, but that bill languishes while we launch into a cultural war.

As of today, the Senate has passed only 1 of the necessary 13 appropriations bills for fiscal year 2005. We need to fund veterans health care, educational programs, worker protection, job training, Head Start, environmental preservation, crop insurance, and food safety. We need to reauthorize our Nation's welfare programs. Our highways crumble while the Transportation bill is stalled and we take no action.

These are the priorities of the American people. But instead of facing these most basic responsibilities, we are here today to make judgment calls about people's personal lifestyles. I must ask, where are the priorities of the majority leadership? How is it that we have to come to use the Senate floor as a warmup for political conventions, bowing to extreme religious agendas rather than the agenda of the American people? How did this happen?

I am afraid the answer can be summed up very easily. We are here because of election year posturing.

I find it ironic that some in this Chamber want to amend our Nation's most sacred and historic document because of some unfounded and irrational fear. It is ironic because these are the same people who have argued that we should not trample on States rights. Yet they think our States are not capable of deciding how marriage should be defined. I believe our States are not only capable but deserving to define marriage in the way they see fit. Every State will bring its own approach, and I am proud the way my State led the Nation in addressing this issue more than 4 years ago.

The Vermont Legislature, a part-time body made up of farmers and teachers, passed the civil unions legislation. They gave gay and lesbian couples all the same legal rights extended to married couples, and the legislature did so in a bipartisan fashion, amid rancorous protests by some who proclaimed Vermont's lawmakers will suffer dire consequences as a result of this decision.

I can tell you today that all of these fears have been unfounded, and my home State is better off for the experience. Having witnessed Vermont's approach, I beg to differ with anyone in this body who argues that States are not able to decide this issue for themselves. Here in the Senate we should be spending our time debating legislation that is inclusive, not exclusive. This body did so when it recently passed a hate crimes bill to extend the definition of hate crimes to those who are targeted solely on sexual orientation, gender, or disability.

We should be focusing our energies on passing bills such as the Employment Nondiscrimination Act and the Domestic Partner Health Benefits Equity Act. I am proud to support these bills, and I am even more proud because they continue in the great American tradition of inclusiveness and tolerance and acceptance.

I will vote against this constitutional amendment, and I urge the majority leadership to take up, rather than push aside, the critical pending legislation that so desperately needs and calls for our attention.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I yield 15 minutes to the Senator from Kansas. I compliment him in a public way for his leadership on this very important issue.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 15 minutes.

Mr. BROWNBACK. I thank the Senator from Colorado for his leadership in putting this issue before the U.S. public and before the world. This is something we need to debate.

I want to specifically address the argument that is being put forward so often from the other side that we do not need to do this now; there is no fire burning; there is no particular issue that is going on here; the States can easily handle this; just let them handle it and take care of it; we do not need to do this until the Supreme Court takes it up.

I want to talk about, Why do we need to take this up now? Fortunately, we have a case study. People who went to business school, went to law school, learn through case studies. You study a case, study what took place, and you try to analyze what happened there to figure out what could have been done better, what should have been done, what was done, and what was its impact.

We have an excellent case study in the Netherlands on what is taking place when this sort of debate occurs. The reason it is important to engage this debate now and not wait until after the Supreme Court might rule, or after this goes through a number of States, is because of what they went through in the Netherlands.

I want to talk about one chart, the out-of-wedlock birth rates in the Netherlands, 1970–2003.

You can see it does not have a favorable trendline. In 1970, it is down around 2 percent. Indeed, the Netherlands was noted for a long period of time for having a very low out-of-wedlock birth rate, and among European countries they were highly regarded for that. Even though it was an open society, it had a very low out-of-wedlock birth rate. People had children in wedlock.

Then you can see in 1980 this thing starts rocketing and really taking off. What took place in the Netherlands—and I am going to have quotes from some Dutch scholars that just recently came out. We have the material from Stanley Kurtz that a number of people talked about. But what happened there was this ongoing debate for a period of about 10 years before same-sex marriage passed in the Netherlands, this public debate about, you know, we can have different sorts of family arrangements, we can have registered partnerships. They had that before same-sex marriage passed.

We had symbolic marriage registers for same-sex couples. We had the first supreme court case loss, first court case loss—and what we had was just this debate and discussion with the society, the culture, over a period of years saying we can separate this issue of raising children and the issue of marriage. We can have marriages just be an expression of care and concern and love for each other without really considering or thinking about what it is, the union of man and woman and raising children together.

We now have social science data. We have discussed a lot on this floor that the best place to raise a child is in a family with a man and woman, a husband and wife, bonded together for life in a low-conflict marriage. We know that is the ideal place. We have discussed that. The social science data is clear on it.

Yet what you saw take place here as you engage this debate and society started talking to itself, reforms and court orders, we saw society saying it is not that critical how marriage is organized in looking at children. It is more about the adults than about the children. Let us open this institution.

What took place was you had this huge growth to where it is up to 30 percent of children born out of wedlock in the Netherlands in 2003 from the 1980 total here at 5 percent over that period of time.

What do scholars say about this? Dutch scholars are actually saying we

have to figure some way to try to reinstitute the notion and the nature of traditional marriage. The marriage between a man and woman, raising children in this type of household, is the best place for us to do that.

In recent years, they note, there is statistical evidence of Dutch marital decline, including "a spectacular rise in the number of illegitimate births." By creating a social and legal separation between the ideas of marriage and parenting, these scholars warn, same-sex marriage may make young people in the Netherlands feel less obligated to marry before having children.

Again, this ongoing debate about marriage isn't about forming this bond and a family unit. It is how two people express love for one another, and then that started permeating and getting into society.

One of the signatories, Dutch law professor M. Van Mourik, said that "the reputation of marriage as an institution—in Holland—is in serious decline." The decision to legalize gay marriage, said Mourik, should certainly have never happened. "In my view, that has been an important contributing factor to the decline in the reputation of marriage."

One of the letters' other signatories, Dr. Joost van Loon, believes gay marriage has contributed to a decline in the reputation of Dutch marriage. It is "difficult to imagine" that the Dutch campaign for gay marriage did not have "serious social consequences," said Van Loon, citing "an intensive media campaign based on the claim that marriage and parenthood are unrelated."

My point in saying this and addressing the concerns from the other side that it is not particularly timely, we need to do work on other things, is if we don't engage and discuss this and talk about the importance of marriage and the natural union and raising children in that setting, you will see society say, I guess it doesn't matter, these things are separate. And you will see this taking place more where we have slowed down and stopped the rise in out-of-wedlock births in the United States. This isn't something that has been charting up for a long term here, and that has been capped and started back down.

Now we are pushing in a welfare reform bill—a discussion about marriage and the welfare reform bill—because we know it is the best place to raise children. It will result in a healthier relationship for a man and a woman on a long-term basis. People will live healthier, longer, and happier.

We don't want this to happen in the United States. The case study is here, and we look at the incredible social experiment—something that has not been done in societies for 5,000 years. We are talking about putting that in society. We need to push back and say no, this is not good for children. It is not good for families. It is not good for America, nor the American culture.

I urge my colleagues when they say this isn't timely to look at what has happened in the case study we have. If this isn't discussed at a very early stage and people say, no, this is not the way we want to go, then you will get this rise taking place and the situation none of us want and that everybody agrees is not good for the children. I think one has to ask oneself in this debate, where are we going to focus? Are we going to focus on raising the next generation or are we going to focus on other issues? I think clearly the right focus for legislators in looking to build a good, strong society in the future is to focus on that next generation.

I thank my colleague from Colorado for leading this debate. I thank the Chair and yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I may require 15 minutes. I ask unanimous consent to extend from 12 to 15 minutes.

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

Mr. MCCAIN. Mr. President, most Americans believe, as I do, that the institution of marriage should be reserved for the union of a man and a woman. But only a very small majority, and perhaps not quite a majority, support the idea—at this time—of amending the Constitution to prohibit the States from changing the legal definition of marriage to include any union other than that between a man and a woman. I know that Americans who support a Federal marriage amendment feel very strongly that same sex marriages judged lawful by the Supreme Court of the Commonwealth of Massachusetts, and permitted, for a brief period, unlawfully, in certain other localities, threaten the institution of marriage as a core value of our culture. I know also that many of the opponents of the amendment believe it is purposely divisive, discriminatory and intended to deny some Americans their right to the pursuit of happiness. And I know that many, many of those Americans who do not presently support the amendment, but oppose same-sex marriage do not perceive it is urgently necessary to address this issue by means of amending the most successful and enduring political compact in human history.

This close division of public opinion assures us one thing. A Federal marriage amendment to the Constitution will not be adopted by Congress this year, nor next year, nor anytime soon until a substantial majority of Americans are persuaded that such a consequential action is as vitally important and necessary as the proponents feel it is today. It is perfectly appropriate for Americans who do feel that strongly today to call the offices of their elected representatives and urge them to support the amendment. But their efforts would be better spent trying to convince a supermajority of the

public to share their urgency because until they do there will not be a supermajority in Congress and among State legislatures willing to amend our Constitution.

By my count, there is not at this time even a small majority of senators who would vote for Senator ALLARD's amendment, much less the 67 votes required by the Constitution. That won't change unless public opinion changes significantly. The founders, wisely, made certain that the Constitution is difficult to amend, and, as a practical political matter, can't be done without overwhelming public approval. And thank God for that. Were it any easier I fear we could not make the claim for the Constitution's enduring success that I have just made.

Many, if not most, Americans have reasoned that there is no overriding urgent need to act at this time. And they are right to do so. The legal definition of marriage has always been left to the states to decide, in accordance with the prevailing standards of their neighborhoods and communities. Certainly, that view has prevailed for many years in my party where we adhere to a rather stricter federalism than has always been the case in the prevailing views among our friends in the Democratic Party. Some fear that the decision in Massachusetts will ultimately result in the imposition of different views on marriage in communities where the traditional view of marriage is considered singular and sacred. But there really is insufficient reason presently to fear such a result.

I supported the Defense of Marriage Act adopted by Congress and signed into law by President Clinton in 1996. As my colleagues know, the Defense of Marriage Act, DOMA, was proposed in response to a decision by the Supreme Court of the State of Hawaii which concluded that a law banning same-sex marriages may violate the Equal Protection Clause of Hawaii's constitution. DOMA provides States an exemption from the "full faith and credit" clause so that each State would be able to decide for itself whether to recognize same-sex marriage. The law neither compels a State to recognize a same-sex marriage from another State, nor does it prohibit States from recognizing such marriages. It simply protects each State's right to choose how it will define marriage. Currently, 39 States have defense of marriage laws in place. And thus far, there has yet to be a successful challenge to DOMA in Federal Court.

The Defense of Marriage Act represents the quintessentially federalist and Republican approach to this issue. The constitutional amendment we are debating today strikes me as antithetical in every way to the core philosophy of Republicans. It usurps from the states a fundamental authority they have always possessed, and imposes a Federal remedy for a problem that most states do not believe confronts them, and which they feel capable of

resolving should it confront them, again according to local standards and customs.

If a constitution is to be amended, it should be a State constitution. According to a report by the Heritage Foundation, an organization not known for its liberal sympathies, "the best way to defend against a state court that might seek to overturn State public policy or force recognition of another state's marriage policy is to amend the State constitution to establish a state constitutional marriage policy." At this time, 16 States have pending constitutional amendments to protect marriage, and at least 3 others are expected to introduce such amendments soon. Colleagues who have told me of actions taken in this city or that county to impose a legal definition of marriage that conflicts with the prevailing view of marriage in their State have a far less draconian remedy at hand to correct the injustice than amending the United States Constitution—it is in their state legislatures. What evidence do we have that States are incapable of further exercising an authority they have exercised successfully for over 200 years? The actions by jurists in one court in one state do not represent the death knell to marriage. We will have to wait a little longer to see if Armageddon has arrived. If the Supreme Court of the United States rejects the Defense of Marriage Act as unconstitutional; if State legislatures are frustrated by the decisions of jurists in more states than one, and if state remedies to such judicial activism fail; and finally, if a large majority of Americans come to perceive that their communities' values are being ignored and other standards concerning marriage are being imposed on them against their will, and that elections and state legislatures can provide no remedy then, and only then, should we consider, quite appropriately, amending the Constitution of the United States.

I know passions run high on this issue. Americans who support the Federal marriage amendment do so very forcefully. They want this vote. But they should also know, and we should make sure they do know that it will never be adopted until many more Americans feel as strongly as they do. They have every right to demand a vote, even if the outcome is well-known. There are, of course, many other urgent priorities left to address in this Congress, not the least of which concern the physical security of this country, as Secretary Ridge has recently reminded us. But I have in the past supported legislation I knew lacked the necessary votes to prevail, and still insisted on a vote. In those cases, however, I had much broader public support for the legislation than exists for this proposed amendment. Still, I would normally be inclined to support any procedural motion to allow proponents their vote. But a procedural vote is unlikely to succeed, as we all know. That's why I supported

the Democratic leader's offer of a unanimous consent agreement to allow an up or down vote on Senator ALLARD's amendment. I would very much like an up or down vote on the amendment. That offer was rejected, and it seems at the moment that the only vote on this issue that we're going to be allowed will be a procedural vote. I would not want to obscure my position on this issue by voting to proceed to the amendment, and then, following that vote's failure, having no further opportunity to take my stand by voting, and to be held accountable by my constituents for that vote. So, I am inclined at this time, if this will be our only vote in this debate, to cast a vote that reflects my position on the federal marriage amendment proposed by Senator ALLARD.

I refer to Federalist Paper 45 to explain my vote, in which James Madison wrote "the powers delegated by the proposed Constitution to the Federal Government, are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation and foreign commerce; with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people, and the internal order, improvement and prosperity of the State." I stand with Mr. Madison on this question, and against a Federal marriage amendment that denies the States their traditional right and their clear opportunity to resolve this controversy themselves.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I oppose amending our Constitution with the Federal Marriage Amendment (FMA) because it interferes in a fundamental State matter, and, worse yet, it does so for the purpose of disfavoring a group of Americans. We have never amended our Constitution for that purpose, and we should not start now. The timing of this debate strongly supports my point that the FMA's supporters are concerned not with preserving the sanctity of marriage, but with preserving Republican politicians.

I am disappointed that we are debating a divisive and mean-spirited amendment that violates the traditions of Federalism and local control that the Republican party claims to cherish. We should be upholding the commitment to tolerance that underlies our Constitution, not betraying it with a premature debate that we all know will yield nothing but division in this body and among the American people. I urge all Senators to honor our oath as Senators to "support and defend the Constitution" and not sacrifice it to this short-term partisan exercise.

This debate risks great harm by casting States and gay Americans into second-class status and also harms the Senate. The Republican Senate leadership has shown contempt for the constitutional amendment process by bringing this proposed constitutional amendment directly to the Senate without the approval—or even the consideration—of the Judiciary Committee or its Constitution Subcommittee.

The Senate and the Judiciary Committee have followed a consistent practice for the consideration of constitutional amendments in the past. Before a constitutional amendment receives floor consideration it is debated and voted on by both the Subcommittee on the Constitution and the Judiciary Committee as a whole. This is the process that the Senate is currently following for the amendment to ban flag desecration, an amendment that has been considered by the Senate on numerous occasions, and that we followed in conjunction with the crime victims rights constitutional amendment. By contrast, the Federal Marriage Amendment, which is being considered for the first time, was not debated or voted on in either the subcommittee or the full Committee, yet it is before us on the floor today.

Past attempts to skirt Committee consideration of constitutional amendments, in the absence of an agreement between the parties, have drawn sharp condemnation. Twenty-five years ago, an amendment calling for direct election of the President and Vice-President was brought to the floor without Judiciary Committee approval. Senator HATCH, the then-ranking Republican member on the Constitution Subcommittee, said: "To bypass the committee is, I think, to denigrate the committee process, especially when an amendment to the Constitution of the United States of America, the most important document in the history of the Nation, is involved." The late Senator Thurmond said that "if a bill of this nature is not going to be referred to a committee to consider it, I do not know why we need Committees in the U.S. Senate." In 1979, Senator HATCH said it was "unconscionable to bring up legislation under these circumstances." Apparently what was "unconscionable" in 1979 is applauded in 2004 so long as it is being done for partisan Republican purposes.

I joined with all of my Democratic colleagues on the Judiciary Committee in writing last month to the Chairman to request that this amendment go through the normal channels. That request was ignored by the Chairman and apparently rejected by the Senate Republican leadership as it chooses for its own benefit to change yet another longstanding practice of the United States Senate.

The procedural treatment the Republican leadership is giving this proposed amendment to the Constitution of the United States is perhaps more appropriate for a resolution commemorating

an organization's anniversary or a celebratory day, which are sometimes discharged from the Judiciary Committee without debate and agreed to by the full Senate. When we are dealing with a resolution designating something as universally accepted as "National Girl Scout Week," it does not offend me to skip Committee consideration. But short cuts are not fitting when we are talking about amending our fundamental national charter.

Perhaps cutting corners like this and its maneuvering reveals how the Republican leadership really sees this amendment. Perhaps this exercise is, after all, not intended as a serious effort to amend the Constitution—something deserving deliberate consideration and careful refinement during the Committee process. It seems that this forced exercise is intended instead as the legislative equivalent of a political bumper sticker, suddenly appearing on the Senate floor late in an election year.

I assume that our longstanding practice was disregarded because the majority did not want to risk seeing the FMA defeated in committee. Or perhaps their decision to press this matter into debate, in spite of last week's terrorism warning, the unresolved intelligence failures and torture scandal and the lack of progress on a budget and Federal appropriations matters, was made hastily to fit the political calendar. Forcing a debate at this time shows they have no interest in passing an amendment—they simply want to go through the motions to please their hard-right base and try to inflict political damage on those of us who stand up for the Constitution. The New York Times reported yesterday how much pressure Republicans have been under from their extreme right wing to turn to this matter. This is apparently especially true now that the Republican Party has decided to try to put a pretty face on its harmful policies at its upcoming convention by featuring its few moderates. Those moderates do not set the policy for the national Republican Party and oppose this amendment. However the national Republican Party tries to dress itself up at its convention, the hard truth is that they are choosing to foster division by pressing this matter. If the Senate Republican leadership were interested in amending the Constitution, they would not bring this amendment to the floor now and face certain defeat. Committee consideration of an amendment is not merely a box to check in a procedural flowchart. Committee consideration of any legislation, especially constitutional amendments, affords an opportunity to address problems that are not easily remedied on the Senate floor. Committee consideration can also ensure that we agree on what an amendment does, even if we disagree on whether what it does is desirable. I certainly do not believe that we are at that point as we begin this premature debate. In that light, I would like to

discuss some of the open questions raised by this amendment.

I would like to place in the RECORD a story from the February 14 Washington Post about the formation of the FMA. The basic theme of the report was that even the drafters of the FMA disagree about what it means. Matt Daniels, the head of the Alliance for Marriage, a group promoting the FMA, was honest enough to tell the Post that the drafters of the amendment did not worry too much about the wording, saying, "I don't think we expected there would be this much attention paid to it." Although the language of the amendment before us has changed slightly from the original version, it is essentially the same as the sloppy patchwork version introduced last year. I think that Mr. Daniels' attitude speaks volumes about the respect the supporters of this amendment have for the Constitution.

This attitude is apparently shared by President Bush, who has made clear his desire to use this issue for political advantage. Although the President has asked Congress to amend the Constitution to ban gay marriage, he has refused repeated calls to state specifically what language he believes Congress should adopt. Like the Senate leadership, the President appears happy to seek political profit by demeaning both the Constitution and gay and lesbian Americans.

I would contrast the casual approach of the President toward the words of our Constitution with the approach of Senator BYRD—the most senior member of this body and a fierce defender of the Constitution—during the 1997 debate over the Balanced Budget Amendment. Senator BYRD said:

I would like to remind my colleagues that law and legislating is about the examination of details. We don't legislate one-liners, or campaign slogans. Here, in this body and in the other body, we put the force of the law behind details that impact mightily upon the daily lives of our people. That is a solemn responsibility. And it is more important than political popularity, or winning the next election or marching lockstep to the orders of one political party, or another.

Especially in the case of amending the Constitution, that responsibility weighs more heavily. For in that instance we are contemplating changes in our basic, fundamental organic law—changes that, when once implanted in that revered document, can only be removed at great difficulty, and which will impact, quite possibly, upon generations of Americans who, yet unborn, must trust us to guard their birthright as Americans."

Senator BYRD was right—the words of a Constitutional amendment matter deeply. This is the third version of this amendment that has been introduced in the Senate, and it may not be the last. Senator HATCH has publicly toyed for months with introducing a different version of the amendment and Senator SMITH is reported to be working on still another version.

The version of the Federal Marriage Amendment before us today reads as follows: "Marriage in the United States shall consist only of the union of a man

and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman."

First, the amendment appears to dictate to voters what language they can put in their own State Constitutions. The natural reading of the FMA suggests that voters in a State could not place in their State Constitutions any benefits for same-sex couples that could be defined as "legal incidents" of marriage. This limitation is particularly noteworthy in light of the current proceedings in Massachusetts. In response to the Supreme Judicial Court's decision in Goodridge, the Massachusetts Legislature has approved an amendment to the Massachusetts Constitution that would limit marriage to heterosexual unions but provide many of the benefits of marriage to same-sex couples through civil unions. This amendment is supported by Governor Mitt Romney, who testified before the Judiciary Committee last month.

Yet it appears that the Massachusetts amendment might be rendered unenforceable if the FMA were adopted, for no court would be permitted to "construe" the Massachusetts Constitution to provide for civil unions, which surely provide many of the "legal incidents" of marriage. Without judicial recognition of civil unions, the rights created for gay couples under the Massachusetts Constitution would not be worth the paper they are written on, even if they were approved by a majority of the State's voters.

Governor Romney told the Judiciary Committee that he somehow supports both the Federal and Massachusetts amendment, and did not believe they conflicted. I do not see how he can hold that position. Neither did former Representative Bob Barr, a conservative Republican from Georgia, who testified before the Committee at the same hearing. Congressman Barr said:

Governor Romney essentially is here to ask the Congress to step in and have the federal government invalidate the actions of the highest state court in his state, and also to strangle before its birth the proposed state constitutional amendment that his own state legislature passed this year. That State constitutional amendment, if passed next session and ratified by his state's voters, would deny marriage rights to same-sex couples, but also provide civil unions. The Federal Marriage Amendment, however, would invalidate any civil union provided by the Massachusetts state constitution, and of course would also invalidate all same-sex marriages in the state."

Second, it is unclear from the language of the FMA whether its prohibition on "construing" a Constitution is limited to the judicial branch. From the plain text of the amendment, executive branch officials—from a Governor to county clerks—would similarly be prohibited from construing even a duly-passed State constitutional amendment to provide for the "legal

incidents” of marriage, whatever those should be. This is a potentially breathtaking imposition on our States and their officials.

Third, the term “legal incidents” is itself extraordinarily vague. Since the amendment did not go through the proper channels, we have no Committee report language to clarify this or any of the other vague elements of this amendment. We do have the thoughts of Marilyn Musgrave, the House sponsor of the FMA, from a memo she produced to explain the meaning of the amendment. In her view, “legal incidents” include, among many other things, the right to bring actions for the wrongful death of a partner, rights and duties under adoption law, and even the right to hospital visitation. Her sweeping view would thus prevent any court anywhere from finding that any State constitutional provision might protect a person’s right to visit their same-sex partner in a hospital. And in the absence of a Committee report on the amendment, courts would likely have little choice but to give substantial weight to her view.

Fourth, although some supporters of the proposed amendment state categorically that the amendment leaves State legislatures free to pass civil union laws, that claim is also open to serious doubt. Surely Senator ALLARD and his allies cannot mean to put the Senate through this ordeal only to put the word “marriage” off limits to same-sex couples. Should a State pass a law that provides for marriage in all but name, would supporters of this amendment not mount legal challenges based on the amendment’s first sentence? Indeed, two of the amendment’s intellectual godfathers—Professors Robert George of Princeton and Gerald Bradley of Notre Dame Law School—have said they believe it would forbid civil unions that were sufficiently similar to marriage.

Fifth, the application of the amendment is not even limited to State actors, but would also apparently bind the behavior of private organizations, including private religious organizations. The first sentence of the amendment purports to define marriage for all time and for all purposes. In other words, no one could marry same-sex couples, regardless of whether that person was acting on behalf of the State. This is one of the reasons why so many religious organizations oppose this amendment, including the Episcopal Church, USA, the Alliance of Baptists, and the American Jewish Committee.

The only amendment that binds private parties is the Thirteenth, which forbids slavery anywhere in the United States. Given the stain of slavery on our nation, and its inherent evil, the Thirteenth Amendment’s sweeping ban is obviously appropriate. To take that extraordinary step here and to impose a definition upon all churches and faiths to tell them what they must do is overreaching and inappropriate.

Marriage is first and foremost a religious concept and institution. Respecting religion, the Federal Government ought to stay out of defining what a religious definition of marriage can be.

One thing we can say with certainty about this amendment is that if it is passed, it will present a field day for litigation.

This amendment is all the more mean-spirited because it is unnecessary. Unless we are planning to use the constitutional process to overturn a single State’s marriage policy—a purpose that I doubt has the support of even one-third of this body—the only possible rationale for the amendment is to authorize States not to recognize same-sex marriages performed in other States. This rationale is already accomplished, however, by both the inherent right of States to establish their own policies regarding marriage and by the Defense of Marriage Act, which Congress passed and President Clinton signed in 1996.

Many proponents of this amendment have stated as fact that the Constitution’s Full Faith and Credit Clause requires States to give the force of law to marriage licenses issued by other States. This is simply not the case. Lea Brilmayer, a professor at Yale Law School and an expert on the Full Faith and Credit clause, told the Judiciary Committee in March that the Clause was designed and has been interpreted to ensure that judgments entered by one State’s courts are respected in other States. Marriage licenses are not judgments, she said, and they have “never received the automatic effect given to judicial decisions.” Rather, “courts have not hesitated to apply local public policy to refuse to recognize marriages entered into in other states.”

Moreover, Professor Brilmayer testified that the Full Faith and Credit Clause “has never been understood to require recognition of marriages entered into in other states that are contrary to local ‘public policy.’ The ‘public policy’ doctrine, which is well recognized in conflict of laws, frees a state from having to recognize decisions by other States that offend deeply held local values.”

Under this long-established “public policy” doctrine, the nearly 40 States that have elected to pass their own “Defense of Marriage” acts would be expected not to have to recognize a same-sex marriage from Massachusetts. Of course, the small minority of States that have not passed such laws are free to pass them at any time. If they do not do so, just maybe preventing the recognition of other States’ gay marriages is not a burning issue for their citizens.

As the Judiciary Committee has learned, the Constitution places no requirement on Pennsylvania to recognize a gay marriage from Massachusetts. In the unlikely event that Federal courts take a different view and alter the historic understanding of the

Full Faith and Credit Clause, however, the Defense of Marriage Act provides an additional layer of security for States that do not wish to recognize same-sex marriage.

The federal law says that no State shall be required to give effect to any public act, record, or judicial proceeding of another state respecting a relationship between persons of the same sex that is treated as a marriage. It is the law of the land, and no court has found it to be unconstitutional. It seems to me that DOMA is presumptively constitutional, especially since the Full Faith and Credit Clause itself provides Congress with the power to direct the Clause’s interpretation:

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Some of my colleagues have suggested that we need to amend the Constitution now because the Supreme Court may either (a) invalidate DOMA and find that the Full Faith and Credit Clause requires 50-State recognition of Massachusetts gay marriages; or (b) go beyond even that analysis by finding a right to same-sex marriage under the Equal Protection Clause of the Fourteenth Amendment.

My initial reaction to these predictions about the judiciary is that they do not square with the Rehnquist Court I have been watching for the last 17 years. It is true that the Supreme Court found last year, in *Lawrence v. Texas*, that Texas and a handful of other States could no longer make it a crime for homosexual couples to engage in sexual acts in the privacy of their own home. And it is true that many of those who support the Federal Marriage Amendment decried this imposition on Texas’s right to punish its gay and lesbian citizens. It is a far leap, however, from saying that gay couples should not be thrown in jail and saying that they have a Constitutional right to marry. The comparisons that some are making between the *Lawrence* and *Goodridge* decisions are vastly overblown.

My second reaction, however, is the one that should move the Senate to reject this amendment. Perhaps my colleagues’ fearful predictions about the activism of the Rehnquist court will come true. More likely, they will not. But Congress’s job is not to imagine outcomes that appellate courts or even the Supreme Court might conceivably reach and preemptively amend the Constitution to prevent them. We have had enough difficulties during this Congress stemming from a preemptive war—we need not add a new preemptive theory to our arsenal. When it comes to the Constitution, it is simply wrong for the Senate to “shoot first and ask questions later.” Rather, it is our duty to show restraint.

If the Court should reverse 200-plus years of understanding of the Full

Faith and Credit Clause, or find that the Equal Protection Clause prohibits limiting marriage to heterosexual couples, a future Congress can react to that decision however it sees fit. That Congress will act in a way consistent with the views and circumstances of their time.

I believe preemptive action on this matter would set a precedent that both Republicans and Democrats in this body would come to regret. Congressman Barr, the author of the Defense of Marriage Act, illuminated this point when he testified last month. Congressman Barr said:

In treating the Constitution as an appropriate place to impose publicly contested social policies, [the FMA] would cheapen the sacrosanct nature of that document, opening the door to future meddling by liberals and conservatives. . . . The Founders created the Constitution with such a daunting amendatory process precisely because it is only supposed to be changed by overwhelming acclamation. It is so difficult to revise specifically in order to guard against the fickle winds of public opinion blowing counter to basic individual rights like speech or religion.

Part of Congressman Barr's testimony should be of particular note to my conservative colleagues. He said, "We know that the future is uncertain, and our fortunes unclear. I would like to think people will think like me for a long time to come, but if they do not, I fear the consequences of the FMA precedent. Could liberal activists use the FMA argument to modify the Second Amendment? Or force income redistribution? Or ban tax cuts?" This should be food for thought for all those—from the right or from the left—who would use the Constitution as a playground for their policy preferences.

This is a sad day for the Senate. We all take an oath to uphold the Constitution of the United States. But when the Republican majority brings a constitutional amendment to the floor in defiance of our normal procedures, and with full knowledge that it will not pass, it demonstrates a fundamental disrespect for our Constitution and for this institution, the United States Senate.

I close by echoing the words of Senator BYRD from the debate on the Balanced Budget Amendment: "What is really wanted by some in this body is not the amendment itself, but an issue with which to whip its opponents. This is simple politics, my colleagues. And it is politics at its most unappealing and destructive level."

I will have more to say about the Federal Marriage Amendment as this debate proceeds.

Mr. REID. Mr. President, we have no speakers tonight.

In the morning, it is my understanding that the majority leader is going to allow—I am quite sure this is true—we would have an hour on each side on this amendment. Therefore, on the Democratic side in the morning, so there is no confusion, I want to make sure if any Senator is calling tonight,

there is no more time. We have allocated all the time. If people call in the morning, there is no time left.

I ask unanimous consent that tomorrow, if the majority leader allows us the 55 minutes—I think he will—we have Senator DODD, 15 minutes; Senator CARPER, 10 minutes; Senator LIEBERMAN, 5 minutes; Senator KENNEDY, 5 minutes; Senator LEVIN, 10 minutes; Senator LEAHY, 10 minutes; and I would hope the two leaders could close the debate tomorrow morning using their leader time or whatever time is agreed upon by the Senate.

I ask consent on our side, our 55 minutes be divided as I have indicated.

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

Mr. ALLARD. Mr. President, I will take a moment to talk a little bit about my amendment. The purpose of my amendment is to protect marriage. There has been an editorial written by the Weekly Standard which I would like to share with my colleagues. There are three paragraphs I will recite. I ask unanimous consent to have the editorial printed in the RECORD. This is the editorial in the Weekly Standard called "Cloturekampf," written by Terry Eastland.

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

[From the Weekly Standard, July 19, 2004]

CLOTUREKAMPF

(By Terry Eastland)

Senate Republicans deserve credit for pushing this week for a vote on a constitutional amendment that would define marriage in the United States as consisting only of the union of a man and a woman. Whether they will get that vote is an open question. Under Senate rules, 60 votes likely will be needed to cut off debate in order for a vote on the amendment to occur. Those who count heads in the Senate tell us that as few as two Democrats may be willing to vote for cloture, as it is called, and as many as 12 Republicans may be prepared to vote against it. The votes for cloture might not even total 50.

Yet if you believe that the courts ought not to be irrevocably fixing policy upon such a vital question as what constitutes marriage, there is merit, especially in an election year, in determining just who is and who is not willing to vote on an amendment that would enable the people to decide whether they want to settle the issue as they choose. Which is to say, consistent with their conviction that marriage is what it always has been—only the union of a man and a woman.

As matters now stand, marriage defined as the union of any two people is the policy of only one government—the Commonwealth of Massachusetts. The policy was fixed by the Supreme Judicial Court of Massachusetts in a decision last November that ran roughshod over the legislature's constitutional authority. The federalist impulse in our shop says that maybe on the question of marriage nothing at all should be done—in which case a state would be allowed to go to hell in a handbasket, if that should be the desire of its judges, and the ruling is allowed to stand. We are reminded that states also can do the right thing, from our point of view, and in fact have. The people of Hawaii responded to their high court's decision implying a con-

stitutional right of same-sex couples to marry by passing a constitutional amendment prohibiting such marriages. And the people of Alaska voted for a similar constitutional amendment in response to a lower-court judge's ruling announcing a right to same-sex marriage.

Nonetheless, it is now unlikely that the states will be able simply to do as they wish on the question of marriage. Under the Massachusetts Constitution, no amendment in response to the supreme judicial court's decision will be possible until 2006, and in the meantime there is no stopping same-sex nuptials, of which there have been thousands so far, including many from out of state. It is only a matter of time before some same-sex couples who have returned home file lawsuits pressing their states to recognize their unions.

A basis for their claim will be the federal Constitution's requirement that states give "full faith and credit" to other states' judicial proceedings. The federal Defense of Marriage Act of 1996 offers an authoritative interpretation of the "full faith and credit" clause designed to prevent the interstate transmission of same-sex marriage. But the Supreme Court has repeatedly told Congress that it lacks the power to do that, and there is no reason to think that the Court would change its mind.

The odds are strong, then, that same-sex marriage will travel via the federal courts to other states. There also remains a possibility that the Supreme Court itself might simply strike down the traditional definition of marriage. Recall that last summer in *Lawrence v. Texas* the Court, with Justice Anthony Kennedy writing, did not merely void the nation's sodomy laws. Kennedy also embraced an amorphous right to sexual liberty (untethered to constitutional text or history) that denies the historic right of the people to enact legislation based on their moral views. The Massachusetts Supreme Judicial Court, not incidentally, drew inspiration from Kennedy's *Lawrence* opinion.

The question facing the Senate and, for that matter, the House of Representatives, is whether federal judges should be allowed to decide the issue in the way they are likely to—or whether the American people should be given the opportunity to settle it through a constitutional amendment expressing their longstanding conviction about marriage. Even a failed cloture vote will give the country an idea of which senators understand—and which do not—that the definition of marriage is now an unavoidably national issue, and that, if marriage is to remain the union of a man and a woman, the issue will have to be addressed through a constitutional amendment.

Mr. ALLARD. Also, while I am at it, I would like to add Senator DOLE as a cosponsor to S.J. Res. 40.

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

Mr. ALLARD. Mr. President, the editorial states:

Nonetheless, it is now unlikely that the states will be able simply to do as they wish on the question of marriage. Under the Massachusetts Constitution, no amendment in response to the supreme judicial court's decision will be possible until 2006, and in the meantime there is no stopping same-sex nuptials, of which there have been thousands so far, including many from out of state. It is only a matter of time before some same-sex couples who have returned home file lawsuits pressing their states to recognize their unions.

A basis for their claim will be the federal Constitution's requirement that states give

“full faith and credit” to other states’ judicial proceedings. The federal Defense of Marriage Act of 1996 offers an authoritative interpretation of the “full faith and credit” clause designed to prevent the interstate transmission of same-sex marriage. But the Supreme Court has repeatedly told Congress that it lacks the power to do that, and there is no reason to think that the Court would change its mind.

The odds are strong, then, that same-sex marriage will travel via the federal courts to other states. There also remains a possibility that the Supreme Court itself might simply strike down the traditional definition of marriage. Recall that last summer in *Lawrence v. Texas* the Court, with Justice Anthony Kennedy writing, did not merely void the nation’s sodomy laws. Kennedy also embraced an amorphous right to sexual liberty (untethered to constitutional text or history) that denies the historic right of the people to enact legislation based on their moral views. The Massachusetts Supreme Judicial Court, not incidentally, drew inspiration from Kennedy’s *Lawrence* opinion.

The question facing the Senate and, for that matter, the House of Representatives, is whether federal judges should be allowed to decide the issue in the way they are likely to—or whether the American people should be given the opportunity to settle it through a constitutional amendment expressing their longstanding conviction about marriage. Even a failed cloture vote will give the country an idea of which senators understand—and which do not—that the definition of marriage is now an unavoidably national issue, and that, if marriage is to remain the union of a man and a woman, the issue will have to be addressed through a constitutional amendment—Terry Eastland, for the Editors.

This is the gist of many of our arguments we are making today.

It has been called to my attention, through press reports, there has been a new lawsuit filed in the State of Massachusetts, that an attorney in Massachusetts has now filed a lawsuit on behalf of eight couples who are asking that the State of Massachusetts repeal their provisions which say they will not recognize same-sex marriages of individuals who come from other States. The Governor of Massachusetts relayed that issue to us during testimony before the committee. They just filed that. So here is another court case that has been filed that is another attack on marriage. That is why I think it is so very important we move forward with this debate.

This is not a political debate. It is not driven by politics. It is driven by the courts. Again, we have an organized effort, I believe, by proponents of same-sex marriage who want to undo the idea of a traditional marriage.

Right now, we have 46 States that have same-sex couples living there who have marriage licenses. I have been informed there is an organized effort to begin to file cases in those respective States. We have 11 States that have court cases currently filed in them. I was told several days ago that within those 11 States we have about 32 cases that have been filed, total.

We have 48 States that have passed laws protecting traditional marriage. I have behind me a chart that defines marriage as a union between a man and

a woman. We had a very fine statement from the Senator from Oklahoma who talked about the need and why he carried that amendment that protected the definition of marriage and allowed States their basic right to defend their position as far as the definition of marriage.

This definition has been supported by huge majorities in these States in their legislative bodies. I happen to disagree with my colleague from the State of Arizona. I think a large percentage of Americans are concerned about changing the definition of traditional marriage. I think as they begin to more fully understand, they are going to be more forceful in the message they are sending to the Senate, and I think eventually the Members of this Senate will realize how very serious this particular issue is which is before us today.

We have at least 10 States that have constitutional amendments on the ballot, and 3 States that are still gathering petitions. This issue is here before us today. It is an important issue. The people of the United States are concerned about what is happening in the courts. That is the reason we are here today to carry on this debate.

There are some profound implications, I believe, to the rearing of children. Marriage matters. I have an article entitled: “The End of Marriage in Scandinavia.” It is written by Stanley Kurtz, in the *Weekly Standard*, and dated February 2, 2004, in which he talks about the impact of redefining marriage in the Scandinavian countries and on children. I ask unanimous consent that article be printed in the RECORD.

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

[From the *Weekly Standard*, Feb. 2, 2004]

THE END OF MARRIAGE IN SCANDINAVIA: THE “CONSERVATIVE CASE” FOR SAME-SEX MARRIAGE COLLAPSES

(By Stanley Kurtz)

Marriage is slowly dying in Scandinavia. A majority of children in Sweden and Norway are born out of wedlock. Sixty percent of first-born children in Denmark have unmarried parents. Not coincidentally, these countries have had something close to full gay marriage for a decade or more. Same-sex marriage has locked in and reinforced an existing Scandinavian trend toward the separation of marriage and parenthood. The Nordic family pattern—including gay marriage—is spreading across Europe. And by looking closely at it we can answer the key empirical question underlying the gay marriage debate. Will same-sex marriage undermine the institution of marriage? It already has.

More precisely, it has further undermined the institution. The separation of marriage from parenthood was increasing; gay marriage has widened the separation. Out-of-wedlock birthrates were rising; gay marriage has added to the factors pushing those rates higher. Instead of encouraging a society-wide return to marriage, Scandinavian gay marriage has driven home the message that marriage itself is outdated, and that virtually any family form, including out-of-wedlock parenthood, is acceptable.

This is not how the situation has been portrayed by prominent gay marriage advocates

journalist Andrew Sullivan and Yale law professor William Eskridge Jr. Sullivan and Eskridge have made much of an unpublished study of Danish same-sex registered partnerships by Darren Spedale, an independent researcher with an undergraduate degree who visited Denmark in 1996 on a Fulbright scholarship. In 1989, Denmark had legalized de facto gay marriage (Norway followed in 1993 and Sweden in 1994). Drawing on Spedale, Sullivan and Eskridge cite evidence that since then, marriage has strengthened. Spedale reported that in the six years following the establishment of registered partnerships in Denmark (1990–1996), heterosexual marriage rates climbed by 10 percent, while heterosexual divorce rates declined by 12 percent. Writing in the *McGeorge Law Review*, Eskridge claimed that Spedale’s study had exposed the “hysteria and irresponsibility” of those who predicted gay marriage would undermine marriage. Andrew Sullivan’s Spedale-inspired piece was subtitled, “The case against same-sex marriage crumbles.”

Yet the half-page statistical analysis of heterosexual marriage in Darren Spedale’s unpublished paper doesn’t begin to get at the truth about the decline of marriage in Scandinavia during the nineties. Scandinavian marriage is now so weak that statistics on marriage and divorce no longer mean what they used to.

Take divorce. It’s true that in Denmark, as elsewhere in Scandinavia, divorce numbers looked better in the nineties. But that’s because the pool of married people has been shrinking for some time. You can’t divorce without first getting married. Moreover, a closer look at Danish divorce in the post-gay marriage decade reveals disturbing trends. Many Danes have stopped holding off divorce until their kids are grown. And Denmark in the nineties saw a 25 percent increase in cohabiting couples with children. With fewer parents marrying, what used to show up in statistical tables as early divorce is now the unrecorded breakup of a cohabiting couple with children.

What about Spedale’s report that the Danish marriage rate increased 10 percent from 1990 to 1996? Again, the news only appears to be good. First, there is no trend. Eurostat’s just-released marriage rates for 2001 show declines in Sweden and Denmark (Norway hasn’t reported). Second, marriage statistics in societies with very low rates (Sweden registered the lowest marriage rate in recorded history in 1997) must be carefully parsed. In his study of the Norwegian family in the nineties, for example, Christer Hyggen shows that a small increase in Norway’s marriage rate over the past decade has more to do with the institution’s decline than with any renaissance. Much of the increase in Norway’s marriage rate is driven by older couples “catching up.” These couples belong to the first generation that accepts rearing the first born child out of wedlock. As they bear second children, some finally get married. (And even this tendency to marry at the birth of a second child is weakening.) As for the rest of the increase in the Norwegian marriage rate, it is largely attributable to remarriage among the large number of divorced.

Spedale’s report of lower divorce rates and higher marriage rates in post-gay marriage Denmark is thus misleading. Marriage is now so weak in Scandinavia that shifts in these rates no longer mean what they would in America. In Scandinavian demography, what counts is the out-of-wedlock birthrate, and the family dissolution rate.

The family dissolution rate is different from the divorce rate. Because so many Scandinavians now rear children outside of marriage, divorce rates are unreliable measures of family weakness. Instead, we need to

know the rate at which parents (married or not) split up. Precise statistics on family dissolution are unfortunately rare. Yet the studies that have been done show that throughout Scandinavia (and the West) cohabiting couples with children break up at two to three times the rate of married parents. So rising rates of cohabitation and out-of-wedlock birth stand as proxy for rising rates of family dissolution.

By that measure, Scandinavian family dissolution has only been worsening. Between 1990 and 2000, Norway's out-of-wedlock birthrate rose from 39 to 50 percent, while Sweden's rose from 47 to 55 percent. In Denmark out-of-wedlock births stayed level during the nineties (beginning at 46 percent and ending at 45 percent). But the leveling off seems to be a function of a slight increase in fertility among older couples, who marry only after multiple births (if they don't break up first). That shift masks the 25 percent increase during the nineties in cohabitation and unmarried parenthood among Danish couples (many of them young). About 60 percent of first born children in Denmark now have unmarried parents. The rise of fragile families based on cohabitation and out-of-wedlock childbearing means that during the nineties, the total rate of family dissolution in Scandinavia significantly increased.

Scandinavia's out-of-wedlock birthrates may have risen more rapidly in the seventies, when marriage began its slide. But the push of that rate past the 50 percent mark during the nineties was in many ways more disturbing. Growth in the out-of-wedlock birthrate is limited by the tendency of parents to marry after a couple of births, and also by the persistence of relatively conservative and religious districts. So as out-of-wedlock childbearing pushes beyond 50 percent, it is reaching the toughest areas of cultural resistance. The most important trend of the post-gay marriage decade may be the erosion of the tendency to marry at the birth of a second child. Once even that marker disappears, the path to the complete disappearance of marriage is open.

And now that married parenthood has become a minority phenomenon, it has lost the critical mass required to have socially normative force. As Danish sociologists Wehner, Kambskard, and Abrahamson describe it, in the wake of the changes of the nineties, "Marriage is no longer a precondition for settling a family—neither legally nor normatively. . . . What defines and makes the foundation of the Danish family can be said to have moved from marriage to parenthood."

So the highly touted half-page of analysis from an unpublished paper that supposedly helps validate the "conservative case" for gay marriage—i.e., that it will encourage stable marriage for heterosexuals and homosexuals alike—does no such thing. Marriage in Scandinavia is in deep decline, with children shouldering the burden of rising rates of family dissolution. And the mainspring of the decline—an increasingly sharp separation between marriage and parenthood—can be linked to gay marriage. To see this, we need to understand why marriage is in trouble in Scandinavia to begin with.

Scandinavia has long been a bellwether of family change. Scholars take the Swedish experience as a prototype for family developments that will, or could, spread throughout the world. So let's have a look at the decline of Swedish marriage.

In Sweden, as elsewhere, the sixties brought contraception, abortion, and growing individualism. Sex was separated from procreation, reducing the need for "shotgun weddings." These changes, along with the movement of women into the workforce, enabled and encouraged people to marry at

later ages. With married couples putting off parenthood, early divorce had fewer consequences for children. That weakened the taboo against divorce. Since young couples were putting off children, the next step was to dispense with marriage and cohabit until children were desired. Americans have lived through this transformation. The Swedes have simply drawn the final conclusion: If we've come so far without marriage, why marry at all? Our love is what matters, not a piece of paper. Why should children change that?

Two things prompted the Swedes to take this extra step—the welfare state and cultural attitudes. No Western economy has a higher percentage of public employees, public expenditures—or higher tax rates—than Sweden. The massive Swedish welfare state has largely displaced the family as provider. By guaranteeing jobs and income to every citizen (even children), the welfare state renders each individual independent. It's easier to divorce your spouse when the state will support you instead.

The taxes necessary to support the welfare state have had an enormous impact on the family. With taxes so high, women must work. This reduces the time available for child rearing, thus encouraging the expansion of a day-care system that takes a large part in raising nearly all Swedish children over age one. Here is at least a partial realization of Simone de Beauvoir's dream of an enforced androgyny that pushes women from the home by turning children over to the state.

Yet the Swedish welfare state may encourage traditionalism in one respect. The lone teen pregnancies common in the British and American underclass are rare in Sweden, which has no underclass to speak of. Even when Swedish couples bear a child out of wedlock, they tend to reside together when the child is born. Strong state enforcement of child support is another factor discouraging single motherhood by teens. Whatever the causes, the discouragement of lone motherhood is a short-term effect. Ultimately, mothers and fathers can get along financially alone. So children born out of wedlock are raised, initially, by two cohabiting parents, many of whom later break up.

There are also cultural-ideological causes of Swedish family decline. Even more than in the United States, radical feminist and socialist ideas pervade the universities and the media. Many Scandinavian social scientists see marriage as a barrier to full equality between the sexes, and would not be sorry to see marriage replaced by unmarried cohabitation. A related cultural-ideological agent of marital decline is secularism. Sweden is probably the most secular country in the world. Secular social scientists (most of them quite radical) have largely replaced clerics as arbiters of public morality. Swedes themselves link the decline of marriage to secularism. And many studies confirm that, throughout the West, religiosity is associated with institutionally strong marriage, while heightened secularism is correlated with a weakening of marriage. Scholars have long suggested that the relatively thin Christianization of the Nordic countries explains a lot about why the decline of marriage in Scandinavia is a decade ahead of the rest of the West.

Are Scandinavians concerned about rising out-of-wedlock births, the decline of marriage, and ever-rising rates of family dissolution? No, and yes. For over 15 years, an American outsider, Rutgers University sociologist David Popenoe, has played Cassandra on these issues. Popenoe's 1988 book, "Disturbing the Nest," is still the definitive treatment of Scandinavian family change and its meaning for the Western world.

Popenoe is no toe-the-line conservative. He has praise for the Swedish welfare state, and criticizes American opposition to some child welfare programs. Yet Popenoe has documented the slow motion collapse of the Swedish family, and emphasized the link between Swedish family decline and welfare policy.

For years, Popenoe's was a lone voice. Yet by the end of the nineties, the problem was too obvious to ignore. In 2000, Danish sociologist Mai Heide Ottosen published a study, "Samboskab, Aegteskab og Foraeldrebrud" ("Cohabitation, Marriage and Parental Breakup"), which confirmed the increased risk of family dissolution to children of unmarried parents, and gently chided Scandinavian social scientists for ignoring the "quiet revolution" of out-of-wedlock parenting.

Despite the reluctance of Scandinavian social scientists to study the consequences of family dissolution for children, we do have an excellent study that followed the life experiences of all children born in Stockholm in 1953. (Not coincidentally, the research was conducted by a British scholar, Duncan W.G. Timms.) That study found that regardless of income or social status, parental breakup had negative effects on children's mental health. Boys living with single, separated, or divorced mothers had particularly high rates of impairment in adolescence. An important 2003 study by Gunilla Ringbäck Weitoft, et al. found that children of single parents in Sweden have more than double the rates of mortality, severe morbidity, and injury of children in two parent households. This held true after controlling for a wide range of demographic and socioeconomic circumstances.

The decline of marriage and the rise of unstable cohabitation and out-of-wedlock childbirth are not confined to Scandinavia. The Scandinavian welfare state aggravates these problems. Yet none of the forces weakening marriage there are unique to the region. Contraception, abortion, women in the workforce, spreading secularism, ascendant individualism, and a substantial welfare state are found in every Western country. That is why the Nordic pattern is spreading.

Yet the pattern is spreading unevenly. And scholars agree that cultural tradition plays a central role in determining whether a given country moves toward the Nordic family system. Religion is a key variable. A 2002 study by the Max Planck Institute, for example, concluded that countries with the lowest rates of family dissolution and out-of-wedlock births are "strongly dominated by the Catholic confession." The same study found that in countries with high levels of family dissolution, religion in general, and Catholicism in particular, had little influence.

British demographer Kathleen Kiernan, the acknowledged authority on the spread of cohabitation and out-of-wedlock births across Europe, divides the continent into three zones. The Nordic countries are the leaders in cohabitation and out-of-wedlock births. They are followed by a middle group that includes the Netherlands, Belgium, Great Britain, and Germany. Until recently, France was a member of this middle group, but France's rising out-of-wedlock birthrate has moved it into the Nordic category. North American rates of cohabitation and out-of-wedlock birth put the United States and Canada into this middle group. Most resistant to cohabitation, family dissolution, and out-of-wedlock births are the southern European countries of Spain, Portugal, Italy, and Greece, and, until recently, Switzerland and Ireland. (Ireland's rising out-of-wedlock birthrate has just pushed it into the middle group.)

These three groupings closely track the movement for gay marriage. In the early

nineties, gay marriage came to the Nordic countries, where the out-of-wedlock birthrate was already high. Ten years later, out-of-wedlock birth rates have risen significantly in the middle group of nations. Not coincidentally, nearly every country in that middle group has recently either legalized some form of gay marriage, or is seriously considering doing so. Only in the group with low out-of-wedlock birthrates has the gay marriage movement achieved relatively little success.

This suggests that gay marriage is both an effect and a cause of the increasing separation between marriage and parenthood. As rising out-of-wedlock birthrates disassociate heterosexual marriage from parenting, gay marriage becomes conceivable. If marriage is only about a relationship between two people, and is not intrinsically connected to parenthood, why shouldn't same-sex couples be allowed to marry? It follows that once marriage is redefined to accommodate same-sex couples, that change cannot help but lock in and reinforce the very cultural separation between marriage and parenthood that makes gay marriage conceivable to begin with.

We see this process at work in the radical separation of marriage and parenthood that swept across Scandinavia in the nineties. If Scandinavian out-of-wedlock birthrates had not already been high in the late eighties, gay marriage would have been far more difficult to imagine. More than a decade into post-gay marriage Scandinavia, out-of-wedlock birthrates have passed 50 percent, and the effective end of marriage as a protective shield for children has become thinkable. Gay marriage hasn't blocked the separation of marriage and parenthood; it has advanced it.

We see this most clearly in Norway. In 1989, a couple of years after Sweden broke ground by offering gay couples the first domestic partnership package in Europe, Denmark legalized de facto gay marriage. This kicked off a debate in Norway (traditionally more conservative than either Sweden or Denmark), which legalized de facto gay marriage in 1993. (Sweden expanded its benefits packages into de facto gay marriage in 1994.) In liberal Denmark, where out-of-wedlock birthrates were already very high, the public favored same-sex marriage. But in Norway, where the out-of-wedlock birthrate was lower—and religion traditionally stronger—gay marriage was imposed, against the public will, by the political elite.

Norway's gay marriage debate, which ran most intensely from 1991 through 1993, was a culture-shifting event. And once enacted, gay marriage had a decidedly unconservative impact on Norway's cultural contests, weakening marriage's defenders, and placing a weapon in the hands of those who sought to replace marriage with cohabitation. Since its adoption, gay marriage has brought division and decline to Norway's Lutheran Church. Meanwhile, Norway's fast-rising out-of-wedlock birthrate has shot past Denmark's. Particularly in Norway—once relatively conservative—gay marriage has undermined marriage's institutional standing for everyone.

Norway's Lutheran state church has been riven by conflict in the decade since the approval of de facto gay marriage, with the ordination of registered partners the most divisive issue. The church's agonies have been intensively covered in the Norwegian media, which have taken every opportunity to paint the church as hidebound and divided. The nineties began with conservative churchmen in control. By the end of the decade, liberals had seized the reins.

While the most public disputes of the nineties were over homosexuality, Norway's Lu-

theran church was also divided over the question of heterosexual cohabitation. Asked directly, liberal and conservative clerks alike voice a preference for marriage over cohabitation—especially for couples with children. In practice, however, conservative churchmen speak out against the trend toward unmarried cohabitation and childbirth, while liberals acquiesce.

This division over heterosexual cohabitation broke into the open in 2000, at the height of the church's split over gay partnerships, when Prince Haakon, heir to Norway's throne, began to live with his lover, a single mother. From the start of the prince's controversial relationship to its eventual culmination in marriage, the future head of the Norwegian state church received tokens of public support or understanding from the very same bishops who were leading the fight to permit the ordination of homosexual partners.

So rather than strengthening Norwegian marriage against the rise of cohabitation and out-of-wedlock birth, same-sex marriage had the opposite effect. Gay marriage lessened the church's authority by splitting it into warring factions and providing the secular media with occasions to mock and expose divisions. Gay marriage also elevated the church's openly rebellious minority liberal faction to national visibility, allowing Norwegians to feel that their proclivity for unmarried parenthood, if not fully approved by the church, was at least not strongly condemned. If the "conservative case" for gay marriage had been valid, clergy who were supportive of gay marriage would have taken a strong public stand against unmarried heterosexual parenthood. This didn't happen. It was the conservative clergy who criticized the prince, while the liberal supporters of gay marriage tolerated his decisions. The message was not lost on ordinary Norwegians, who continued their flight to unmarried parenthood.

Gay marriage is both an effect and a reinforcing cause of the separation of marriage and parenthood. In states like Sweden and Denmark, where out-of-wedlock birthrates were already very high, and the public favored gay marriage, gay unions were an effect of earlier changes. Once in place, gay marriage symbolically ratified the separation of marriage and parenthood. And once established, gay marriage became one of several factors contributing to further increases in cohabitation and out-of-wedlock birthrates, as well as to early divorce. But in Norway, where out-of-wedlock birthrates were lower, religion stronger, and the public opposed same-sex unions, gay marriage had an even greater role in precipitating marital decline.

Sweden's position as the world leader in family decline is associated with a weak clergy, and the prominence of secular and left-leaning social scientists. In the post-gay marriage nineties, as Norway's once relatively low out-of-wedlock birthrate was climbing to unprecedented heights, and as the gay marriage controversy weakened and split the once respected Lutheran state church, secular social scientists took center stage.

Kari Moxnes, a feminist sociologist specializing in divorce, is one of the most prominent of Norway's newly emerging group of public social scientists. As a scholar who sees both marriage and at-home motherhood as inherently oppressive to women, Moxnes is a proponent of nonmarital cohabitation and parenthood. In 1993, as the Norwegian legislature was debating gay marriage, Moxnes published an article, "Det tomme ekteskap" ("Empty Marriage"), in the influential liberal paper *Dagbladet*. She argued that Norwegian gay marriage was a

sign of marriage's growing emptiness, not its strength. Although Moxnes spoke in favor of gay marriage, she treated its creation as a (welcome) death knell for marriage itself. Moxnes identified homosexuals—with their experience in forging relationships unencumbered by children—as social pioneers in the separation of marriage from parenthood. In recognizing homosexual relationships, Moxnes said, society was ratifying the division of marriage from parenthood that had spurred the rise of out-of-wedlock births to begin with.

A frequent public presence, Moxnes enjoyed her big moment in 1999, when she was embroiled in a dispute with Valgerd Svarstad Haugland, minister of children and family affairs in Norway's Christian Democrat government. Moxnes had criticized Christian marriage classes for teaching children the importance of wedding vows. This brought a sharp public rebuke from Haugland. Responding to Haugland's criticisms, Moxnes invoked homosexual families as proof that "relationships" were now more important than institutional marriage.

This is not what proponents of the conservative case for gay marriage had in mind. In Norway, gay marriage has given ammunition to those who wish to put an end to marriage. And the steady rise of Norway's out-of-wedlock birthrate during the nineties proves that the opponents of marriage are succeeding. Nor is Kari Moxnes an isolated case.

Months before Moxnes clashed with Haugland, social historian Kari Melby had a very public quarrel with a leader of the Christian Democratic party over the conduct of Norway's energy minister, Marit Arnstad. Arnstad had gotten pregnant in office and had declined to name the father. Melby defended Arnstad, and publicly challenged the claim that children do best with both a mother and a father. In making her case, Melby praised gay parenting, along with voluntary single motherhood, as equally worthy alternatives to the traditional family. So instead of noting that an expectant mother might want to follow the example of marriage that even gays were now setting, Melby invoked homosexual families as proof that a child can do as well with one parent as two.

Finally, consider a case that made even more news in Norway, that of handball star Mia Hundvin (yes, handball prowess makes for celebrity in Norway). Hundvin had been in a registered gay partnership with fellow handballer Camilla Andersen. These days, however, having publicly announced her bisexuality, Hundvin is linked with Norwegian snowboarder Terje Haakonsen. Inspired by her time with Haakonsen's son, Hundvin decided to have a child. The father of Hundvin's child may well be Haakonsen, but neither Hundvin nor Haakonsen is saying.

Did Hundvin divorce her registered partner before deciding to become a single mother by (probably) her new boyfriend? The story in Norway's premiere paper, *Aftenposten*, doesn't bother to mention. After noting that Hundvin and Andersen were registered partners, the paper simply says that the two women are no longer "romantically involved." Hundvin has only been with Haakonsen about a year. She obviously decided to become a single mother without bothering to see whether she and Haakonsen might someday marry. Nor has Hundvin appeared to consider that her affection for Haakonsen's child (also apparently born out of wedlock) might better be expressed by marrying Haakonsen and becoming his son's new mother.

Certainly, you can chalk up more than a little of this saga to celebrity culture. But celebrity culture is both a product and influencer of the larger culture that gives rise to it. Clearly, the idea of parenthood

here has been radically individualized, and utterly detached from marriage. Registered partnerships have reinforced existing trends. The press treats gay partnerships more as relationships than as marriages. The symbolic message of registered partnerships—for social scientists, handball players, and bishops alike—has been that most any nontraditional family is just fine. Gay marriage has served to validate the belief that individual choice trumps family form.

The Scandinavian experience rebuts the so-called conservative case for gay marriage in more than one way. Noteworthy, too, is the lack of a movement toward marriage and monogamy among gays. Take-up rates on gay marriage are exceedingly small. Yale's William Eskridge acknowledged this when he reported in 2000 that 2,372 couples had registered after nine years of the Danish law, 674 after four years of the Norwegian law, and 749 after four years of the Swedish law.

Danish social theorist Henning Bech and Norwegian sociologist Rune Halvorsen offer excellent accounts of the gay marriage debates in Denmark and Norway. Despite the regnant social liberalism in these countries, proposals to recognize gay unions generated tremendous controversy, and have reshaped the meaning of marriage in the years since. Both Bech and Halvorsen stress that the conservative case for gay marriage, while put forward by a few, was rejected by many in the gay community. Bech, perhaps Scandinavia's most prominent gay thinker, dismisses as an "implausible" claim the idea that gay marriage promotes monogamy. He treats the "conservative case" as something that served chiefly tactical purposes during a difficult political debate. According to Halvorsen, many of Norway's gays imposed self-censorship during the marriage debate, so as to hide their opposition to marriage itself. The goal of the gay marriage movements in both Norway and Denmark, say Halvorsen and Bech, was not marriage but social approval for homosexuality. Halvorsen suggests that the low numbers of registered gay couples may be understood as a collective protest against the expectations (presumably, monogamy) embodied in marriage.

Since liberalizing divorce in the first decades of the twentieth century, the Nordic countries have been the leading edge of marital change. Drawing on the Swedish experience, Kathleen Kiernan, the British demographer, uses a four-stage model by which to gauge a country's movement toward Swedish levels of out-of-wedlock births.

In stage one, cohabitation is seen as a deviant or avant-garde practice, and the vast majority of the population produces children within marriage. Italy is at this first stage. In the second stage, cohabitation serves as a testing period before marriage, and is generally a childless phase. Bracketing the problem of underclass single parenthood, America is largely at this second stage. In stage three, cohabitation becomes increasingly acceptable, and parenting is no longer automatically associated with marriage. Norway was at this third stage, but with recent demographic and legal changes has entered stage four. In the fourth stage (Sweden and Denmark), marriage and cohabitation become practically indistinguishable, with many, perhaps even most, children born and raised outside of marriage. According to Kiernan, these stages may vary in duration, yet once a country has reached a stage, return to an earlier phase is unlikely. (She offers no examples of stage reversal.) Yet once a stage has been reached, earlier phases coexist.

The forces pushing nations toward the Nordic model are almost universal. True, by preserving legal distinctions between marriage and cohabitation, reining in the welfare

state, and preserving at least some traditional values, a given country might forestall or prevent the normalization of non-marital parenthood. Yet every Western country is susceptible to the pull of the Nordic model. Nor does Catholicism guarantee immunity. Ireland, perhaps because of its geographic, linguistic, and cultural proximity to England, is now suffering from out-of-wedlock birthrates far in excess of the rest of Catholic Europe. Without deeming a shift inevitable, Kiernan openly wonders how long America can resist the pull of stages three and four.

Although Sweden leads the world in family decline, the United States is runner-up. Swedes marry less, and bear more children out of wedlock, than any other industrialized nation. But Americans lead the world in single parenthood and divorce. If we bracket the crisis of single parenthood among African-Americans, the picture is somewhat different. Yet even among non-Hispanic whites, the American divorce rate is extremely high by world standards.

The American mix of family traditionalism and family instability is unusual. In comparison to Europe, Americans are more religious and more likely to turn to the family than the state for a wide array of needs—from child care, to financial support, to care for the elderly. Yet America's individualism cuts two ways. Our cultural libertarianism protects the family as a bulwark against the state, yet it also breaks individuals loose from the family. The danger we face is a combination of America's divorce rate with unstable, Scandinavian-style out-of-wedlock parenthood. With a growing tendency for cohabiting couples to have children outside of marriage, America is headed in that direction.

Young Americans are more likely to favor gay marriage than their elders. That oft-noted fact is directly related to another. Less than half of America's twentysomethings consider it wrong to bear children outside marriage. There is a growing tendency for even middle class cohabiting couples to have children without marrying.

Nonetheless, although cohabiting parenthood is growing in America, levels here are still far short of those in Europe. America's situation is not unlike Norway's in the early nineties, with religiosity relatively strong, the out-of-wedlock birthrate still relatively low (yet rising), and the public opposed to gay marriage. If, as in Norway, gay marriage were imposed here by a socially liberal cultural elite, it would likely speed us on the way toward the classic Nordic pattern of less frequent marriage, more frequent out-of-wedlock birth, and skyrocketing family dissolution.

In the American context, this would be a disaster. Beyond raising rates of middle class family dissolution, a further separation of marriage from parenthood would reverse the healthy turn away from single-parenting that we have begun to see since welfare reform. And cross-class family decline would bring intense pressure for a new expansion of the American welfare state.

All this is happening in Britain. With the Nordic pattern's spread across Europe, Britain's out-of-wedlock birthrate has risen to 40 percent. Most of that increase is among cohabiting couples. Yet a significant number of out-of-wedlock births in Britain are to lone teenage mothers. This a function of Britain's class divisions. Remember that although the Scandinavian welfare state encourages family dissolution in the long term, in the short term, Scandinavian parents giving birth out of wedlock tend to stay together. But given the presence of a substantial underclass in Britain, the spread of Nordic cohabitation

there has sent lone teen parenting rates way up. As Britain's rates of single parenting and family dissolution have grown, so has pressure to expand the welfare state to compensate for economic help that families can no longer provide. But of course, an expansion of the welfare state would only lock the weakening of Britain's family system into place.

If America is to avoid being forced into a similar choice, we'll have to resist the separation of marriage from parenthood. Yet even now we are being pushed in the Scandinavian direction. Stimulated by rising rates of unmarried parenthood, the influential American Law Institute (ALI) has proposed a series of legal reforms ("Principles of Family Dissolution") designed to equalize marriage and cohabitation. Adoption of the ALI principles would be a giant step toward the Scandinavian system.

Americans take it for granted that, despite its recent troubles, marriage will always exist. This is a mistake. Marriage is disappearing in Scandinavia, and the forces undermining it there are active throughout the West. Perhaps the most disturbing sign for the future is the collapse of the Scandinavian tendency to marry after the second child. At the start of the nineties, 60 percent of unmarried Norwegian parents who lived together had only one child. By 2001, 56 percent of unmarried, cohabiting parents in Norway had two or more children. This suggests that someday, Scandinavian parents might simply stop getting married altogether, no matter how many children they have.

The death of marriage is not inevitable. In a given country, public policy decisions and cultural values could slow, and perhaps halt, the process of marital decline. Nor are we faced with an all-or-nothing choice between the marital system of, say, the 1950s and marriage's disappearance. Kiernan's model posits stopping points. So repealing nofault divorce, or even eliminating premarital cohabitation, are not what's at issue. With nofault divorce, Americans traded away some of the marital stability that protects children to gain more freedom for adults. Yet we can accept that trade-off, while still drawing a line against descent into a Nordic-style system. And cohabitation as a premarital testing phase is not the same as unmarried parenting. Potentially, a line between the two can hold.

Developments in the last half-century have surely weakened the links between American marriage and parenthood. Yet to a remarkable degree, Americans still take it for granted that parents should marry. Scandinavia shocks us. Still, who can deny that gay marriage will accustom us to a more Scandinavian-style separation of marriage and parenthood? And with our underclass, the social pathologies this produces in America are bound to be more severe than they already are in wealthy and socially homogeneous Scandinavia.

All of these considerations suggest that the gay marriage debate in America is too important to duck. Kiernan maintains that as societies progressively detach marriage from parenthood, stage reversal is impossible. That makes sense. The association between marriage and parenthood is partly a mystique. Disenchanted mystiques cannot be restored on demand.

What about a patchwork in which some American states have gay marriage while others do not? A state-by-state patchwork would practically guarantee a shift toward the Nordic family system. Movies and television, which do not respect state borders, would embrace gay marriage. The cultural effects would be national.

What about Vermont-style civil unions? Would that be a workable compromise?

Clearly not. Scandinavian registered partnerships are Vermont-style civil unions. They are not called marriage, yet resemble marriage in almost every other respect. The key differences are that registered partnerships do not permit adoption or artificial insemination, and cannot be celebrated in state-affiliated churches. These limitations are gradually being repealed. The lesson of the Scandinavian experience is that even de facto same-sex marriage undermines marriage.

The Scandinavian example also proves that gay marriage is not interracial marriage in a new guise. The miscegenation analogy was never convincing. There are plenty of reasons to think that, in contrast to race, sexual orientation will have profound effects on marriage. But with Scandinavia, we are well beyond the realm of even educated speculation. The post-gay marriage changes in the Scandinavian family are significant. This is not like the fantasy about interracial birth defects. There is a serious scholarly debate about the spread of the Nordic family pattern. Since gay marriage is a part of that pattern, it needs to be part of that debate.

Conservative advocates of gay marriage want to test it in a few states. The implication is that, should the experiment go bad, we can call it off. Yet the effects, even in a few American states, will be neither containable nor revocable. It took about 15 years after the change hit Sweden and Denmark for Norway's out-of-wedlock birthrate to begin to move from "European" to "Nordic" levels. It took another 15 years (and the advent of gay marriage) for Norway's out-of-wedlock birthrate to shoot past even Denmark's. By the time we see the effects of gay marriage in America, it will be too late to do anything about it. Yet we needn't wait that long. In effect, Scandinavia has run our experiment for us. The results are in.

Mr. ALLARD. Mr. President, I see we have the Senator from Alabama in the Chamber. I would like to give him an opportunity to address the Senate.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I thank the Presiding Officer and Senator ALLARD for his leadership on this issue. I am proud to cosponsor this legislation with him.

I think a constitutional amendment is appropriate, and I believe it is worthy of this Senate to take time to discuss it. I believe it is important for the American people to understand the danger, the threat to marriage as we have known it in this culture and, indeed, as it has been known for thousands of years. It is endangered by the decisions of unelected judges who are not accountable to the public. As a result, it is their States rights that are being eroded through this kind of activity.

The U.S. Supreme Court, as I discussed in some detail last night, through the ruling in *Lawrence v. Texas* has very clearly—philosophically and as a matter of principle—placed marriage as we have known it in jeopardy. Indeed, Justice Scalia predicted, in dissent, this is exactly where the Court is headed. It is exactly what the Supreme Court of the United States is going to do. It is going to rule consistent with the Supreme Court of Massachusetts. We are on the verge of seeing that happen. If they do not do it next year, or even the year after that,

that does not mean that marriage as we know it in America today is not under threat of a Supreme Court ruling. No one in this body would assert with confidence that the Supreme Court, in light of their language in the *Lawrence* case, is not about to adopt a ruling similar to that of Massachusetts. So marriage is in jeopardy by the U.S. Supreme Court, jeopardy in terms of the way we have defined it traditionally.

This is not an act of the people. It is not an act of any legislature. No State or Federal legislative body that has ever sat has concluded this way. None. None has voted for this kind of definition of marriage.

I will emphasize, first of all, for those who believe that States have the ability to do something by passing a constitutional amendment or a State statute dealing with marriage to affirm traditional marriage, that would be wiped out by one ruling of the U.S. Supreme Court. The U.S. Supreme Court, when it defines the equal protection clause of the due process clause of the U.S. Constitution, trumps any State law.

What we are doing is to protect, defend the rights of the States to adopt legislatively the position they have always adopted. I believe it is an important national issue, as has been discussed by a number of very fine lawyers.

JON KYL, yesterday, in his statement—and Senator KYL has argued three cases before the U.S. Supreme Court—delineated the mess we will be in when people move from State to State with children they have adopted. Their relationships are one in one State, another in another State. A national definition of marriage is healthy for the country.

But I tell you, I would admit, we would not be here if it were not for the courts. We would not be seeking a constitutional amendment. We would not be in this debate had we not been placed in a position where the American people have to stand up and defend their democratic powers against an activist judiciary.

Let me add parenthetically, this is what the debate over judges is about; it has been going on in this Congress for several years now. President Bush believes in judges who follow the law, not make the law, judges who do not believe it is their right and that they have the power to impose their personal views on people through their "definition" of the Constitution of the United States.

For 200 years plus, we have had an equal protection clause. It is only recently that some judges seem to believe that allows them to redefine marriage.

That is a stunning activist decision. It is the same kind of decision we have seen on the Pledge of Allegiance, the same kind of decision we have seen on many other issues coming before us today. It would be very appropriate

that the American people, following the constitutionally approved process of a constitutional amendment, would answer that and say what they think about marriage and how it ought to be defined. The truth is that we will be better off with a fundamental definition of marriage nationally. It is important that we do so because of the action of the courts.

Some say: Well, the American people don't want this. My phones are ringing off the hook. I don't know about Senator ALLARD or the Presiding Officer. I had my people check. We have had 1,500 calls for this amendment and less than 30 or 40 opposed. The American people are concerned about it, and rightly they should be. Maybe, as with a lot of important issues that come before the Senate, they are not fully informed of what is happening, and this debate will help them become better informed. I don't know.

My colleague, Senator MCCAIN, suggested that the American people don't support this constitutional amendment. I am just looking at some recent survey data. Here is one from June 23–24, 2004. Do you favor or oppose a constitutional amendment that defines marriage as a union between a man and a woman: Favor, 57 percent; opposed, 38 percent. That was New Models survey.

Here is one, CBS News-New York Times. Would you favor or oppose an amendment to the U.S. Constitution that would allow marriage only between a man and a woman: Favor, 59 percent; opposed, 35 percent. That is March of this year.

I don't think the American people are fully understanding of just how far the courts have moved and just how much the traditional definition of marriage is under attack today. Members of this Congress need to think about that. I don't believe it is going away after this vote. The issue will remain alive. The American people are going to continue to contact their legislators because the matter is important. Marriage is important.

Senator BROWNBACK, who does such a good job, has gone into some detail today and yesterday on how we have seen in Europe and Scandinavia that the adoption of same-sex marriages has furthered the decline in respect for marriage in those countries. And after those acts have occurred, we have seen a substantial surge in the number of out-of-wedlock births in those countries and the decline of marriage. It is rather dramatic.

Just within the last few days, six experts from Scandinavia have written a letter to other European nations and the United States, I suppose, telling them that they ought to be careful when they start tinkering with the traditional definition of marriage. It has serious sociological impacts on the life and culture of those countries. It is time for us to back up a little bit.

I would also note parenthetically that we have not adopted the socialist model of Europe. Our economy is

stronger. Our unemployment is less. Our growth rate is higher. Our economy is healthier than Europe. We have not followed their mentality on national defense and we have the strongest military in the world and we have the strongest capability in the world. So why would we want to adopt their ideas about marriage? It would be the wrong thing for us to do.

The fact that we have resisted in those areas tells me that we are not on an inevitable decline in marriage.

The PRESIDING OFFICER. Under the previous order, the time of the majority has expired.

Mr. SESSIONS. I ask unanimous consent that I be allowed to speak as in morning business.

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

Mr. SESSIONS. We need to think about those issues and consider seriously the direction this country intends to take on marriage. That is all I am saying. I urge my colleagues to realize this is a significant vote. What we say indicates what this Nation, what this culture thinks about marriage.

I am going to talk in a moment about why it is important. But I do believe it is not disputable that adopting a same-sex marriage culture undermines and weakens marriage.

We had two articulate African-American leaders speak to a group of us a few days ago. They pointed out how hard they worked to sustain marriage in their churches and in their communities, how important they believe it is that there be stable, strong families so that children can be raised in that environment, and how hard they have worked at it and how frustrated they are that we would think about changing the definition of marriage because they are convinced that it would undermine the classical marriage relationship.

Let me just say one more thing parenthetically. I do not believe this debate should be negative. I do not believe it should put down any person, any group of people who have alternative lifestyles. Our Nation allows people to express themselves and live as they choose. I do believe, however, that it is important for us to have as the marital relationship in our country the ideal relationship of a man and a woman. That is what we have always done, and that is what we ought to proceed with now.

I do not believe it is appropriate for me to judge someone else's behavior. That is between them and their Lord. One wise thinker talked about the Scriptures. He said: The Scriptures say we should not be greedy, that we should not be violent. The Scriptures say we should not be angry. All of us violate all kinds of values, principles, moral rules of behavior that our Creator has set for us. So I am not here to judge anybody or condemn anybody. They must live and make their own judgments about how to behave. I have

certain beliefs about proper standards of behavior, but I am not able to say I am any better than anybody else who may or may not fail to act in a proper way.

Let's talk about why marriage is important. If we are at a point where we are convinced that this judicial change could further weaken the institution of marriage, then what impact will that have on the people of this country? What impact will that have on the quality of life and the health and vitality of our next generation of young people?

I had the privilege to chair a hearing recently in the Health, Education, Labor, and Pensions Committee. It was entitled "Healthy Marriage: What Is It and Why Should We Promote It." It was a very excellent hearing. I learned an awful lot.

We asked three questions. First, is marriage good? Is it a good thing? Second, if marriage is good, should the Government involve itself in promoting that good? And finally, significantly, can the Government make any difference in marriage in a culture?

After listening to a distinguished panel of witnesses, I determined that the answer to each of these questions is yes. First, we know that marriage is a social good. Children are more likely to be healthy in two-parent homes, and there is less government dependence when people are in families led by married parents.

Second, while government should not be involved in the decision to marry—of course, that is an individual decision—once that decision is made, government should be on the side of supporting marriage, affirming marriage, certainly doing nothing to undermine marriage or reduce its power, its legitimacy, and its sanctity in society.

Government is often on the side of promoting social good. For example, government incentives exist for home ownership. Why? Because we believe home ownership makes for a more stable community. It allows families to generate wealth and create wealth and have something to live in in their old age. That is a good goal and we promote it. We have tax breaks for charitable giving because we want to encourage charity. We have government grants, loans, and tax breaks to encourage people to enhance their education. We have government incentives for preventive health care.

Finally, government can make a difference. Positive examples of government involvement in helping marriage include the Oklahoma marriage savers initiative, as former Oklahoma Gov. Frank Keating testified at our hearing. The marriage savers community policy is something we studied carefully. In the community that has a marriage savers policy, it has strengthened marriage.

I thought the most dramatic testimony came from Dr. Barbara Dafoe Whitehead. I will talk about her testimony in a moment. We also heard from

Roland Warren and Dr. Wade Horn, who testified on a number of issues.

All right. So if we continue the European model of deemphasizing the importance of classical marriage, defining it down, if we follow that direction and that further undermines marriage in a society, will it hurt our society? Will we be diminished by it?

Let me share with you some of the facts that have been assembled by Barbara Dafoe Whitehead, Ph.D., director of the National Marriage Project. Ten years ago, she wrote an article that was voted one of the most significant articles in the second half of the 20th century. The title was, "Dan Quayle Was Right." It had to do with former Vice President Dan Quayle's speech in which he questioned the blasé way we treat divorce in our society, and he raised aggressively the importance of marriage. He was roundly condemned and made fun of at that time. Dr. Whitehead later wrote her article. She said she took a lot of criticism. She had criticism from colleges and universities about the data that she had reported from various studies around the country. She noted that she doesn't hear criticism today. Nobody disputes the data. No one disputes that a two-parent traditional family is a healthy, positive force for our society. That is why it is perfectly legitimate for any government to provide laws that further that. That is what we want to do.

Government has a right to further social institutions, to affirm them legally, those institutions that make their society more healthy. This is some of what she said in her statement to the committee:

On average, married people are happier, healthier, wealthier, enjoy longer lives, and report greater sexual satisfaction than single, divorced, or cohabitating individuals.

Well, after that, I went home and thanked my wife for putting up with me all these years. That is a good affirmation of marriage. There are very few matters that are not encompassed in there that are improved by marriage. She went on to say:

Married people are less likely to take moral or mortal risk, and are even less inclined to risk-taking when they have children.

Isn't that a good thing? I think so.

They have better health habits and receive more regular health care. They are less likely to attempt or to commit suicide. They are more likely to enjoy close and supportive relationships with their close relatives and to have a wider social support network. They are better equipped to cope with life crises, such as severe illness, job loss, and extraordinary care needs of sick children or aging parents.

Those are things that come from a marriage. She said:

If family structure had not changed between 1960 and 1998, the black child poverty rate in 1998 would have been 28 percent rather than 45 percent, and the white child poverty rate would have been [less, also].

Children experience an estimated 70 percent drop in their household income in the immediate aftermath of divorce and, unless

there is a remarriage, the income is still 40 percent to 45 percent lower 6 years later than for children in intact families.

Mr. President, we know these are statistical numbers. We know many families do an extraordinary job outside of the two-parent relationship. Single moms are some of the most courageous people this country has today. They do a great job in many ways, but it is more difficult. Statistically speaking, we know it is more difficult to be as effective.

I will add some other things.

The risk of high school dropout for children from two-parent biological families is substantially less than that for those from single-parent or stepfamilies. Children from married-parent families also have fewer behavioral or school attendance problems and higher levels of educational attainment. They are better able to withstand pressures to engage in early sexual activity and to avoid unwed teen parenthood.

I think those are important values.

They are significantly more likely to earn four-year college degrees or better, and to do better occupationally than children from divorced or single-parent families.

On average, children reared in married-parent families are less vulnerable to serious emotional illness, depression and suicide than children from non-intact families.

Close to 4 out of 10 American children go through a parental divorce.

Children from married-parent families have more satisfying dating relationships, more positive attitudes toward future marriage, and greater success in forming lasting marriages. . . . [Y]oung men from married families are less likely to be divorced and more likely to be married. . . . In addition, young men from married-parent households have more positive attitudes toward women, children, and family life than men who grew up in nonintact families.

Poverty rates for married couples are half those of cohabitating couple parents and one-third those of noncohabitating single parents in households with other adults.

The traditional family is a protection against poverty. The numbers are indisputable on it. I don't see how we can dispute it. So the question is, Do we agree that the rulings of the courts that threaten traditional marriage will further a decline and disrespect for marriage? Will it weaken the definition of marriage, reduce its power and sanctity and integrity? Is that true? I think it is. If that is so, then that is not good for our culture.

If there are not families here to raise children, if there are not families here to nurture them, if there are not families to educate them, to hug them at night, to take them to church, or to help them with their homework, or to tell them how to get over their anger and forgive people who have wronged them, and to go on and be happy and be strong and courageous and do the right thing, who is going to do that? Is it going to be the government, through increased social taxes and welfare, or a secular institution who, by definition, as we have learned in this body, cannot say anything of a spiritual nature in terms of raising children? Do they have to be raised by some secular State? Are we going to be better off if that occurs? I don't think so.

I am not talking about partnerships by people who choose to live together. I am talking about the State definition of marriage. Is that important for America? I think it is.

I see the Senator from Kansas. He eloquently, as I indicated earlier, delineated and explained why the redefinition of marriage guarantees that continual erosion of marriage, and if we erode marriage, we erode this culture, and it will hurt children. It will undermine them and it will undermine our strength as a nation, something any State, any nation has a right to be engaged in, and it ought to be engaged in through its elected representatives, the people they elect, and the people should be able to decide this.

I could go on with point after point from Dr. Barbara Dafoe Whitehead. Her scientific, indisputable evidence of the dangers we face if we think we can blithely go along with the idea that marriage is only what makes people feel good, that marriage is only for adults and what they feel at the time and what they would like to do at the time.

People can do what they like to do—they really can—in this country. We are not putting people in jail for that. But they do not need to have a definition of marriage apply to relationships of that kind. The American people have not voted for it. They have never voted for it. They do not favor it now, and I do not believe they are going to vote for it.

The question is, Will we allow them, through this constitutional amendment process, to speak to the unelected judges through the proper amendment process? Will we block it in the Senate? Or are we going to send it out to the States and let the people have a chance to be heard? I think that is what we ought to do. I cannot imagine why we would not want to do that.

A lot of people say: I do not believe in same-sex unions, or I believe marriage ought to be between a man and a woman. It is nice to say that. Why don't you vote for it? Let's have people up here vote for it; otherwise, we are facing a very strong likelihood we will continue to see the courts erode this historic institution that is so important to our culture.

I thank the Chair.

Mr. SANTORUM. Will the Senator from Alabama yield for a question?

Mr. SESSIONS. I will be pleased to attempt to answer the question of the Senator from Pennsylvania.

Mr. SANTORUM. I have been away for a few hours, running around the Hill, which we tend to do. I want to ask the Senator from Alabama or the Senator from Colorado, has anyone today or in the past 3 days come to the floor of the Senate and announced their support for a redefinition of traditional marriage?

Mr. SESSIONS. I am not aware of that.

Mr. ALLARD. I am not aware of anybody.

Mr. SANTORUM. I have not read any article in a publication or heard any radio or seen any television show or report thereof where anyone in this Chamber has said anything but that they support the definition of traditional marriage.

Mr. President, do my colleagues have any comments?

Mr. SESSIONS. I think the Senator from Pennsylvania is exactly correct.

Mr. SANTORUM. Yet we have heard on the floor today, have we not, that those of us who support a definition with which they agree, that Members who have criticized us for offering this, are intolerant, hateful, and gay bashers for proposing language which they say they support; is that an accurate description of what has gone on here today?

Mr. SESSIONS. I have not been here throughout the day. I have not heard all of those charges made, but it does seem close to what I have been reading and hearing; yes.

Mr. SANTORUM. Mr. President, does the Senator from Colorado wish to comment on Members who oppose this constitutional amendment yet support the language of it, which I find to be somewhat remarkable, but they support the definition of traditional marriage and have stated so, yet accuse those of us who would like to put it in law, in a constitutional amendment, as being purveyors of hate and intolerance; is that not what has happened today on the floor of the Senate?

Mr. ALLARD. To respond to the question of the Senator from Pennsylvania, I think there has been some attempt to try to make that case today on the floor. As the lead sponsor of this particular amendment, it does not hold any water for me because, as was reported in the papers, I have had individuals work for me who profess to the fact that they are homosexual, and despite that, I recognize publicly that they have done a great job in my office. I have even presented an award to one of those individuals so he would have a scholarship to go to school and further his education.

So anybody who tries to make a case as far as this individual is concerned of animus in their debate, somehow there is animosity, it will not hold water. In fact, what this issue is about, No. 1, is any individual who wants to profess a lifestyle that incorporates same-sex marriage, that is their personal decision, but the debate is they simply do not have a right to change the definition of marriage, and that is what this debate is all about.

Mr. SANTORUM. I would like to pick up on what the Senator from Colorado said, which is, I know in my office, we have provisions in our office manual which actually prohibit any discrimination on the basis of race, sex, national origin, or sexual preference. We have those provisions in our office manual. And we do not discriminate in hiring.

I believe people can make contributions and should make contributions

and should be able to contribute to our society, particularly here on the Hill. I know, as has been reported widely in the press, there are a lot of people in this category on both sides of the aisle who are homosexuals who make great contributions to this Chamber. No one wants to deny them their ability to live out their dreams. But as I think the Senator from Colorado said, it is important for us to understand that this debate is not about limiting anybody's choices, except children, because that is really what this debate is about.

If we change the definition of marriage, we end up limiting the choices of children and having the right to have a mother or father. I know this is on the time of the Senator from Alabama. I wanted to make sure I had not missed anything.

Mr. SESSIONS. No, I think the Senator made a very critical point, and that is there is no room to suggest that those of us who read the Supreme Court opinion of the United States, who watch what is happening in Massachusetts, who have seen what is happening in other places around the country, actions that are contrary to the will of the people of the United States of America through their elected representatives—and people say—they agree with the people. People indicate they are supportive of where the people are. So how can they condemn an amendment that Senator ALLARD has worked on that simply affirms the traditional definition of marriage that they say they support?

Mr. BROWNBACK. Mr. President, will the Senator from Alabama yield for another question?

Mr. SESSIONS. I will be pleased to yield.

Mr. BROWNBACK. If I can ask the Senator from Alabama, it seems to me that we have been discussing for at least 2 years, maybe 5 years now, ways to strengthen marriage in America. I believe the Senator supported the elimination of the marriage tax penalty. We have had huge debates about that marriage tax penalty, the whole issue being, how can we strengthen marriage and why do we want to do that. Because it is the best place to raise children and the Government has a great interest in it.

We just embarked, I believe, on a welfare debate where we were debating the issue within welfare and trying to encourage marriage amongst people on public assistance because it raises them out of poverty and helps children; is that correct, we have been debating those two issues as ways to strengthen marriage?

Mr. SESSIONS. The Senator is absolutely correct. Dr. Wade Horn, from the Department of Health and Human Services, who testified before my committee, says that any welfare reform we pass must help strengthen marriage because without marriage, poverty is increased.

Mr. BROWNBACK. Then it seems questionable to me, if we have done

these sort of things, we have invested billions of dollars to try to strengthen marriage, we are doing away with the marriage penalty tax because we want to encourage marriage because that is good for children and good for America, and we are trying to encourage marriage in the welfare reform bill because it is good for children and good for people in poverty to lift them out of poverty, and the Senator was citing that, then why would we allow the courts to redefine marriage to include same-sex unions where we know in case study after case study that weakens the institution of marriage, that hurts the creation of strong, vital marriages, and it is defining marriage downward? Why would we do something that is so counter to what we have been trying to change over the past several years by making promarriage policies and we would now do something that is antimarriage and against the children?

Mr. SESSIONS. I could not agree with the Senator more. Why would we do this? I think most Senators who are elected to this Senate have campaigned on and heard from their constituents a growing concern and unease about some of the cultural trends we are seeing, particularly in family and values in the family. All of us have said we are going to do something about it. We need to strengthen family and not undermine it. I believe this is a step downward.

I know the Senator was an admirer, as I have been, of former Senator Daniel Patrick Moynihan, a great scholar, a man who studied social policy in depth as a professor, as a Cabinet member, and as a Senator. The Senator stated the other day how important that Democratic Senator from New York felt about marriage. If the Senator recalls those words, it would be important for us to hear them again.

Mr. BROWNBACK. I worked with him on a number of issues, and he was a great study of culture. He actually said the central conservative truth is that culture is more important than government. What culture honors and what it does not honor, what it upholds, what it says is good, and what it says is wrong is more important than the government around it. He was saying actually that the central role of government at all levels should be to see that children are born and remain in intact families. This was his comment. He was saying that because that is the central foundational character of building the institution that we have. It is not government. Government is important. It provides a number of very useful functions, but it is not the central entity. It is that family basis that builds the strong citizenry, strong people.

As a cultural commentator, he saw that. As a matter of fact, he nearly lost his job in the 1960s by commenting about the disintegration of the American family in a particular ethnic group at that time, but he was just saying that if that family unit is ru-

ined, it goes downhill and has an effect on the children. That is why he felt so strongly about it and why I feel so strongly about it. In looking at these cultural indicators, we need to do everything we can to help this institution that is in trouble.

Marriage is in trouble in America. I have a chart that I will quickly share with my colleagues to show the type of trouble we are in.

Mr. SESSIONS. Mr. President, I yield the floor to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, to make this point, and I will not belabor it with my colleagues who want to speak, but I want to show the portion of children entering broken families has more than quadrupled since 1950. I think a lot of us in this room were born in the 1950s. We can see on this chart the children born out of wedlock and as parents are divorced in 1950 is about 12 percent or so. Going to the year 2000, it is up to about 55 percent. The reason that is problematic is we know children operate and function best in a family with a mom and a dad and a low-conflict union. We know that marriage is incredibly important to the formation of these children for the next generation. That does not mean they cannot succeed in this type of setting. They can, and many do. It just means the odds are tougher. It is more difficult for them.

Now if we take this institution of marriage that is already having difficulty, already is having trouble staying together, and say to it basically we are going to define it differently now than we have through 5,000 years of human existence—and the reason it has been defined this way for 5,000 years of human existence is there is a natural order to us. We know that marriage is between a man and a woman. It is written in our hearts. We understand that. A law does not have to be written on it; it is in the natural order of mankind. If we start telling people by the law, and the law is a teacher, no, it is not really that, it can be any sort of union one wants: It can be two men, it can be two women, then it starts to further make difficult this situation and it further erodes the marital union. That is the problem.

This is not about same-sex marriage. This is about kids. This is about a 5,000-year-old institution that has served society throughout history, and it is being redefined in a way that goes against what we understand it is in our hearts. This is harmful, and we know that from other countries that have engaged in it.

This is going the wrong way, and it is against clear public policy trends that we have engaged in in this body. It is even against what everybody in this body says. Everybody in this body says they are for traditional marriage between a man and a woman. So if they are, then vote that way and stand up for it instead of further harming these

trendlines of an institution that is vitally important. We should not do that.

Mr. ALLARD. Will the Senator from Kansas yield for a question?

Mr. BROWNBACK. Yes, I would be happy to.

Mr. ALLARD. I have always felt that marriage was the fundamental building block of any society, and especially if one is talking about a democracy like we have in the United States. I have always been of the view that as long as there is a good basis for families to function, that means there would be less need for government, and there would be fewer programs. That has always had a particular appeal to me because I do not believe we need more government; I believe we need less government.

I have always felt that there is definitely a role for a mother and a father and a husband and a wife, and that the culture that promotes the basic fundamental unit where they teach their children about the future based on their experiences in life is something that is very difficult to supplant as an effective unit, and I think historically over thousands of years that has proven true. We are on the verge of redefining marriage which will put this basic unit that is so fundamental to society at risk. Would the Senator from Kansas agree with that?

Mr. BROWNBACK. I could not agree more. Since I have been in the Senate, I have been one who has spoken out about the cultural problems that we have had and that we are in. If we take an already weakened institution—that is, the central basis by which we have values that we pass on to the next generation the lessons learned from the prior generation, where there are people who care and are in a bonded relationship that is there for life—if that is further eroded by teaching through the law that it can be any sort of arrangement one wants it to be and it is about how people care for each other, if they have love for each other, and not about the next generation or building that family and building children for the next generation, we really are moving ourselves into a terrain we have not seen in human history. What we see taking place now says it takes us in the wrong direction.

We know that clearly from the Netherlands and we know that from their scholars now who are saying they have to figure some way to try to again instill traditional marriage because people are walking away from it. There are counties in Norway where 80 percent of the children are born out of wedlock because you have defined away that marriage institution and you have said it is not a sacred institution, it is a civil rights institution, and it can be any arrangement you want. It weakens a fundamental institution we need for this country to be strong in the future.

Mr. ALLARD. I would like to thank the Senator from Kansas for his leadership. He has become recognized as a strong proponent of families and pro-

ponent for children. I, for one, appreciate his leadership in the Senate.

Mr. BROWNBACK. I thank my colleague and yield the floor.

Mr. SESSIONS. Will the Senator yield for two brief questions? One is, as you discussed and I attempted to discuss, isn't it valid and doesn't a government have a rational basis to affirm traditional marriage? Isn't there evidence, based on the data we have heard and seen, that there is a rational, foundational basis for a government to affirm the traditional marriage as opposed to other relationships in society?

Mr. BROWNBACK. There is not only a rational basis as the legal argument would have it, there is a moral imperative to do so. If you want a strong citizenry in the future, raised in a situation that is optimal—a mom and a dad bonded together for life, in a low-conflict union—if you want an optimal setting for most of your citizenry, you are obligated to push this union in a setting and to say, in speaking to the society, this is where we need the children raised. This is the optimal setting. This is the place.

Not that everybody will achieve the optimal. They clearly will not. All families in this country, mine included, have had difficulties in this area. There is no question about that. But if you remove the optimal and say it is too hard, we can't get there, and let's give up, it is a sure way to pave the road down. We know that from other countries' experience.

It is not only a rational basis, a legal argument, I would say it is a moral imperative as a government official that you press as much as you can to have children raised in this optimal setting.

Mr. SESSIONS. I couldn't agree with you more. You stated it so well.

I do not want to demean or speak down about any relationship or any persons and the choices they make. But let's say this. Statistically speaking, do fathers and mothers both make different contributions to the health and development of a child?

Mr. BROWNBACK. Obviously we know that from the social data. I have charts I have gone through previously that show that each contributes differently to the makeup and the nature of that child and making a healthy, well-rounded child. We know that from the social data.

But there is another argument that I think is actually more powerful. We know that in our hearts. We know that from the time we have come up in this society. We know that from 6,000 years of human history. That is one of those things that, again, is written on the heart of man, that you know this is the way it is to be.

Even when you talk with people today who are raising children in a single-parent household, by and large virtually all of them wish what they had was a mom and a dad here in a bonded relationship who love each other and care for each other, that recognize divine authority in their lives and that

pass on to that next generation the hope and their love and the yearning for yet a better era coming forward.

That is what we all want. It is not by accident or even by social programming that we want that. That is written on our hearts. All of our colleagues would agree with that. I think we should recognize the truth of that and not say that may be written on your hearts but that was programmed when you were a kid growing up in Parker, KS, and this is different. This is there. It is there for a reason. It is there because it is best for the kids.

Mr. SESSIONS. I thank the Senator.

Mr. BROWNBACK. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, we have been hearing the point that there is no threat and we are being somewhat paranoid about this issue. But I have a summary here of the court actions that have been brought up in the various States throughout this country. I am amazed, frankly flabbergasted, at the number of cases that have been brought before the various State courts and in some cases the Federal court. I thought I would take a moment to go through some of these cases. I think once you have seen the whole litany of cases here you begin to understand there is an organized, concerted effort starting at the State courts and then eventually moving into the Federal courts and hopefully, by those who support same-sex marriage, to the U.S. Supreme Court for a favored ruling. I will start with Alabama.

This case has been recently dismissed as of April. They had two men in an Alabama State prison who sued the State for the right to marry each other. They said they had a Federal constitutional right to marriage. As I mentioned, this case was dismissed.

In Alaska, there is an interesting case, a case pending currently in the State supreme court. The ACLU has sued to prevent Alaska from granting benefits to married couples if the State does not provide the same benefits to same-sex couples. This case has been argued in the Alaska Supreme Court and could be decided any day.

In Arizona, again the State supreme court has refused to hear a case brought there where two men were denied a marriage license and sued in State court. They lost in the district court on their first appeal and curiously the gay rights groups tried to talk them out of pursuing their case because it interfered with the group's national litigation strategy. Let me repeat this. Gay rights groups tried to talk them out of pursuing their case because it interfered with the group's national litigation strategy. On May 25 of this year, the Arizona Supreme Court refused to hear their appeal which should bring this particular litigation to an end.

In the State of California, we have a number of pending cases. That is probably not a surprise to anybody here on

the floor. There is a case pending in the State supreme court about San Francisco's mayor who defied State law and began issuing marriage licenses to same-sex couples in February of this year. They made a court case about it. The States refused to register the marriages and same-sex couples from 46 States received licenses while San Francisco was issuing licenses. Several lawsuits were filed to challenge San Francisco's action. They are now consolidated in the California Supreme Court. The State of California is defending its traditional marriage laws and the statewide initiative that passed with 60 percent of the vote in 2000. Again, a decision is expected on that particular case.

I would like to correct the record. I think one of the colleagues made the statement that there are no Federal court challenges to DOMA, the Defense of Marriage Act. Actually, in Florida there is a Federal court challenge to DOMA, or the Defense of Marriage Act. A private attorney announced on the 11th of this month that he would soon file a Federal lawsuit challenging the DOMA law. The lawsuit is expected to be filed as we move forward.

We have two separate cases pending in State trial court in Florida. Two cases have been filed in the State trial court challenging Florida's traditional marriage laws. Again, this first case is a class action filed in Broward County by a private attorney. Later it was filed in Key West by the National Center for Lesbian Rights.

It was interesting to get the public reaction when the private attorney talked about filing his Federal lawsuit in Florida with the Federal court challenge, and the reaction from those groups supporting same-sex marriage. They didn't want him to file that because they felt it would bring it too quickly to the U.S. Supreme Court and they would not be prepared in order to make the case in front of the Supreme Court. I thought that was an interesting reaction in the public media when that case was talked about being filed.

In Georgia, there was a case seeking recognition of a Vermont civil union, which was rejected by Georgia's State court. In *Burns v. Burns*, the parties sought to have a Vermont civil union treated as a legal marriage in Georgia and the trial court and court of appeals refused to treat a Vermont civil union as a marriage and the Georgia Supreme Court declined to review the case.

In Indiana, there is a case pending in the Indiana Court of Appeals. Three same-sex couples sued in Marion County Superior Court for the right to marry under the Constitution.

This case was dismissed and is now on appeal to the intermediate State appeals court. This case is *Morrison v. Sadler*.

In Iowa, there is a same-sex divorce case that was dismissed. Two women entered into a civil union in Vermont and later asked an Iowa trial court to grant them a divorce.

They are coming at this from various angles.

In December 2003, the Iowa court initially granted the divorce, but after his action was challenged because Iowa did not recognize same-sex marriage in Vermont civil unions, the judge reworked the order dividing the couple's property. The civil union was not recognized.

In Maryland, a lawsuit was filed July 7 of 2004. The ACLU filed a lawsuit in State court demanding the State grant marriage licenses to same-sex couples.

In Massachusetts, activists announced on June 16, 2004, that they would challenge in court the 1913 Massachusetts law that prevents same-sex marriage to out-of-State couples. I believe that case was filed today.

In Montana, there is a case pending in State supreme court. The Montana chapter of the ACLU sued on behalf of two lesbian employees of the Montana State University system challenging that the State discriminates against gay and lesbian employees by giving spousal benefits only to married couples. The trial court dismissed the case in November of 2002 and the case is now pending on appeal before the Montana Supreme Court. This case is called *Snetsinger v. Board of Regents*.

In Nebraska, there is an interesting Federal case. There is a Federal case pending in Federal District Court. The ACLU has filed suit to challenge a State constitutional amendment that defines marriage as man and woman and bars civil unions or domestic partnerships. They went much further than what my amendment provides. The ACLU argued that the State constitutional amendment violates the U.S. Supreme Court's decision in *Romer v. Evans*. In a preliminary ruling, the Federal district judge indicated sympathy with the ACLU claim and the Nebraska attorney general Jon Bruning told the Senate Judiciary Subcommittee on the Constitution that he expects Nebraska to lose the case. This is the constitutional amendment in Nebraska that was passed with 70 percent of the voters in Nebraska. I think this has all sorts of implications. It has been filed in the district court.

There is a case in New Jersey pending in the State court of appeals. In 2002, Lambda Legal filed a suit in State court on behalf of same-sex couples seeking to marry. The State district court dismissed their case and Lambda has appealed to the intermediate State appeals court. The case is called *Lewis v. Harris*. The town of New Asbury, NJ has announced that it will file amicus briefs in support of the same-sex couples.

In New Mexico, there is a case pending in State trial court. The Sandoval County clerk issued marriage licenses to same-sex couples in February of 2004. The New Mexico Supreme Court has agreed to hear arguments regarding the issuing of marriage licenses to same-sex couples in Sandoval County. It is unclear if the court will decide the

case this summer or fall, or if the decision will be delayed until 2005.

In New York, there is a case pending in State trial court in March and April of 2004. The ACLU and Lambda Legal each filed lawsuits arguing that to deny same-sex couples the right to marry one another violates the New York Constitution.

In North Carolina, a case was withdrawn by a same-sex couple. In March 2004, they were denied a marriage license by Durham County, NC. So they filed a lawsuit.

In Oklahoma, the State ballot initiative may be challenged. The ACLU is threatening to challenge a November 2004 ballot.

In Oregon, there is a case on appeal to the State intermediate court in Multnomah County, which includes Portland, which began issuing marriage licenses to same-sex couples in February of 2004. More than 3,000 marriage licenses were issued. On April 20, the State trial court ruled the marriage licenses conducted over the past 2 months were legal and that Oregon must register the marriages as valid. The State court of appeals stayed the lower court's order requiring the State to recognize the 3,022 marriage licenses of same-sex couples in the Portland area.

In Pennsylvania, a lawsuit has been threatened after a same-sex couple was denied a marriage license.

In Rhode Island, the State attorney general stated on May 17 that he interpreted Rhode Island law to require recognition of Massachusetts same-sex marriages.

In Tennessee, the Associated Press reported a same-sex couple was planning to file a lawsuit.

In Texas, a same-sex divorce case was dismissed there.

In Virginia and Washington, there are three cases pending in State trial court.

In West Virginia, we have a case dismissed by the supreme court with a possible review by the U.S. Supreme Court.

This gives an overview of the amount of lawsuits that have been filed throughout this country in trying to establish a case in certain venues that could be appealed to a higher court.

This is an organized effort. I think when you look at the cases that have been filed in the various courts, it is hard to say marriage shouldn't be protected. Marriage is under assault. That is why it is important that we move forward with this particular piece of legislation because, as has been stated time and time again here on the floor of the Senate, when you look at the *Goodridge* case and the *Lawrence v. Texas* case, and then the Constitution as it applies between the interaction between States and comments from members of the U.S. Supreme Court, there is definitely a threat to traditional marriage.

My hope is we can get this passed, get it through the House, and get it before the people of America so they can

help decide this issue. If they are successful, then it means the courts will not have defined marriage. The American people will have had an opportunity to enter into this debate. With this particular amendment before us, through their elected representatives the American people will have an opportunity to have their voice heard in the Senate. It was brought up in the House. As they will read it in the papers this fall, later on people will have an opportunity to express their views through the Members in the U.S. House of Representatives. Then at some point in time, if we get enough votes—a two-thirds vote in both the House and Senate—then it goes to the States and three-quarters of the States ratify it, then this means it is debated in the legislatures and the American people will have an opportunity to again make their views known about how they feel about protecting marriage.

This was put in place by our Founders because ultimately they did not want to have the courts to have the final say on issues where there was a large percentage of the population in America who felt they would have an opportunity to address this issue through a constitutional amendment.

This is something that has been laid out by our Founders. I think it is time we have this amendment before us now for debate.

Let me make one additional comment. In the Oregon State Court of Appeals, they decided this week that the State must enroll the marriages, which would be to recognize marriages.

This issue is moving forward. I am pleased about the amount of support we have had from Members of the Senate coming forward and expressing their support. I thank them for that. I thank them for the leadership of the Senator from Pennsylvania and the Senator from Kansas. I thank the Senator from Alabama for his support. Without them, I think a good deal of the substance of this debate would have been missed. I appreciate their effort and dedication to the family.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I return the thanks to the Senator from Colorado for his willingness to step forward and introduce this legislation. He has carried it with a firmness of purpose and a gentle touch, which is his way, in the way of bringing this issue squarely to the Senate before the American public. He is to be congratulated.

The leader is in the Senate. I thank him for agreeing to bring this bill before the Senate, to have a vote on this constitutional amendment in the Senate, and to have this first public debate about the institution of marriage and the attempt to redefine that institution by the courts.

If I can, I want to start from scratch to answer the question that many have offered today on the other side of the aisle, which is, Why are we here?

Some have suggested we are here because we hate certain people. Some suggest we are here because we are politically motivated to try to rally troops before the election. Some suggest we are here because we want to change the subject to something other than what we have been debating for the last several months in the Senate.

We suggest we are here because we want to preserve an institution that has served civilization well for 5,000 years. While that institution has been shaken, that institution has fissures in the foundation; it is still an institution worth preserving. It is an institution worth rebuilding. It is an institution worth fixing the cracks in that foundation. It is an institution worth shoring up and strengthening that foundation.

It is not an institution that we need to say, because it is broken, because the institution of marriage is not what it once was—I think everyone will accept in this body, those who are fighting for traditional marriage, will say no, the institution of marriage is not what it once was. It certainly has been the glue that has held the family together. Every culture, every civilization known to man, has had an institution of marriage of some bright, ritual symbol that has shown the monogamous bond between a man and a woman. Why? For the purpose of continuing on that civilization and a recognition that children need moms and dads and moms and dads who are in committed relationships is the ideal.

I look at my kids. I am blessed to have seven children, six of which we are raising. I know my children feel safer, feel more secure, more confident, knowing their mom and dad are there and are supportive and loving.

There are lots of people in our society who were raised by single parents who feel that love and support from that single parent. Those single parents in many cases do extraordinary jobs. But even if you talk to single parents and kids raised by single parents and you ask them, wouldn't it have been better, the ideal, if mom and dad were joined together in a healthy marriage, raising you in a safe and secure and stable home? The answer is, invariably, yes.

What we are here to debate is not an abstract concept of what marriage is or what it should be, but it is a real social benefit. I cannot think of anything more we can do—and the Senator from Kansas talked about this—there is nothing more we have focused in on in the last several years than trying to shore up and affirm marriage. Whether it is the marriage penalty or the marriage initiative the President put forward in the welfare bill, the idea from all the social science data is there are enormous benefits to marriage.

We had a hearing in the Finance Committee, on which I serve. The hearing brought forth witnesses from the left and right. We asked them a series of questions about marriage and its benefits. There was a woman rep-

resenting the Democratic side of the aisle. She made the argument that raising children by parents in an alternative form is just as good as being raised by a mother and a father in a loving, stable relationship. That argument is over. Yes, it can happen, but it is not the ideal. It is not best for children across the board.

The children do better in school. They have less dropouts, fewer emotional and behavioral problems, less substance abuse, less abuse and neglect, less criminal activity, less early sexual activities, and fewer out-of-wedlock births. And more. The evidence presented was dumped on us overwhelming, the benefits of marriage, irrespective of social or economic condition, the benefits of having a mother and a father contributing their unique nature to the nature of that child.

The evidence is in. The jury is in. Marriage is good. Marriage is a public-policy-desirable goal. Why? Because it benefits children but it also benefits mothers and fathers.

I read yesterday, and I will repeat today, a listing of five things in the sense of the purpose of marriage, what it does to benefit the culture.

No. 1, the bonding between men and women that ensures their cooperation for the common good.

By the way, this article was written by two professors in Canada, a woman professor who is straight and a homosexual man. They wrote this article in support of traditional marriage in opposition to a redefinition of traditional marriage to include same-sex couples. They did so based purely on sociological data, on psychological data, on the overwhelming evidence of the public good of traditional marriage.

No. 1, I mentioned, the important bond between men and women.

No. 2, the birth and rearing of children, at least to the extent necessary for preserving and fostering society and culturally approved ways.

No. 3, bonding between men and children so men are likely to become active participants in family life.

I will stop to focus on that for a minute. We have an initiative in the President's welfare bill, the Father's Initiative, that Senator BAYH and I have championed, responsible fatherhood. Why? Because in our culture today there are crosscurrents about what fatherhood means. In certain subcultures, fatherhood means having children, period. What are the effects in that subculture of the role of the father being simply biological and nothing more?

When fathers are absent versus when fathers are involved: Fathers absent, two times more likely to abuse drugs; fathers absent, two times more likely to be abused; two times more likely to become involved in a crime; fathers absent, three times more likely to fail in school; three times more likely to commit suicide; and five times more likely to be in poverty.

The evidence is in. There is a role for society to encourage fathers to be more

than biological fathers, but to be involved in the rearing of that child, preferably in a committed relationship with the mother. These numbers all go up if you have committed, stable, low-conflict relationships between the mother and the father.

So there is a role for government, as a public policy, for the benefit of children and the community in which they live because these children just do not, through this activity, affect themselves, do they? No, no. When they commit crimes or when they abuse drugs or when they commit suicide or when they live in poverty, that does not just stay with them. So there is a real public policy objective in promoting stable marriages and fatherhood.

No. 4, some healthy form of masculine identity. What does that mean? Well, they go on—which is based on the need for at least one distinctive, necessary, and publicly valued contribution to society. It is especially important today because two other cross-definitions of “manhood,” which is the definition of manhood being “provider” and “protector,” are no longer distinctive now that women have assumed those roles in society.

So what are they saying here? They are saying that men have an identity crisis. The traditional role of the man is no longer the traditional role of the man. You say: Well, what’s the big deal? Everybody is equal.

When you rob someone of a role they believe they have, as society in some degree has, then you have a belief among large segments of society that they have no role; they do not have to provide; they do not have to protect; they do not have to nurture. That is not the role anymore for men in society. It simply is to pursue selfish goals, but they are not needed anymore.

We can all go back about the genesis of this and the movement that caused it, but the bottom line is, it is real, and it is reflected in these numbers. So it is important for society to say to men that marriage is good and expected and is healthy and is optimal, and to have laws that say that dropping specimens off at a sperm bank is not fatherhood, but committed relationships with the mother of your children in a marriage that gives you and her and your children security is expected.

Now, I know there are a lot of cultures that do not support that, subcultures in America, but the legal, statutory reflection of the culture should be that ideal. Our laws should reflect the ideal of what is best for that man, for that woman, and for those children.

No. 5, the transformation of adolescents into sexually responsible adults; that is, young men and women who are ready for marriage and to begin a new cycle. This relates the key contributions that men and women make to the upbringing of young men and young women.

As the father of boys and girls, I make different contributions as a fa-

ther to my girls than I do to my boys. They look at me different. I am different in their minds, and I represent different things that will have an effect on them in their ability to have successful relationships in the future. That is real.

Now, we can all play games that people can substitute, that it does not matter whether it is two men or two women or one man or one woman or no women or no men or whatever, but the fact is, there is a difference. We tend to try to deny that. It is politically correct to say there is not a difference, but the fact is that fathers and mothers contribute different things to children.

So why did I go through all this? It is important to understand what we are talking about here is very important, and what is being talked about in the courts across America is destroying this very important institution to the American society—to any society.

Now, some have suggested this is not a real assault, that it is trumped up for political purposes. Two of the speakers, remarkably—Senator CLINTON and Senator DAYTON—both of them said—I will quote Senator CLINTON where she says: The Defense of Marriage Act, known as DOMA, has not even been challenged at the Federal level. That is a quote from her statement today. For the record, false. False. Senator DAYTON made a similar comment. I think others have made similar comments, except I have the transcripts of these two Senators. False. I submit for the record that there are pleadings in Florida and pleadings in Washington State challenging the constitutionality of the Defense of Marriage Act.

So the idea that the Defense of Marriage Act is not under assault is not true. The Senator from Colorado a few minutes ago laid out the State-by-State challenges that are going on, some with respect to the Massachusetts marriages, some with respect to the Oregon marriages, some with respect to the New York marriages, some with respect to the California marriages, and we go on and on. And there will be more.

I think there are challenges in 46 States to traditional marriage as being unconstitutional. So to suggest that 46 States—whether it is civil unions or marriages—are being challenged by same-sex couples or whether it is two States where the Defense of Marriage Act is being challenged, that somehow or other that is not a serious threat when one State has already determined that there is a constitutional basis, and in writing the decision referred to a U.S. Supreme Court case decided last year—*Lawrence v. Texas*—in making the determination that you could not discriminate against same-sex couples with respect to marriage, and we do not believe here that this is a serious assault? What do we need? Do we need all the States and the Supreme Court to decide this issue, and then we say: OK, now we decide. Well, the Senator

from New York said her father used to refer to it as closing the barn door after the horse has left.

By the way, this is a remarkably similar strategy to that which was used in the 1950s and 1960s with respect to the issue of abortion. What happened in that case was a little different. Instead of the courts imposing abortion on the States—although that may have been done; I am just not aware of, maybe as well as I should be, the history—but I do know certain legislatures throughout the country began changing the statutes with respect to abortion, which, of course, 50, 60 years ago was basically illegal in every State in the country. Over time, just a few States changed their law. This created conflicts between the States as to how they were going to deal with this issue.

The same thing is happening here State by State. At a minimum, there will be more States because there are certainly a lot of liberal justices of supreme courts in the various States around the country. There will be more States that will “find” this constitutional right either within the Federal or State constitution or both.

There will be another State and another State that will accept a redefinition of marriage. And the conflicts that will result as a result of that are reflective of the one case I just submitted, which is the Washington State case. In the Washington State case, a lesbian couple married in Canada where they have such laws and came to Washington State and filed bankruptcy. So they wanted distribution of assets based on marriage. And the State of Washington just said: We have to figure out whether or not this is constitutional, whether we have to accept this or whether the Defense of Marriage Act bars us from doing so.

We will get this in State after State after State, and there will be conflicts. There will be court decisions all over the place. The Supreme Court will have to come in and say: We didn’t want to do this. We feel our hand is forced—just like *Roe v. Wade*—that this is an issue that cannot have this kind of disparity of unequal treatment between States, and we will then settle it for everybody, which will, of course, mean a complete redefinition of marriage. You don’t have to have a crystal ball to figure this one out.

We can sit back. This is the great, this is the classic just sit back; say what you believe the public wants to hear; profess your allegiance to traditional values, and then let someone else do the dirty work for you. And it will happen. It will happen. Maybe more dramatically, the court may say we are going to take this on and do it ourselves. There seems to be a majority in the court to do that. But even if they are not aggressive, eventually it is a done deal.

And everyone will come out here and profess: No, the States can deal with it. The States can handle this. We are for States rights. To hear the Senator

from Massachusetts talk about States rights, I thought maybe the ceiling would fall. Issue after issue, time after time, Members on that side of the aisle vote continually to take power from the States, continually to federalize every issue.

But when it comes to something as irrelevant, something as unimportant as the family and marriage, no, no, we can't deal with this. No, this is in the general State purview, as if passing major education reform isn't a State issue. That is a State issue. As if doing welfare isn't a State issue. State issue. Transportation, State issue. Health care, welfare, all of these issues which we spend most of our time and an increasing portion of our money on are all under the purview, under this Constitution, of the States, and we have no problem dictating to the States how to run their schools, how to run their hospitals, how to run their welfare departments. But not when it comes to protecting this fragile institution, this institution that is so out of favor within the popular culture.

Listen to the music. Do you hear affirming things about the treatment of women in the music in the popular culture today? Do you hear songs about commitment and marriage in the popular culture today? Do you see movies reaffirming the traditional role of fathers raising their children and responsible actions on the part of parents and would-be parents? This is an institution that is swimming against a toxic tide of popular culture that wants to just drown it.

As the justices from Massachusetts said, speaking for our culture, I believe, marriage is a stain on our laws that must be eradicated. That is how Hollywood views marriage. That is how the music industry views marriage. That is how the media views marriage.

What are they writing about here? Are they writing about this marriage debate? No, they are writing about the conflict between Republicans in trying to get a vote on the floor of the Senate. Give me a break. One AP reporter writes this story, and he is a decent man. I know he can't be this uninformed.

What are we trying to accomplish on the floor of the Senate? We have two amendments on this side of the aisle. It has not been unknown that there have been actually as many as three amendments on this side of the aisle. This is not unknown to anybody. What do we want to do? Well, we can't put forward both so we put forward one, the one that we believe is our best, our optimal solution. By the way, that is done with frequency in the U.S. Senate, where you come forward with what you want to accomplish. And if you can't get that done, what do you do? You offer plan B, what you think will get something accomplished but not as much as you want.

And so we wanted to offer plan A. And if plan A didn't work—A, Senator ALLARD's amendment—then we would

offer plan B, which happened to be GORDON SMITH's amendment.

That is not confusion or division. It is simply a time-tested, age-old strategy in every dealing that I am aware of in life, which is you try to get as much as you can. And if you can't, you take plan B and try to get as much as you can there. But that is not what people write. They don't want to write about the substance of the marriage debate, which by and large has not really been engaged in here.

The substance on the other side of the aisle when it comes to this issue is that, No. 1, it is political. No. 2, we should be talking about homeland security. I am for homeland security. But there isn't enough money in the world that you can spend to secure the home more than marriage. You want to invest in homeland security? You invest in marriage. You invest in the stability of the family. That is what this amendment is.

I hear from speaker after speaker: There are more important things to debate on the floor of the Senate than the family. Think about that. There are more important things to debate: homeland security, spending more money, which, by the way, won't be spent until October 1 of next year. Spending a few billion more dollars is more important than preserving the traditional family in America. No, they haven't been debating the substance.

I asked the Senator from Alabama earlier, I don't believe anybody has come forward and said they are not for traditional marriage. I think I am wrong. I was handed Senator KENNEDY's speech.

Senator KENNEDY said: I happen to be someone that supports the court decision in Massachusetts. I am proud of them. I happen to support the court decision in Massachusetts. I am proud that four justices redefined and forced the Massachusetts legislature to rewrite their laws, and they are the only ones who are allowed to do that, forced the legislature to rewrite their laws with respect to marriage. I am proud of them.

Do we hear any comment about this agenda? What is this agenda? I am proud that four unelected judges can usurp the authority of the legislative branch and roll them and force them to do something that the people of Massachusetts don't want. I am proud of them.

I don't think John Adams would have said the same thing. I don't think Jefferson or Madison would have. One of my colleagues referred to Madison, that he would be with Madison. I don't think Madison would see it as the role of judges to rewrite the Constitution when they have a hankering to do so. I think Mr. Madison would have a big-time problem with what he would see as an abuse of article V. Article V is an amendment of the constitutional process. Nowhere in there do I see Mr. Madison talking about judges changing the Constitution when they feel like it.

But, you see, as the Senator from New York, Senator CLINTON said, "I am in agreement that the Constitution is a living and working accomplishment."

My question is, who is doing the living? You see, I thought from article V that the living part was those of us here in the legislature, those of us across the States who would determine when it is appropriate to institute new rights or obligations in the Constitution. That is what I thought this living, dynamic document was. But that is not what those who oppose this amendment believe the Constitution is, no. The living that is going on is not the American public doing the living. Oh, no. It is a few hand-picked judges who have the right to breathe life into the Constitution. See, they are the ones who get to change the Constitution, without going through this complex, sort of long, drawn out, tedious, expensive process of getting two-thirds of the votes here in the Senate, and two-thirds of the votes in the House, and three-quarters of the State legislatures.

By the way, in responding to an earlier comment of a colleague on this side, it is not three-quarters of the United States, it is three-quarters of the state legislatures by a majority vote.

By the way, from everything I have seen, and from every poll I have seen across America, those votes are probably there. The problem here is in this great institution that is supposed to be a reflection of American values, 99 to 1, we are all for traditional marriage. But it is like a mirror in this case because it is not real. You can sort of look at that reflection and try to touch it, but it is not real, it is only a reflection because they are not voting that way.

If you want to protect traditional marriage, you should vote for cloture and for one of these constitutional amendments that will be offered. The Hippocratic oath says, "First, do no harm." My question to those who are going to vote "no" tomorrow is, what harm do you believe a constitutional amendment does to the institution of marriage, which you say you support? You support the definition within this constitutional amendment that marriage is between one man and one woman. All but one Senator said they support that. There may be more who don't. I suspect maybe a lot more, but I don't know. Probably a few more are right now sort of staying low, saying all the right things, what the polls indicate is popular, and have their fingers crossed and are thinking let this issue pass; let this issue pass by and let it quiet down, and then let the courts do what we want them to do. Then we will get what we need.

But if they don't feel that way, if they are truly in support of traditional marriage, which many profess they are—and I argue I would probably agree most are in favor of traditional marriage—then what harm do we do by putting language into our Constitution

to protect that institution which everybody says they are for? What harm is done? Do we harm the Constitution? Do we cheapen the Constitution?

Someone suggested this doesn't rise to the level of a constitutional amendment. I remind people what the last constitutional amendment was. It is fun reading. It is always good to pick up the Constitution. I know Senator BYRD carries one and hangs out with it all the time. I will read the 27th amendment:

No law varying the compensation for the services of Senators and Representatives shall take effect until an election of Representatives shall have intervened.

Congress cannot get pay raises until after the election. Big deal. By the way, I know one Senator said, "I am going to stand with James Madison." That is what the Senator from Arizona said. The 27th amendment—do you know what it is called? The Madison amendment. James Madison, the architect of the Constitution, had an amendment that said Congresses cannot receive pay raises. A big, weighty issue. The fate of the country hangs in the balance. "I will stand with James Madison." Do you know what Madison said? If you believe enough in something, you put it in the Constitution if that is the only way you fix the problem. I don't believe anyone can look at the legal state of play in this country and say there is any other real option.

A philosopher named Christopher Lash said: "Every day we get up and we tell ourselves lies so we can live." What did he mean by that? Well, there are certain things we have to tell ourselves so we can go on and do what we want to do, certain truths we have to ignore so we can go on and live our lives.

There are all these people dying and suffering in Africa from AIDS, and we tell ourselves there is not much I can do about that so I will go on with my day. There are 1.2 million children dying from abortions in this country. We tell ourselves that is a tragedy, but there is nothing I can do, so I can go on and have my breakfast. We all do it. I do it. Everybody does it. We tell ourselves little lies so we can feel comfortable with the decisions we make to go on with the life we want to live and make the decisions that make us feel comfortable.

The Senate tomorrow is going to tell itself a little lie—that we don't need to do this, that families will be OK without us, and the States can handle the issue. Now, some will say they don't believe that is a little lie. They will say they disagree with that. We can all rationalize whatever decision we want to make. We can all make our case. In the history books, when this time is written about, we will be able to make our case. We will be able to say, you know, had I known this was going to happen, I would have voted differently. I would have stood with Mr. Madison and voted for that amendment. But how was I to know? How was I to know

this was the beginning of the end of marriage, and the beginning of the end of the family in America, and the beginning of the end of the freedom we hold in this country so dear, where Government doesn't run and have to take care of every need because nobody else is around to do it.

If you look at the socialist countries that have gone in the direction of destruction of the family, you only need to look at the imposition and heavy weight of government. Why? Because there is no one there to pick up the pieces. You can say, if I had known, if I had only known. Every day we get up and tell ourselves lies, so we can live. The problem is this lie hurts the future lives of millions of children in America. And they are going to have to live with the consequences of the lie you tell.

We have an opportunity to do something so simple, so basic, so natural: Simply affirm what this country has known for hundreds of years, what the Western World has known since its inception, and simply put in a document that represents the best of America the ideal that children deserve moms and dads; that the glue of the family, marriage, is worth a special place. Do we not believe that marriage, that glue that binds men and women and children together, deserves a special place right next to limiting pay raises of Members of Congress? Is that a special enough place? Is it not a special enough place for something that we know is essential for the future of America?

We debate a lot of important issues here, but there is nothing—nothing—more important than the future survival of this country. That is what we are here for. We took that oath of office. Why? To preserve and protect. That is our job. We have other jobs outside this Chamber, but within this Chamber our job is the preservation of these United States.

I do not see how anyone can possibly imagine a whole nation without whole families. Yet we will choose tomorrow to risk everything. Think about this. We will choose tomorrow to risk everything. Why? What is worth this risk? What is worth this experiment in sociology heretofore unseen? What is worth that much?

I ask the silent chairs on the other side of the aisle: What is worth this much not to give marriage a chance? As broken and as battered and as shattered as the institution is, let's use this opportunity, in a time of horrible, divisive politics, to band together and say there is one thing on which we can agree: that men and women should bind together to have children and raise them in stable families. Can we at least agree on that?

What will the answer be? What will all of God's children say tomorrow? No. No. No, I can't go that far; sorry, got too many other things to worry about; too political an issue; too divisive an issue; too intolerant an issue; just try-

ing to bash people; you don't really care about families; this is simply about politics. The lies we tell ourselves every day just so we can live.

I come here not because I want to win an election, not because I want to bash anybody or hurt anybody. I come because this is good for America. This is the foundation of everything that makes America great, and it is worth saving. Give it a chance. Don't snuff out this candle that is just barely keeping the light on. Give it a chance. I accept the fact that it is in trouble. I accept the fact that we have darn near blown it, but don't use that as an excuse to do nothing. This is not about hate. This is about giving our children the best chance of having a bright tomorrow.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Colorado.

Mr. ALLARD. Mr. President, I was definitely moved by the presentation that my colleague from Pennsylvania made on this issue. I thank him for his comments.

One thought that came to my mind as I heard his comments was that I do not think James Madison—who, by the way, is a hero of mine—would have envisioned the need, and his contemporaries would have envisioned the need, for protecting marriage. I have no doubt in my own mind that if he had thought that marriage would need that protection that he and his contemporaries would not have hesitated to have made that a part of the Constitution.

As we have gone over this debate, I have been somewhat frustrated to hear from opponents of this amendment constant criticism and misrepresentation about what this amendment is all about and what it does. Over the weekend, I received a number of indepth legal analyses from legal experts, scholars, and law professors from around America. I want to point out that when we are amending the Constitution, it is serious business. I have spent considerable time consulting with legal scholars, constitutional scholars, consulting with my colleagues, and working with staff in the Judiciary Committee because I wanted to get it right.

In an effort to clear up some of these ridiculous charges made against this marriage amendment, I ask unanimous consent that there be printed in the RECORD a brilliant letter on the meaning of the amendment by eight law professors.

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

[July 12, 2004]

THE MEANING OF THE PROPOSED FEDERAL MARRIAGE AMENDMENT

SIGNATORIES

George W. Dent, Jr., Schott—van den Eynden Professor of Law, Case Western Reserve University School of Law.

Robert A. Destro, Professor of Law, Columbus School of Law, The Catholic University of America.

Dwight Duncan, Associate Professor, Southern New England School of Law.

William C. Duncan, Visiting Professor, J. Reuben Clark Law School, Brigham Young University.

Scott FitzGibbon, Professor of Law, Boston College Law School.

Charles J. Reid, Professor of Law, University of St. Thomas.

Lynn D. Wardle, Professor of Law, J. Reuben Clark Law School, Brigham Young University.

Richard G. Wilkins, Professor of Law, J. Reuben Clark Law School, Brigham Young University.

In the context of the recent and ongoing debate over a proposed marriage amendment to the United States Constitution, various questions concerning the meaning and interpretation of the proposed amendment have been raised by opponents of the measure. As supporters and proponents of the amendment, we have prepared this memorandum in an effort to clarify the meaning and intent of the proposed marriage amendment.

Introduced as Senate Joint Resolution 40 by Senator Wayne Allard and 18 co-sponsors, the marriage amendment provides: "Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman."

#### SUMMARY

We are concerned that many arguments voiced in opposition to the marriage amendment are based in hypothetical speculation, rather than serious constitutional analysis. The FMA is a simple, two-sentence amendment which carefully addresses the growing threat to marriage in the United States. In doing so, the Amendment is deliberately crafted so as to preserve the integrity of state regulatory authority over marriage and poses no plausible threat to individual or private organizational actors.

The first sentence of the amendment maintains a common definition of marriage throughout the United States, ensuring consistency in the public legal status which is deeply embedded in both state and federal law. The second sentence reiterates and expands upon the first sentence, ensuring that questions of marriage-like benefits for unmarried couples are reserved to legislative processes. The amendment would have no effect on the various ways that governments might try to provide benefits to couples or individuals based on something other than their marital status.

All implausible arguments to the contrary, the proposed FMA would have no effect on personal arrangements, religious ceremonies or other actions by private individuals or organizations. The FMA takes advantage of the U.S. Constitution's provision for the people's representatives to respond to their will and protects, rather than interferes with the principles of federalism. It is a commonsense response to a very real threat to the ability of the people in this nation to protect the most basic institution of society as it has been understood throughout recorded history.

#### THE FMA IS CLEAR AND UNAMBIGUOUS

A recent memo, circulated among members of Congress, argues that the first and second sentences of the proposed amendment contradict one another, in that the second sentence allegedly authorizes same-sex marriage under certain circumstances. Such a reading of the second sentence is unwarranted, and does not comport with the clear language of the amendment.

There can be no contradiction found between the two sentences of the amendment.

At most, it could be argued that the second sentence is redundant with respect to marital status, repeating what has already been stated in the first sentence. The first sentence of the amendment provides that throughout the United States, marriage shall be the "union of a man and a woman." The second sentence states that no state or federal constitutional provision shall be held to require a different result. While this reiteration may be arguably unnecessary, it is far from contradictory.

The second sentence also serves another purpose, however, preserving decisions about legal benefits to the deliberative legislative process. In this respect, the second sentence goes beyond the first, protecting the autonomy of state legislatures to extend benefits according to the needs and desires of their constituents. Both sentences must be read as part of the same policy statement: marriage is an important social institution throughout the United States, and cannot be redefined by judicial fiat. The people of the individual states reserve authority to extend or withhold benefits to same-sex couples through their elected legislative bodies.

It has been suggested that this plain reading of the marriage amendment is merely a smokescreen for an amendment which will later be used to in efforts to strike down domestic partnership and other civil benefit arrangements. Opponents cite litigation challenging California's domestic partnership law or Philadelphia's "life partnership" ordinance as evidence that the FMA will be used similarly. Whatever the particular merits of the California and Pennsylvania litigation, the outcome of such claims are based upon technical provisions of state law, and will have little bearing upon the interpretation of the proposed marriage amendment.

While there are many in the United States who would prefer that the Congress propose an amendment which would ban civil unions, domestic partnerships, or other similar arrangements at the state level, the interpretation put forward by the sponsors and other supporters in Congress has been clear and unambiguous: the marriage amendment is intended to define marriage as the union of a husband and wife, and to reserve questions of benefits for state legislative bodies.

#### THE FMA DOES NOT INTERFERE WITH PRIVATE ACTIONS

Certain opponents of the marriage amendment have argued that the amendment will impinge upon the actions of private individuals and organizations, including religious organizations. To the contrary, the amendment touches only the public legal status of marriage, recognized in all fifty states. Private actions, whatever the source, can neither create a legal marriage nor violate the text of the amendment. Until recently, all fifty states have had laws which recognize marriage only as the union of a man and a woman, and yet private actors remain free to extend domestic partner benefits, perform or engage in commitment ceremonies, or even refer to themselves as spouses.

It is difficult even to construct a theory on which an amendment dealing with marriage might be applied to private actors. Certainly the absence of language limiting the amendment to government actors is not in itself evidence that it is intended to apply as against private individuals. Neither the Second, the Fourth, the Fifth, nor the Eighth Amendment to the Constitution contains any explicit reference limiting the scope to state actors, yet they are clearly understood as such. For instance the Second Amendment says "the right of the people to keep and bear Arms, shall not be infringed" but it would be implausible to argue that as a result, an employer could not ask an employee to leave their weapons at home.

Marriage has long been a public legal status, directly conferred and regulated by law in each of the fifty states. The solemnization of a marriage, even if performed by clergy or other religious figure, requires state licensure and has legal effect. Concern over the impact of the marriage amendment on private actors appears to be rooted in a misconception of marriage as a private relationship. Marriage, however, is not merely a private relationship, but a public legal status. As such, all constitutional reference to marriage is properly understood as a reference to that legal status.

#### THE AMENDMENT PROCESS IS DEMOCRATIC DECISIONMAKING AT ITS APEX

Opponents often claim that the FMA somehow infringes the democratic process by writing something new into the Constitution. Under this theory the Bill of Rights and each subsequent amendment have displaced democratic decisionmaking. The Constitutional amendment process ensures significant popular input, both in the process of approval in the Senate and House of Representatives and in the ratification process where a supermajority of states have to concur. Of course, after the amendment is ratified it limits future conduct, but so do all Constitutional provisions. An amendment that has been ratified can also be changed through the democratic process as the experience of Prohibition demonstrates.

The national consensus required for a formal amendment to the Constitution is not the only way in which the meaning of the Constitution is amended, however. The other process (apparently favored by opponents of the FMA) involves a lawsuit with hand-picked plaintiffs in a sympathetic jurisdiction where only arguments filtered through the legal briefing process will be heard. Then, the amendment is made by a majority of judges on a court who construe constitutional text to require a redefinition of marriage. At least the FMA would have to be ratified by three-fourths of the state legislatures, not a mere handful of judges who hear only arguments made by lawyers.

Finally, as already noted, the amendment would still allow state legislatures to enact laws that provide benefits to unmarried couples.

#### THE FMA IS A DEFENSE OF FEDERALISM

Some opponents of the FMA argue that it violates the principle of federalism by intruding into domestic relations law, an area traditionally governed by state law. This argument presupposes that there is no threat to federalist principles from the ongoing attempt to secure a redefinition of marriage through the courts. There is reason to believe that some or many courts would adopt an expansive reading of the Full Faith and Credit Clause or other state or federal constitutional provisions that would in effect nullify the policies of states which would choose not to recognize same-sex marriages. Of course, this, as much as a federal marriage amendment, would create a national marriage policy and eviscerate any federalist protection of marriage laws.

It should be noted that the question of marriage validity is already a matter of at least some federal concern. The right-to-marry cases all invalidated state restrictions on marriage on federal grounds. See *Loving v. Virginia*, 388 U. S. 1 (1967); *Zablocki v. Redhail*, 434 U.S. 374 (1978); *Turner v. Safley*, 428 U.S. 78 (1987). As the Defense of Marriage Act indicates, federal law relies on a definition of marriage in extending certain benefits such as Social Security death benefits, 42 U.S.C. 405, and other federal retirement programs. See *Hisquierdo v. Hisquierdo*, 439 U.S. 572 (1979). At least since the U.S. Supreme

Court began the process of incorporating federal constitutional guarantees in its Fourteenth Amendment jurisprudence, a growing number of federal constitutional provisions have limited the states' power.

As to appropriateness, it must be asked whether it is wise to have fifty different marriage policies in the United States. While there is obviously significant room for variations in many (probably most) state policies, there is some need for uniformity. This is an axiomatic presupposition of a federal constitution. Many of the specific policies requiring unity are specified in the national constitution. The most important examples are included in the limitation on state power, since they ensure state uniformity in such matters as coining money or exercising a foreign policy. U.S. CONST., Art. I, §10. Perhaps most obvious is the Guarantee Clause which rests on the assumption that while specifics of state government may vary, at a minimum "[t]he United States shall guarantee to every state in this union a republican form of government." U.S. CONST., Art. IV, §4. The FMA stands for the proposition that the basic legal definition of marriage is a fundamental policy of this type.

Finally, if ¾ of the states ratify the FMA, this would signal an acceptance of a supermajority of states of any minimal limitation on their power just as the ratification of the 19th Amendment allowed state legislatures to acquiesce in the limitation of their right to deny women the vote.

#### THE FMA DOES NOT UNDULY CONSTRAIN THE BRANCHES OF GOVERNMENT

The memo charges that the proposed FMA would "take the job of constitutional interpretation away from all three branches of government." While this is technically true (and is true of all other Constitutional amendments that affect government power), it is also somewhat misleading. In practice, the judicial branch has been almost alone in constraining the meaning of state constitutions. Thus, the major thrust of the FMA is to curtail judicial redefinition of marriage. To the extent other governmental actors want to use a reading of the constitution to justify a redefinition of marriage (such as when a mayor issues marriage licenses to same sex couples saying the constitution made him do it), they would be constrained by the FMA but such a practice is not likely to be widespread. A legislature, in fact, would be able to offer marital benefits without any constitutional justification for doing so.

Additionally, the memo says that the "federal Constitution should not purport to say what state law does or does not mean." Taken at an extreme, this would negate the U.S. Supreme Court's decision invalidating bans on interracial marriage or, in fact, any federal Constitutional limitation on state law. At least the FMA would have to be ratified by a super-majority in the states it is regulating.

#### THE FMA GIVES THE AMERICAN PEOPLE A VOICE

Some have argued that the proposed marriage amendment will increase the role of the judiciary in determining the definition of marriage and its legal incidents. To the contrary, the amendment would resolve current marriage disputes pending in at least 11 states, while establishing a uniform rule of law which minimizes the scope of future litigation.

In recent years, five primary fields of marriage litigation have evolved: (1) constitutional claims for same-sex marriage (including both state and federal claims); (2) constitutional claims for marital benefits; (3) statutory claims for marital benefits; (4) constitutional claims for interstate mar-

riage recognition; and (5) claims for interstate recognition based on state statute and public policy. Of these five broad areas, the proposed marriage amendment would eliminate (or greatly reduce) the role of judges in resolving constitutional claims for same-sex marriage, marital benefits, or marriage recognition. Statutory claims for marital benefits would likely remain unaffected, while interstate recognition claims would be minimized (but not eliminated, due to the possibility that states will recognize alternative civil benefit statuses).

The creativity of attempts to make the plain meaning of the FMA seem confusing and contradictory is illustrative of the problem. These creative readings of constitutional provisions by judges have precipitated the issue and the FMA will bring a needed clarity to the matter. By confining the crucial social issue of the definition of marriage to courtroom battles, opponents of the FMA have left the people of this nation with little choice but to amend the Constitution.

Without an amendment, the marriage debate will continue to be waged by attorneys and legal elites, in courts of law where the American people have little or no voice. The amendment process, on the other hand, will produce the type of public dialogue and national consensus which this important issue deserves.

Mr. ALLARD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I will briefly reiterate an important factor—Senator SANTORUM has eloquently argued the legal and the policy issues that are so important with regard to marriage and why that institution needs to be strengthened, not weakened. Policies of government create tendencies in the culture. The recognition of same-sex marriages would have a tendency to weaken marriage, and that is exactly the wrong direction we ought to go.

How did it occur that we are debating the question of the definition of marriage in the Senate? It occurred because of a ruling last year by the U.S. Supreme Court in *Lawrence v. Texas* that clearly implied that the Supreme Court of the United States believes that the Equal Protection clause of the U.S. Constitution says one cannot have marriage only between a man and a woman, as has been done in every culture that I know of since the beginning of time and as I believe every single legislature that has ever sat in the history of the American Republic has so defined.

These judges in Massachusetts have now followed up on that *Lawrence* case of the U.S. Supreme Court and taken it to its conclusion, citing the *Lawrence* case in its opinion. They have declared that the Equal Protection clause of the constitution of Massachusetts—basically similar to the U.S. Constitution—says one cannot treat same-sex unions differently from traditional marriage. That is a serious stretch, in my view. That indicates that our courts are losing discipline; our courts are imposing, through interpretations of the Constitution, their personal values on society. That is not correct.

It undermines democracy. It undermines the power of the American peo-

ple to decide for themselves how their culture and their society ought to be ordered. I believe very strongly in that. So it is not surprising to me that the senior Senator from Massachusetts, Mr. KENNEDY, probably the leading defender of judicial activism in this body, is the only one who I have heard since we have been in this debate say he agreed with that activist decision. It is a decision by a court to step out and impose through interpretation of the language of the Constitution values on the American people of which they do not approve.

Indeed, it is not even the values of the people of Massachusetts, as we know the Governor has roundly opposed this. The legislature has taken action. Efforts are being undertaken to pass a constitutional amendment to fix it. So even in the most liberal State in the Nation, even with Senator KENNEDY—and his colleague, I suppose, opposing this amendment—the people and the legislature and the Governor do not approve of this. So certainly the American people have a right to be concerned.

I see the Senator from Pennsylvania. He spoke on this. I have heard him speak on the issue of judges before. I would like to ask his view—is this not just one more example of the divide and the difference of opinion that exists in this body about the role of a judge? Is this not indicative of what President Bush has expressed his concern about, which is activism in judges? Does not judicial activism undermine democracy when we have unelected judges setting social policy?

Mr. SANTORUM. That is a great question. I say to the Senator from Alabama that going back to Madison, Adams, and the Massachusetts Constitution talked about the importance of a balance of powers, a checks and balances; that if one branch of the Government were to become too powerful then our Republic is in danger. Democracy itself is in danger.

I think what the Senator from Alabama is referring to is the judiciary over the last several years, as a result of the feeling within certainly the liberal branch of the judiciary, that they can take on the role of a legislature in either passing laws in the form of judicial opinions or forcing the legislature to pass laws as a result of constitutional edict. It is getting to the point where there are these three branches of Government that all sort of operate under the Constitution, and we are supposed to be able to oversee each other. One might want to make the argument that maybe we are not doing a particularly good job of oversight; that we are not doing a very good job of checking the judiciary in its repeated attempt now to usurp power away from the people's branch.

The people's branch is not the judiciary. It is not the executive. It is us. We are the ones who stand for election on a regular basis. We are the ones who are responsible to a local constituency.

We are the ones who are in closest touch with what the people would like to see done. The judiciary is probably the most removed because they are completely unelected.

Mr. SESSIONS. Could I interrupt the Senator and just follow up on that?

Mr. SANTORUM. Yes.

Mr. SESSIONS. The Senator is in part of the leadership in this Senate on the Republican side. Is it not true, based on his experience, that even the House and the Senate defend amongst themselves their prerogatives and do not the House and the Senate defend their own power against the executive and does not the executive branch defend its own power against the legislative branch?

Mr. SANTORUM. It is one of the most disputed and argued—we have committees that argue over jurisdiction just between where bills are referred. We all know this in all of our lives, when there is an area of authority, that area of authority is protected, not just because it is one's particular area of authority but one knows what they do in their job, particularly in the area of the legislature and of government, sets a precedent for how future people will do their job. If one gives up power, it is going to be hard for someone to get back when it may be necessary for them to do so.

So we hold our power or fight for our rights not just because we want to exercise that power but because it is important institutionally that the power rest in the proper place.

Mr. SESSIONS. Well, with regard to Madison, that father of the Constitution and a man I admire, he set up co-equal branches and he expected each one to be a check and a balance on the other. Would not the Senator expect that Madison would have expected this Senate and this Congress to defend its prerogative to set policies concerning marriage and family and resist the encroachment of that power from the courts?

Mr. SANTORUM. The answer to that is clearly yes. In fact, the Senator is a much better lawyer than I ever was, and I say that to the Senator from Alabama as someone who was a prosecutor and a very accomplished lawyer. I made it up to a fourth year associate, so I just started on my legal career and opted to do something different, and that was run for Congress.

I recall when Madison wrote this Constitution about checks and balances, I am not sure he envisioned the role of the judiciary as we see it today. *Marbury v. Madison* sort of evolved as to what the role of the courts was in interpreting the Constitution, but clearly he gave the authority to change the Constitution not to the courts. He gave the authority to change and create rights within the Constitution to the Congress and to the States, as a check on the Congress, to make sure the States would go along with what we wanted to do.

So to change this important document, this template for the Govern-

ment that we have, he wanted to create a very high bar, wanted to make sure there was broad public consensus before we did something to affect this very important document. Now this is being used as an excuse not to change it, when judges do it every day. Every day a judge will attempt to expand, usually expand in some form or another, the meaning by adapting it to contemporary standards or contemporary jurisprudence.

I don't know what that means, but it basically means I am the judge, I am the law, and I can do what I want.

Mr. SESSIONS. I would follow up on that. I remember when I was a U.S. attorney in Alabama, I got a call from an educator who was looking at their school textbook and discovered it asked a question about amending the Constitution. The first section stated that you amend it according to the way the Constitution says it should be amended. And the second paragraph says the Constitution is amended by the courts.

He asked me: You are the Federal attorney here; is that true?

I said: No, it is not true.

And he asked me to do a video.

But the point is that you are right, I say to my colleague, Senator SANTORUM. This judiciary believes it has the power to amend the Constitution by taking words such as "equal protection" or "due process," which in the hands of a person not disciplined can be made to say a lot of different things. But good lawyers and good judges know that can be abused and they do not do so.

I think we are at a point where the American Republic has its democratic heritage at risk—if we just get to the point where we can never respond, if they can make these rulings and the Congress can never pass an amendment to overturn them, or set our own policy on behalf of the people.

Mr. SANTORUM. I would just say that checks and balances work as long as there is truly a balance. I think what we have is some people today in our judiciary, because of the activist judges, who are now saying we are all going to play by these rules, all branches of Government. Here is the game. Everybody comes to the poker table and we are going to play the game of governing the United States of America. And in the middle of the game, the court can say: I am changing the rules to my favor, so I win.

In a sense, if you think about it, when the Court, the Supreme Court, rules, they win. The only way we can change that is through this rather complex procedure laid out in article V of the Constitution, which is not an easy thing to do. In a sense, the Court has figured out that the ability for Congress to check them is very limited. As a result, they are feeling more and more empowered to project their will on society.

Mr. SESSIONS. I couldn't agree more.

Mr. SANTORUM. That would be, first, I think, dangerous, period. But it worries me even more because the Supreme Court that sits right here in Washington, DC, is certainly not what I would call Main Street America, certainly not what I would call a community that shares the values of this metropolitan area, that shares the values of the heartland of America.

I remember a good friend of mine telling me that postwar Germany was concerned about centralizing government in its major cities, Berlin or Bonn. So they did something rather unusual. They located their supreme judicial court not in their capital city or in their biggest city, they located it in the equivalent of Peoria, out in the country, where justices do not hobnob with the liberal elite that govern the nation. Either through governance-wise or governing media-wise. But they have to live and work with the common, ordinary people out across the great hills of Germany—and in our case the Great Plains of the United States.

But we don't have that here. We have this constitutional court sitting right across the street in a town where the influences are not neutral. That is why I believe you see that every single Justice—bar a couple on this Court—once they get on the Court, tend to assimilate with this town and with the prevailing view in this town, which is big government, which is government knows best, and government can do all, and which is, from the culture standpoint, not exactly where I would say Mobile, AL, is, or Pittsburgh, PA, is. Where in Colorado?

Mr. ALLARD. Sweetheart City.

Mr. SANTORUM. Certainly not where the Sweetheart City is, in Colorado.

The bottom line is that we have a court that is out of control. We have courts across this country, like in Massachusetts, that are also deciding, taking their lead from what is going on here in Washington, deciding to assert their authority and in so doing, taking power away from the American people to decide their own fate.

Mr. SESSIONS. I thank the Senator from Pennsylvania. I think he is correct.

I love the Federal courts. I practiced there full time for the biggest part of my legal career. I have tremendous respect for Federal judges. But I tend to agree with the Senator from Pennsylvania.

The senior judges in the U.S. Supreme Court, many of whom are in their eighties, have become detached from America. If they follow their role as the Founders considered, which is simply to be removed, to be independent, to analyze the language fairly and justly without partisan or personal interest, that is good. But if they develop some idea that they know what is good for the country better than the people do, if they start drifting into that mentality, then it is very unhealthy for this society.

And it is anti-democratic. It is not democratic. Because they have life-appointed positions. I have heard the Senator from Colorado speak on this and I know he believes the jurisdiction of the courts can be constrained, and he has taken a lead in that effort. He has done so in a highly intelligent and effective way, a proper way, by presenting legislation now to be discussed. But I am troubled by this trend that demonstrates to me that the Supreme Court is out of control.

Senator ALLARD, in addition to the powerful need for this Senate to protect marriage because of the cultural impact and the impact on families and children that will occur if marriage continues to decline, I think it is important for us to defend our legislative power against a branch of government that is encroaching on it. If we do not defend this power, if the Members of this body sit by and allow the courts to erode our power, then shame on us. And our children will not respect us.

We defend our interests against the President. The Senate defends its interests against the House when they try to encroach on the Senate's power. And well we should. That is what Madison and the Founders expected. I think he would expect us to defend our legitimate interests against the encroachment of the courts.

I thank the President and yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I just want to read article V and make clear what the Senator from Alabama is saying. When it comes to amending the Constitution, the first two words, if we are going to change the Constitution of the United States, the first two words are "The Congress."

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution....

Shall propose amendments. It is the role of Congress to simply propose amendments. So what we are doing here today is not passing. We are simply proposing this to the American people.

... shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

What this amendment says is to change the Constitution of the United States, we propose and the people dispose.

What is happening in Massachusetts, across this country, and in the court

across the street in the Supreme Court is the Supreme Court has taken this power unto itself which was clearly left to the people. That is what we are trying to address. We are trying to let the people speak.

In the end, this debate simply is about letting the American people decide for ourselves what this rather important institution in our country is.

Again, I can think of nothing more foundational in our society than the building block of that society which is the family.

The American people have a right to make a decision. Every Member who has gotten up and talked has said they want to simply leave it to the State courts. But let me assure you, these decisions will not ultimately be made by the States. They will be made by the State courts. We have seen it in case after case after case. The courts will trump the legislatures.

Again, ultimately, even if some States can hold back the tide, other States will not. If we have a hodge-podge or patchwork of different marriage laws in this country, I will assure you the Supreme Court will not stand aside and let that continue. It will be a legal nightmare. We will have to find conformity. Conformity will certainly be to permit this new form of marriage; thus, the end of the family as we know it.

I know the Senator from Kansas and many others—the Senator from Texas and I have even pointed out—I know some are saying, What do you mean the end of the family? Won't we enhance marriage by allowing more people to marry? Won't marriage be enhanced if we allow more people to participate in that sacred bond? The evidence is in.

In the places where we have seen the introduction of civil unions and same-sex marriages, marriage rates decline dramatically. Why? Because marriage loses its meaning. Marriage is no longer about families. By the way, what goes up? The rate of out-of-wedlock births. This is common sense, isn't it?

What are we doing here? If marriage is simply about affirming one's own self-worth or affirming one's affection toward somebody else, if that is all it is, when those feelings go away, why stay married? If that is all it is, if it is all about me and my happiness, when I am not happy anymore, then I am not married anymore. If it is about me, then obviously it is not about them, the children. They only happen to come along. If marriage is simply about me, in the case of heterosexual marriage, if it is about me, and that is what a lot of divorce laws as a culture have trained us to believe marriage is about, then it is nice to have kids. It is a great thing to have kids—sometimes, some will say. Why stay married? If I am not happy because marriage isn't about children, it is about me, we reinforce that. We put a big neon sign, "Marriage is about me. Marriage is

about self. Marriage is about making me feel good. And if I don't feel good anymore, then I will not be married anymore." That is all marriage is about. How can you argue it is about anything else? If any two people can get married whether they can have children or not, why stop at two?

I mean if what we are doing, if marriage is a civil right as someone suggested—not in this Chamber, but I suspect one of these days will be mentioned in this Chamber, that marriage is a civil right—then why isn't it a civil right for three, or four, or five? If it is a civil right, why limit it to two? If I need to express my love to three people instead of one, if that is what fulfills me and makes me happy, then why shouldn't I be allowed to do that?

This is a very slippery slope.

The bottom line is, as I mentioned over and over again with respect to the reasons for marriage, self-affirmation is fairly low on the list of marriage importance in society. Why do we have such a legal institution? Why do we create laws that govern marriage? Why do we do that, if we didn't believe there was a societal good to be accomplished by it? Why do we give it elevated status?

You sort of have to ask this question: Is it because we go around affirming love between two people? Why don't we want mothers and daughters to be married and give them special treatment? There are a lot of daughters who take care of moms who are sick, who are elderly, who sacrifice a lot to take care of their parents and don't get the benefits they would otherwise get if they were married to their mother. Why not give them, the people who are struggling, the right to marry so they can get the benefits of marriage? If they are going to argue that marriage is about affirming the love of two people, why not? But marriage is much more from the standpoint of society and the reason we have an institution of marriage. That is a minor part of this discussion. The reason we have legal statutes for marriage is because it is about having and raising children and stable families and bonding men and women together so they can provide for the common good. There are great benefits to society with marriage.

We know if we cheapen marriage as other countries have done, fewer heterosexuals will be married, more children will be born out of wedlock, and more government will be needed to repair the dissolution of the family as a result of it. Why? For what? What great positive impact will change the definition of the marriage act? What great contribution will be made to society? Will we be able to welcome a loving society? Some will suggest we will. I don't know if we will. I think we are a loving, welcoming society with maybe the exception of the unborn. We are not particularly welcome to one-third of the children conceived in marriage who end up being killed by abortion. But beyond that, I think we are a

pretty affirmative and tolerant society—not that there are not people who aren't tolerant, not there are not people who do and say hurtful things.

By and large, we have come a long way in our society. I think it is a good thing we have become tolerant of people. Tolerance does not mean we need to change a fundamental institution that provides healthy environments for children and destroys the chance for children to have the ideal or make it a lot less likely.

I think if you look at Netherlands, Scandinavia, and look at numbers in Canada and other places, it has an impact.

I keep coming back to the fundamental right. The hour is late. I apologize to all folks who had to stay here late at night. The morning will come early.

I keep sitting here and wondering why. Why does a body of people, No. 1, profess publicly to believe that marriage should only be a union between a man and a woman and that this body believes it overwhelmingly; and, No. 2, knows that at least this issue is under contest and in dispute. There is no question about that. One State has changed the law.

To suggest this is not a threat simply is not true. It is obviously under threat. It has been changed in one rather large State.

There are cases in 11 other States, 2 cases challenging the Federal law, and in 46 States there are same-sex couples who are married from Massachusetts or one of the other States that have married people. Are all potential litigants.

Number one we believe marriage is between a man and a woman. We know that institution is under assault. We know that it is a public good and that we are for it. We know that it serves a useful purpose. Then why won't we do something to protect it?

We go down this logical train and we say, yes, all those things are true, but we can wait. Why? What is the point? Why wait? What is going to happen? Things will get worse. Certainly that will happen. Things get worse and then you feel you had the public support necessary to vote. Is that what this is about, getting the public support necessary to do this? Or do we really believe the States can handle it? Are we willing to take that risk? What is the risk if the courts do turn over more and more? We can come back and fix it later. I know a lot of people know this unspoken thing: Time is not on our side.

The culture of what is educating our children at our university, what is polluting our children's mind from Hollywood, what is coming through the mainstream media is not a message in support of traditional marriage.

Let's be honest. Does anybody question that the messages from those places where our children are getting the messages from the popular culture, from the educational establishment, is it all affirming of the traditional defi-

inition of marriage? One only needs to look at the polls of young people to know that is simply not the case.

This is simply a timebomb. If we do not bring America's focus and attention on what marriage is and why it is important, and that it should be sustained, we will lose.

Many have criticized me and Senator FRIST and others for bringing this up, saying it is premature, saying we are picking a fight for politics or whatever. Let me assure you, if I thought it was not in the best interest of protecting the American people, I would not be here. If I did not think this was critical to the future of America, I would not be here at 10 o'clock at night when I should be home tucking my kids in bed. As Members know, I try to spend time with my kids. There is nothing more important, nothing more important than my kids and my wife, my family. That is why I am here, because there is nothing more important than my family.

I hope tomorrow we get a big surprise. I always believe in that. I remember being here a few years ago and debating the issue of partial-birth abortion, about this hour of the night, trying to override the President's veto in 1996 and then again in 1998. I remember staying up late the night before the vote, saying we are just a couple votes short; maybe if we go out and give it one last good try, we will win. And we didn't.

Do you know what I found? I say to the Senator from Colorado, nobody is more constant, nobody, who I would rather see in the foxhole next to me than the Senator from Colorado. If you looked over there, he would be there. The Senator from Alabama, I say the same to him. These are stalwarts, folks who are not afraid to engage in cultural wars that are not fun to engage in because a lot of people say a lot of bad things about you.

What I say to these Members and anyone listening, losing the vote does not necessarily mean losing the issue. We had a lot of losses on the issue of partial-birth abortion. I can say without fear of hesitation it was the greatest gift that God gave us, because it gave us an opportunity to talk to the American people about this scourge on our Nation. If the President signed this innocuous bill the first time in 1996, signed it and had a bill-signing ceremony, probably it would have been filed, no one would have known, hearts and minds would not have been touched.

I believe our plan is not necessarily the best plan. Victory can come from defeat. In this case, the victory over the last 3 days, thanks to the work of these two fine Members and so many others who have come to the Senate to debate this issue, is an America that is waking up to something that we have forgotten about.

I liken the institution of marriage to oxygen in the air. The human body needs oxygen to survive. Yet we take it

for granted as we just breathe. And America as a society needs marriage and families to survive. Yet we take marriage and families for granted as if it will always be. We do a lot to keep good, healthy oxygen to breathe. We do very little to keep families protected, sheltered, and supported.

Just as it is with oxygen, as you climb those high altitudes in Colorado, you find out when there is less and less oxygen, the body does not function quite as well. So it is with marriage. When there is less and less marriage, the body does not function quite as well. When you are climbing that mountain, and many people for years did not know what it was when they went up to the altitudes that they could not perform as well, and, for America, we are climbing that mountain and we are just wondering, Why aren't we doing as well?

This is an opportunity to educate America as to the need for marriage, the need for families, not in a hostile way, not in a negative way. I don't think I have heard a negative word on the floor of the Senate about anybody or anything. We simply have talked about why families and marriage is necessary for America and why children need moms and dads.

It is almost remarkable, but I suspect this is maybe the first real debate about family and marriage in the Senate. I guess in the Defense of Marriage Act we talked, maybe not. But it is a reminder to all how the things that sometimes we take most for granted are things that make us function as a society.

I thank the Presiding Officer for the willingness to stay to this late hour and engage in this very important debate. I hope tomorrow, whatever happens, I don't know what will happen, that it turns out for the best interests of America's families. I always hope that no matter what we do and how the votes come, that somehow or other it will all work out for the best for America. I believe that. And I ask for the American public to pray for that.

I yield the floor.

THE PRESIDING OFFICER (Mr. SESSIONS). The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Pennsylvania for his leadership on this issue. We would not be where we are today if it were not for his dedication and hard work. I also thank the Senator from Alabama for his help and dedication on this very important issue. I personally thank each of you.

But I think when it is all over with—whether it is this year or next year or the year after that—a majority of the people in America are going to thank you for the work you have done to save the American family.

#### MORNING BUSINESS

Mr. ALLARD. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators speaking for up to 10 minutes.

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

#### SIERRA NEVADA JOB CORPS CENTER

Mr. REID. Mr. President, I rise today to congratulate the Sierra Nevada Job Corps Center on its 25th Anniversary.

Since its beginning in 1979, the Sierra Nevada Job Corps Center has provided 16- to 24-year-old men and women with the tools they need to become skilled workers and successful citizens.

Under contract to the Department of Labor, the Sierra Nevada Center continuously trains 560 young adults in residential and non-residential programs. It helps them attain high school diplomas and general equivalency degrees, and provides counseling and 15 different vocational training courses.

These programs not only teach the basic reading and mathematics skills that are crucial for a successful career, they also instill the positive work ethic and good work habits that are equally important to success.

Thanks to the Sierra Nevada Job Corps, more than 20,000 men and women have become productive, employed citizens. By offering an alternative to welfare and unemployment, the center not only provides a long-lasting benefit to its students, but also to the entire State of Nevada.

This organization has been an inspiration to thousands of underprivileged Nevadans, giving them the motivation and confidence to pursue opportunities that would have otherwise been beyond their reach.

Please join me in congratulating director Kenneth C. Dugan, his staff and the thousands of graduates of the Sierra Nevada Job Corps on this program's 25th anniversary.

#### HONORING OUR ARMED FORCES

SERGEANT FIRST CLASS LINDA TARANGO-GRIESS

Mr. HAGEL. Mr. President, I express my sympathy over the loss of Linda Tarango-Griess of Sutton, NE, a Sergeant First Class in the Nebraska Army National Guard. SFC Tarango-Griess was killed on July 11, 2004 near the city of Samarra in Iraq when a roadside bomb exploded near her convoy. She was 33 years old.

SFC Tarango-Griess was originally from North Platte and graduated from Kearney High School. She was a full-time soldier for 14 years in the Nebraska Army National Guard and was deployed to Iraq in February of this year. Tarango-Griess was assigned to the 267th Ordnance Company based in Lincoln and was responsible for direct support maintenance for coalition forces in the region, including the installation of additional armor protection on military Humvee vehicles to make them safer. Tarango-Griess was one of thousands of brave American service women and men serving in Iraq.

SFC Tarango-Griess is survived by her parents, Augustin and Juanita

Tarango of North Platte; and husband, SSGT Douglas Griess, of Sutton. Our thoughts and prayers are with them at this difficult time. America is proud of Linda Tarango-Griess' service and mourns her loss.

For her service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring SFC Tarango-Griess.

SERGEANT JEREMY FISCHER

Mr. HAGEL. Mr. President, I express my sympathy over the loss of Jeremy Fischer of Lincoln, NE, a Sergeant in the Nebraska Army National Guard. SGT Fischer was killed on July 11, 2004 near the city of Samarra in Iraq when a roadside bomb exploded near his convoy. He was 26 years old.

SGT Fischer will be remembered as a hard-working, positive individual. He joined the Nebraska Army National Guard in 1999 and was deployed to Iraq in February of this year. He was assigned to the 267th Ordnance Company based in Lincoln and was responsible for direct support maintenance for coalition forces in the region, including the installation of additional armor protection on military Humvee vehicles to make them safer. Fischer was one of thousands of brave American service men and women serving in Iraq.

SGT Fischer is survived by his parents, James Fischer of Hastings and Kathy Fischer of Lincoln; and wife of nearly 8 months, Sarah Fischer, of Lincoln. Our thoughts and prayers are with them at this difficult time. America is proud of Jeremy Fischer's service and mourns his loss.

For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring SGT Jeremy Fischer.

SERGEANT ROBERT E. COLVILL, JR.

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Anderson, IN. Sgt. Robert E. Colvill, 31 years old, died on July 8 in Samarra, Iraq when the building he was in came under attack. With his entire life before him, Rob chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Rob graduated from Madison Heights High School in 1991 and joined the Marines shortly thereafter, following a long family tradition of military service. Rob dedicated 8 years of his life to active duty before retiring from the Marines. According to family and friends, it did not take long for Rob to realize that civilian life was not for him. After one year, he enlisted in the U.S. Army and was assigned to Headquarters and Headquarters Company, 1st Battalion, 26th Infantry Regiment, 1st Infantry Division, Schweinfurt, Germany. This past spring, Rob was deployed to Iraq, where he bravely fought for 4 months before sacrificing his life for the worthy cause of freedom. Robert Colvill Sr. told the Anderson Herald-Bulletin that his son, Rob, "was

doing what he wanted to do and did his best. He was trained for this. It was his calling."

Rob was the thirtieth Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. This brave young soldier leaves behind his father, Robert; his wife, Chris; his two sons, Travis and Zachary; and his stepdaughter, Suzanne. May Rob's children grow up knowing that their father gave his life so that young Iraqis will some day know the freedom they enjoy.

Today, I join Rob's family, his friends and the entire Anderson community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Rob, a memory that will burn brightly during these continuing days of conflict and grief.

Rob was known for his dedicated spirit and his love of country. When looking back on the life of this late student and former athlete, Madison Heights High School Track Coach John McCord, told the Anderson Herald-Bulletin, "He was the kind of kid you liked to have on any team. He always gave his best effort. He always practiced and trained hard and competed to the best of his abilities." Today and always, Rob will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Rob's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Rob's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Robert E. Colvill in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Rob's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Rob.

LOCAL LAW ENFORCEMENT ACT  
OF 2003

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On February 25, 2001, a transgendered man named Victor Pachas was beaten, stabbed, slashed, and asphyxiated by a man who, according to his own attorneys, was "driven by revulsion and fear" of Pachas' sexual orientation.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

WHAT IRAQ IS REALLY LIKE

Mr. HOLLINGS. Mr. President, as we go about our leisurely way, the majority of people back home think Iraq is a mistake. The Commanding General says we can't win, and Congress refuses to pay for the war. This generation not only has to fight the war, but this generation will have to pay for it, because my colleagues in the Senate want tax cuts so we can get the vote in November.

I think we all need to sober up about the realities of what is happening to our young soldiers in Iraq. Joseph Galloway, of the Knight Ridder Newspapers, wrote a column that should be mandatory reading for all of us. It appeared recently in The State newspaper in Columbia, and I ask unanimous consent that it be printed in the RECORD.

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

[From the State (Columbia, SC), June 27, 2004]

FROM IRAQ: "WHAT IT'S REALLY LIKE"  
(By Joseph L. Galloway)

The Internet, which fills our inboxes with spam and scams every day and keeps our delete keys shiny, occasionally delivers a real keeper, such as the words below, which were written by a graduate of West Point, Class of 2003, who's now at war in Iraq.

We tracked down the author, who gave us permission to quote from his letter so long as we didn't reveal his name. Old soldiers in the Civil War coined a phrase for green troops who survived their first taste of battle: "He has seen the elephant." This Army lieutenant sums up the combat experience better than many a grizzled veteran:

"Well, I'm here in Iraq, and I've seen it, and done it. I've seen everything you've ever seen in a war movie. I've seen cowardice; I've seen heroism; I've seen fear; and I've seen relief. I've seen blood and brains all over the back of a vehicle, and I've seen men bleed to death surrounded by their comrades. I've seen people throw up when it's all over, and I've seen the same shell-shocked look in 35-year-old experienced sergeants as in 19-year-old privates.

"I've heard the screams—Medic! Medic! I've hauled dead civilians out of cars, and I've looked down at my hands and seen them covered in blood after putting some poor Iraqi civilian in the wrong place at the wrong time into a helicopter. I've seen kids with gunshot wounds, and I've seen kids who've tried to kill me.

"I've seen men tell lies to save lives: What happened to Sergeant A.? The reply: C'mon man, he's all right—he's wondering if you'll be OK—he said y'all will have a beer together when you get to Germany. SFC A. was lying 15 feet away on the other side of the bunker with two medics over him desperately trying to get either a pulse or a breath. The man who asked after SFC A. was himself bleeding from two gut wounds and rasping as he tried to talk with a collapsed lung. One of them made it; one did not.

"I've run for cover as fast as I've ever run—I'll hear the bass percussion thump of mortar rounds and rockets exploding as long as I live. I've heard the shrapnel as it shredded through the trailers my men live in and over my head. I've stood, gasping for breath, as I helped drag into a bunker a man so pale and badly bloodied I didn't even recognize him as a soldier I've known for months. I've run across open ground to find my soldiers and make sure I had everyone.

"I've raided houses, and shot off locks and broken in windows. I've grabbed prisoners and guarded them. I've looked into the faces of men who would have killed me if I'd driven past their IED (improvised explosive device) an hour later. I've looked at men who've killed two people I knew, and saw fear.

"I've seen that, sadly, that men who try to kill other men aren't monsters, and most of them aren't even brave—they aren't defiant to the last—they're ordinary people. Men are men, and that's it. I've prayed for a man to make a move toward the wire, so I could flip my weapon off safe and put two rounds in his chest—if I could beat my platoon sergeant's shotgun to the punch. I've been wanted dead, and I've wanted to kill.

"I've sworn at the radio when I heard one of my classmate's platoon sergeants call over the radio: Contact! Contact! IED, small arms, mortars! One KIA, three WIA! Then a burst of staccato gunfire and a frantic cry: Red 1, where are you? Where are you? as we raced to the scene . . . knowing full well we were too late for at least one of our comrades.

"I've seen a man without the back of his head and still done what I've been trained to do—medic! I've cleaned up blood and brains so my soldiers wouldn't see it—taken pictures to document the scene, like I'm in some sort of bizarre cop show on TV.

"I've heard gunfire and hit the ground, heard it and closed my Humvee door, and heard it and just looked and figured it was too far off to worry about. I've seen men stacked up outside a house, ready to enter—some as scared as they could be, and some as calm as if they were picking up lunch from McDonald's. I've laughed at dead men, and watched a sergeant on the ground, laughing so hard he was crying, because my boots were stuck in a muddy field, all the while an Iraqi corpse was not five feet from him.

"I've heard men worry about civilians, and I've heard men shrug and sum up their viewpoint in two words—'F--- 'em.' I've seen people shoot when they shouldn't have, and I've seen my soldiers take an extra second or two, think about it, and spare somebody's life.

"I've bought drinks from Iraqis while new units watched in wonder from their trucks, pointing weapons in every direction, including the Iraqis my men were buying a Pepsi from. I've patrolled roads for eight hours at

a time that combat support units spend days preparing to travel 10 miles on. I've laughed as other units sit terrified in traffic, fingers nervously on triggers, while my soldiers and I deftly whip around, drive on the wrong side of the road, and wave to Iraqis as we pass. I can recognize a Sadiqqi (Arabic for friend) from a Haji (Arabic word for someone who has made the pilgrimage to Mecca, but our word for a bad guy); I know who to point my weapons at, and who to let pass.

"I've come in from my third 18-hour patrol in as many days with a full beard and stared at a major in a pressed uniform who hasn't left the wire since we've been here, daring him to tell me to shave. He looked at me, looked at the dust and sweat and dirt on my uniform, and went back to typing at his computer.

"I've stood with my men in the mess hall, surrounded by people whose idea of a bad day in Iraq is a six-hour shift manning a radio, and watched them give us a wide berth as we swagger in, dirty, smelly, tired, but sure in our knowledge that we pull the triggers, and we do what the Army does, and they, with their clean uniforms and weapons that have never fired, support us.

"I've given a kid water and Gatorade and made a friend for life. I've let them look through my sunglasses—no one wears them in this country but us—and watched them pretend to be an American soldier—a swaggering invincible machine, secure behind his sunglasses, only because the Iraqis can't see the fear in his eyes.

"I've said it a thousand times—'God, I hate this country.' I've heard it a million times more—'This place sucks.' In quieter moments, I've heard more profound things: 'Sir, this is a thousand times worse than I ever thought it would be.' Or, 'My wife and Sgt. B's wife were good friends—I hope she's taking it well.'

"They say they're scared, and say they won't do this or that, but when it comes time to do it they can't let their buddies down, can't let their friends go outside the wire without them, because they know it isn't right for the team to go into the ballgame at any less than 100 percent.

"That's combat, I guess, and there's no way you can be ready for it. It just is what it is, and everybody's experience is different. Just thought you might want to know what it's really like."

SUPPORT IS BROAD

Mr. LEVIN. Mr. President, the bipartisan list of supporters for extending the Federal Assault Weapons Ban continues to grow longer and even more influential. This week, former Presidents Gerald Ford, Jimmy Carter, and Bill Clinton sent a joint letter to President Bush urging him to spur Congress to act to extend this important gun safety law. The former Presidents make an already impressive group of supporters even more remarkable.

The reauthorization of this law already has the support of America's law enforcement community, gun safety organizations, millions of moms and countless others. The message of the former Presidents is simple: the assault weapons ban works. They wrote to President Bush: "Each of us, along with President Reagan, worked hard in support of this vital law, and it would be a grave mistake if it were allowed to sunset."

In addition to banning 19 specific weapons, the existing ban makes it illegal to "manufacture, transfer, or possess a semiautomatic" firearm that can accept a detachable magazine and has more than one of several specific military features, such as folding/telescoping stocks, protruding pistol grips, bayonet mounts, threaded muzzles or flash suppressors, barrel shrouds or grenade launchers. These weapons are dangerous and they should not be on America's streets.

The National Rifle Association has said that the ban is ineffective and unnecessary. The NRA asserts that guns labeled as assault weapons are rarely used in violent crimes. But this assertion is not supported by the facts. According to statistics reported by the Brady Campaign to Prevent Gun Violence, from 1990 to 1994, assault weapons named in the ban constituted 4.82 percent of guns traced in criminal investigations. However, since the ban's enactment, these assault weapons have made up only 1.61 percent of the crime-related guns traced.

In 1994, I voted for the assault weapons ban and in March of this year I joined a bipartisan majority of the Senate in voting to extend the assault weapons ban for 10 years. Unfortunately, despite Senate passage of the amendment, it appears that this important gun safety law will be allowed to expire. The House Republican leadership opposes reauthorizing the law and President Bush, though he has said he supports it, has done little to help keep the law alive.

I hope the letter from Presidents Ford, Carter and Clinton will prompt President Bush to act to promote the passage of the extension of the Assault Weapons Ban.

I ask unanimous consent that the letter from former Presidents Ford, Carter and Clinton be printed in the RECORD.

JUNE 14, 2004.

President GEORGE W. BUSH,  
*The White House,*  
*Washington, DC.*

DEAR PRESIDENT BUSH: We are pleased that you support reauthorization of the federal Assault Weapons Act, which is scheduled to expire in September. Each of us, along with President Reagan, worked hard in support of this vital law, and it would be a grave mistake if it were allowed to sunset.

There continues to be strong support for this law among our nation's police officers who risk their lives every day to protect the public. That is because they remember the days, prior to the enactment of the law in 1994, when military-style, semiautomatic firearms had become the weapons of choice for gangs, drug traffickers, and paramilitary extremist groups. The firearm death rate soared as criminals used these weapons, outfitted with 20, 50 and even hundred round ammunition clips, to kill, maim, and terrorize. We cannot go back to those days.

At a time when terrorism continues to be a serious threat, it is even more imperative that we renew the Assault Weapons Act and limit access to military-style weapons and high-capacity ammunition clips. But with upcoming recesses, there are not many legislative days left for Congress to renew the

law. We urge you to make reauthorization of the Assault Weapons Act a top priority for your Administration and spur Congress to action. If we can be of assistance to you in this regard, we are ready to do so.

Sincerely,

GERALD R. FORD.  
BILL CLINTON.  
JIMMY CARTER.

#### NATIONAL VETERANS AWARENESS WEEK

Mr. BIDEN. Mr. President, last week I had the honor of joining with 52 of my colleagues in introducing a resolution, S. Res. 401, expressing the sense of the Senate that the week that includes Veterans' Day this year be designated as "National Veterans Awareness Week." This marks the fifth year in a row that I have introduced such a resolution, which has been adopted unanimously by the Senate on all previous occasions.

The purpose of National Veterans Awareness Week is to serve as a focus for educational programs designed to make students in elementary and secondary schools aware of the contributions of veterans and their importance in preserving American peace and prosperity. This goal takes on particular importance and immediacy this year as we find ourselves again with uniformed men and women in harm's way in foreign lands.

Why do we need such an educational effort? In a sense, this action has become necessary because we are victims of our own success with regard to the superior performance of our armed forces. The plain fact is that there are just fewer people around now who have had any connection with military service. For example, as a result of tremendous advances in military technology and the resultant productivity increases, our current armed forces now operate effectively with a personnel roster that is one-third less in size than just 15 years ago. In addition, the success of the all-volunteer career-oriented force has led to much lower turnover of personnel in today's military than in previous eras when conscription was in place. Finally, the number of veterans who served during previous conflicts, such as World War II, when our military was many times larger than today, is inevitably declining.

The net result of these changes is that the percentage of the entire population that has served in the Armed Forces is dropping rapidly, a change that can be seen in all segments of society. Whereas during World War II it was extremely uncommon to find a family in America that did not have one of its members on active duty, now there are numerous families that include no military veterans at all. Even though the Iraqi war has been prominently discussed on television and in the newspapers, many of our children are much more preoccupied with the usual concerns of young people than with keeping up with the events of the day. As a consequence, many of our

youth still have little or no connection with or knowledge about the important historical and ongoing role of men and women who have served in the military. This omission seems to have persisted despite ongoing educational efforts by the Department of Veterans Affairs and the veterans service organizations.

This lack of understanding about military veterans' important role in our society can have potentially serious repercussions. In our country, civilian control of the armed forces is the key tenet of military governance. A citizenry that is oblivious to the capabilities and limitations of the armed forces, and to its critical role throughout our history, can make decisions that have unexpected and unwanted consequences. Even more important, general recognition of the importance of those individual character traits that are essential for military success, such as patriotism, selflessness, sacrifice, and heroism, is vital to maintaining these key aspects of citizenship in the armed forces and even throughout the population at large.

The failure of our children to understand why a military is important, why our society continues to depend on it for ultimate survival, and why a successful military requires integrity and sacrifice, will have predictable consequences as these youngsters become of voting age. Even though military service is a responsibility that is no longer shared by a large segment of the population, as it has been in the past, knowledge of the contributions of those who have served in the Armed Forces is as important as it has ever been. To the extent that many of us will not have the opportunity to serve our country in uniform, we must still remain cognizant of our responsibility as citizens to fulfill the obligations we owe, both tangible and intangible, to those who do serve and who do sacrifice on our behalf.

The importance of this issue was brought home to me five years ago by Samuel I. Cashdollar, who was then a 13-year-old seventh grader at Lewes Middle School in Lewes, DE. Samuel won the Delaware VFW's Youth Essay Contest that year with a powerful presentation titled "How Should We Honor America's Veterans'?" Samuel's essay pointed out that we have Nurses' Week, Secretaries' Week, and Teachers' Week, to rightly emphasize the importance of these occupations, but the contributions of those in uniform tend to be overlooked. We don't want our children growing up to think that Veterans Day has simply become a synonym for department store sale, and we don't want to become a nation where more high school seniors recognize the name Britney Spears than the name Dwight Eisenhower.

National Veterans Awareness Week complements Veterans Day by focusing on education as well as commemoration, on the contributions of the many in addition to the heroism and service

of the individual. National Veterans Awareness Week also presents an opportunity to remind ourselves of the contributions and sacrifices of those who have served in peacetime as well as in conflict; both groups work unending hours and spend long periods away from their families under conditions of great discomfort so that we all can live in a land of freedom and plenty.

Mr. President, last year, my resolution designating National Veterans Awareness Week had 66 cosponsors and was approved in the Senate by unanimous consent. Responding to that resolution, President Bush issued a proclamation urging our citizenry to observe National Veterans Awareness Week. I ask my colleagues to continue this trend of support for our veterans by endorsing this resolution again this year. Our children and our children's children will need to be well informed about what veterans have accomplished in order to make appropriate decisions as they confront the numerous worldwide challenges that they are sure to face in the future.

#### VICTIMS OF DRUNKEN DRIVERS MEMORIAL WALL FOUNDATION

Mrs. BOXER. Mr. President, in April of 2000, more than one hundred people gathered to dedicate a memorial for the victims of drunk driving. The memorial, created by The Victims of Drunken Drivers Memorial Wall Foundation, was constructed in Pacific Memorial Park in the city of Anaheim. The Victims of Drunk Drivers Memorial Wall has helped people remember those who were tragically lost, brought comfort to loved ones, educated the public and taught valuable lessons to students about this senseless crime. I salute the founders and the many volunteers who helped create this memorial.

In 2003, 17,401 people died in alcohol-related motor vehicle crashes. It is estimated that alcohol-related crashes kill someone every 30 minutes. The memorial reminds us that these victims are real people with families and loved ones left behind.

The Victims of Drunken Drivers Memorial Wall Foundation has honored victims and raised awareness since the year 2000. A wide range of individuals contributed to the memorial and helped make the project a success. For 4 years they contacted the thousands of families who lost loved ones and accepted small contributions to successfully raise \$25,000. Law enforcement agencies have educated area children about drunk driving using the memorial and have held sessions at the memorial.

Judges also require convicted drunk drivers to visit the memorial and reflect on their actions.

I commend The Victims of Drunken Drivers Memorial Wall Foundation for their hard work. The memorial continues to reach families and serves as a

constant reminder of the consequences of drunk driving. I wish the foundation continued success.

#### ADDITIONAL STATEMENTS

##### HONORING THE ACCOMPLISHMENTS OF MELISSA GAYLE BRIDGES

• Mr. BUNNING. Mr. President, I pay tribute and congratulate Melissa Gayle Bridges of Mayfield, KY on being awarded the Kentucky Farm Bureau Mutual Insurance Company scholarship from the Kentucky Farm Bureau Education Foundation. This academic scholarship will provide Melissa with \$2000 toward her education.

Melissa has proven to be a very able and competent student by winning this prestigious award. She will represent the graduates of Graves County High School very well when she enrolls at Murray State University in the fall. She plans to study Education.

The citizens of Mayfield should be proud to have a young woman like Melissa Gayle Bridges in their community. Her example of dedication and hard work should be an inspiration to the entire Commonwealth.

She has my most sincere appreciation for this work and I look forward to her continued service to Kentucky.●

##### DARFUR HUMANITARIAN CRISIS

• Mr. BINGAMAN. Mr. President, I rise today to address the ongoing humanitarian crisis in Darfur. The facts in this case are, in my view, clear. Sudanese refugees have been flooding into Chad as a result of the coordinated policies of local militias and the Government of Sudan. The conditions that have forced the refugees to flee their home and their country are beyond horrific, including systematic murder, rape, torture, and abduction. Although it is impossible to know the exact figures, up to 30,000 individuals have been killed and over a million have been displaced. The United States, the United Nations, and many international organizations are predicting that over a million will die with the change of seasons in the region, the lack of food and water, and the onset of disease.

At a minimum, these atrocities amount to ethnic cleansing on the part of the local militias and the Sudanese Government. At worst, they constitute genocide. In either case, the atrocities should have been stopped much earlier. Furthermore, they can and should be stopped now.

Within the last few weeks, U.S. Secretary of State Colin Powell and U.N. Secretary-General Kofi Annan have visited the region. I consider this an extremely belated effort on the part of the United States and the United Nations to address a series of problems that were both predictable and preventable. Unfortunately, the administration's attention and resources are so

focused elsewhere that it lost sight of a humanitarian crisis of catastrophic proportions. Sadly, Sudan is where it is today because no one at a high level felt the region and its people mattered enough to pay attention and do something. Sadly, the administration only paid attention when Congress wrote letters in June—letters that I signed—requesting that they do so.

These letters—one to President Bush and one to Secretary-General Annan—requested that very specific steps be undertaken to stop the current crisis, in particular committing additional human and financial resources to the region, identifying the individuals and governments responsible for the actions, requiring a U.N. Security Council resolution that condemns the atrocities that have occurred, and delineating a viable multilateral effort to bring them to an end.

Let me emphasize that at present there are 260 individuals in Sudan attempting to monitor the crisis, this in a region the size of the State of Texas. The brutality continues unabated because the collective will to stop it has been nonexistent. It is time for President Bush to say clearly what his intentions are. It is time to offer a clear strategy. It is time for him to make this a priority. It is time to organize international action to bring the crisis to an end.●

##### MARGUERITE'S PLACE CELEBRATES ITS 10TH ANNIVERSARY

• Mr. GREGG. Mr. President, I rise today in honor of a remarkable organization in Nashua, NH. For the past 10 years, Marguerite's Place, Inc. has provided safe, affordable housing for women and their children. More importantly, it has been a critical stop on the road for those families who are fighting to rebuild their lives and brighten their futures.

Although there are many words which can be used to describe Marguerite's Place, the one which best captures why it is so special is "Hope". During my first visit in 1997 and on countless others I have made since then, I have been amazed by the overwhelming positive spirit filling every room there. The women who have come to Marguerite's Place have been through very difficult situations and yet they are actively reaching to retake control of their world. In almost all cases, they succeed. Of course, the reason for this impressive track record is the staff and supporters do not let them fail. Marguerite's Place gives these women a warm and safe home, the needed assistance in finishing school or launching a career and an energetic daycare center for their children. Most of all, these women learn they have unique abilities and skills which will take them far. In short, they are given the hope they need to take back their lives.

One of my favorite spots at Marguerite's Place is the child care center.

Many of the children there have probably been homeless for a time or have experienced situations no child should be forced to endure. But, watching them playing together in the center and interacting with each other and their teachers, it is easy to sense they have found a home. It is here where one can witness the fundamental impact Marguerite's Place is having on the greater Nashua community. Through their programs and support, the staff here pass on to our youngest generation of citizens the feeling they too have a wide open future.

The leader of Marguerite's Place, and its heart and soul, is Sister Sharon Walsh. Her firm commitment to insuring the residents meet the expectations set for them is near legendary. Yet, she is profoundly upbeat in her vision that people can change for the better. She is continually seeking ways they can be part of the American Dream. It is this combination of optimism and determination that make Sister Sharon so inspirational. In turn, her enthusiasm is what makes Marguerite's Place so unique and so effective. Of course, Sister Sharon is modest and would deflect much of the praise and credit to her staff for the successes they have achieved. In my conversations with them, I have learned they share Sister Sharon's vision and skill in bringing out the best in people. Sister Elaine Fahey, for example, runs the daycare center. It is obvious the children love her and view her as a role model.

So, as Marguerite's Place celebrates its 10th anniversary this year, I want to thank Sister Sharon, her staff and all the supporters for the remarkable work they have done to restore dignity and self-esteem to those who may have lost it. They have made Nashua a better place to live. I am proud to be a supporter of Marguerite's Place and am happy to extend my deepest wishes for continued success.●

#### IN RECOGNITION OF THE MICHIGAN STATE UNIVERSITY DEBATE TEAM

● Mr. LEVIN. Mr. President, I would like to take this opportunity to recognize the tremendous accomplishment of Michigan State University and its debate team. On April 6, 2004, Michigan State University won the National Debate Tournament hosted by Catholic University in Washington, DC. This date was a milestone in that it marked the first National Championship awarded to the Michigan State Spartans in the field of debate. In addition, the Spartans demonstrated the high quality of Michigan's public institutions of education, as it was only the third occasion in 20 years that a public university has won the title.

During the tournament, the Spartans defeated many of the Nations' most respected academic universities. These include Harvard, Dartmouth, Emory, Northwestern, and finally, long-time rival UC Berkeley in the championship match. It is also worth noting that

Michigan State was represented by two separate teams in the tournaments final four. However, as they were matched against one another, the higher ranked team advanced while the other willingly conceded.

In the final round, the Spartan team consisting of Dave Strauss and Greta Stahl, defeated the team from Berkeley that was ranked No. 1 overall entering the tournament. Michigan State was declared the winner 4-1 by the 5 judges scoring the debate. The Sigurd S. Larmon Memorial Trophy is awarded annually to the National Debate Tournament Champion and will remain in East Lansing until the 2005 tournament.

Michigan State University's debate team, led by head coach Will Repko, is now the reigning national champion. This accomplishment was made possible through the hard work and dedication of all those who support Michigan State's debate program. The university's first national championship signals the beginning of what will surely become a great tradition.

It is with great pleasure that I offer my sincerest congratulations and appreciation to Michigan State University as it celebrates its victory at the National Debate Tournament. Those who participated should be very proud of the manner in which they represented their school. I know my colleagues in the Senate join me in honoring MSU, the team, and its staff as they continue with their pursuit of academic excellence.●

#### HONORING THE LIFE OF REVEREND CHARLES WILLIAMS

● Mr. BAYH. Mr. President, I rise today to honor the life of my fellow Hoosier, Reverend Charles Williams, who lost his battle with cancer on Monday, July 12, 2004. Reverend Williams dedicated his life to serving our state of Indiana by bringing together the Hoosier community and demanding of everyone the potential greatness that he saw in us all.

Reverend Charles Williams was born in Indianapolis in 1948. From a humble upbringing in Indiana and Chicago, Reverend Williams returned to his home town as an adult to become one of the city's most respected civic leaders, using every life lesson and experience, including his battle with cancer, to improve the quality of life for Indiana's African-American community and for all Hoosiers across the state.

Reverend Charles Williams served his country first for 3 years as a member of the U.S. Navy and then as the executive coordinator for the National Association for the Advancement of Colored People's national convention in Indianapolis. Following his work with the NAACP, he was appointed special assistant for then-Mayor William Hudnut. It was from here that Reverend Williams received an invitation to help a struggling Indiana African-American association, marking the be-

ginning of his work with what would become his lasting legacy and crowning achievement, the Indiana Black Expo.

Through his work with the Indiana Black Expo, from the early 1980s until his death this summer, Reverend Williams turned the Expo into a full-fledged community organization that promoted greater education, cooperation and opportunity for all Hoosiers. What began as a single-event celebration has grown into a year-round operation, with the Summer Celebration described today as one of the Top 100 Events in North America. Reverend Charles Williams was tireless in his efforts to make a better life for Hoosiers. Even during his 2-year battle with cancer, he used his experience to educate other men about the importance of cancer screening.

The 34th annual Black Expo Summer Celebration is taking place this week in Indianapolis. This year, the celebration will take on greater meaning, as a celebration not only of the strong community that has been built in Indiana, but a celebration of the man who did the building. While the sense of loss to all those who knew Reverend Charles Williams is tremendous, the energy and selflessness with which he faced this and every challenge in his life remains as an example to all of us who are left behind to carry on his work.

It is my honor to enter the name of Reverend Charles Williams into the CONGRESSIONAL RECORD.●

#### IN MEMORY OF REVEREND CHARLES WILLIAMS

● Mr. LUGAR. Mr. President, I pay heartfelt tribute to the Reverend Charles Williams, a visionary Hoosier friend who passed away yesterday at the age of 56.

I have looked forward to visiting with Charles Williams for many years. His dynamic leadership was best exemplified through his work leading the Indiana Black Expo, Inc., a not-for-profit community service organization comprised of ten chapters throughout the State of Indiana. Since 1983, he has been an effective advocate of an expanding number of Indiana Black Expo programs.

His accomplishments included founding the Circle City Classic football game, an annual event that raises funds for minority college scholarships. Most recently, Reverend Williams has worked diligently to inform men, especially African-American men, on the importance of prostate cancer screening. Afflicted with this terrible disease, he shared his personal testimony on struggles with prostate cancer in an effort to encourage other men to consider personal healthcare more seriously.

The Indiana Black Expo was founded in 1970, while I served as Mayor of Indianapolis. Each year, the Indiana Black Expo hosts the Summer Celebration. Currently underway, this event is the longest-running cultural showcase of

its kind nationwide. I look forward to visiting, once again, with thousands of attendees in Indianapolis this weekend.

I am honored to have this opportunity to pay tribute to the life of Reverend Charles Williams. At this difficult time, my thoughts and prayers go out to his family and friends.●

#### TRIBUTE TO LIEUTENANT COLONEL HANG CHAO

● Mr. LEVIN. Mr. President, today I wish to pay tribute to the life and work of a truly remarkable American and long-time Detroit resident, Hang Chao. Born in 1939 in the city of Pha Leong, Xiengkhoua Province, in Laos, he was among the thousands of Hmong young men who gave their support to the United States during the Vietnam war. By joining with American soldiers to fight against Lao and Viet communists in the jungles of Laos, these young men put their lives at risk. In the face of considerable personal risk, the heroism of these brave men saved countless American soldiers. Hang Chao continued his strong stand defending and promoting democracy throughout his life and leaves a legacy of selfless dedication to helping and enriching the lives of others. His family, colleagues, and many friends mourned his death in October 2003, and he will be remembered as a man of honor and goodwill, whose heroism and deep faith inspired all who knew him.

During the Vietnam war, Hang Chao trained in the Lao Royal Army and rose through its ranks. He was appointed lieutenant colonel by General Oun Latikun and Prime Minister Souvanhna of Laos. During his service, he earned the respect of his peers and leaders because of his courage, principled leadership, and devotion to democracy. The Lao government in exile honored him in 1982 by appointing him Deputy Minister of Interior. Ten years later, Hang Chao was appointed Advisor to the King of Laos, LangXang Houng Kau, government in exile.

Hang Chao immigrated to the United States with his family after the war. He valued learning and education and earned a Bachelor of Science degree in political science while making a new life for himself and his family in Michigan. While he spoke Hmong and English fluently, he was also fluent in Tao, Lao, and French. He was committed to the Hmong community, and his active leadership helped pave the way for many Hmong refugees to assimilate into American life. Hang Chao was also a devout Christian and was elected elder in ten Hmong churches. His faith, family, and commitment to public service guided his vision of community growth and the promotion of cultural understanding of the Hmong heritage. Hang Chao was a loving husband to his wife of 50 years, Mia Lee Vang, and a nurturing father to his five children, Tou Yi, Tou Chue, Mai, Youa, and Pang Nhia.

I would like to express my admiration for the life story and the accom-

plishments of Hang Chao. We can all benefit from his example of courage, perseverance and leadership. He has left an indelible mark on his community, and his family can be proud of his legacy. I know my Senate colleagues join me in paying tribute to Hang Chao.●

#### MESSAGES FROM THE HOUSE

At 2:28 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, in which it requests the concurrence of the Senate:

H.R. 4380. An act to designate the facility of the United States Postal Service located at 4737 Mile Stretch Drive in Holiday, Florida, as the "Sergeant First Class Paul Ray Smith Post Office Building".

H.R. 4755. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 144. Concurrent resolution expressing the sense of Congress that Dinah Washington should be recognized for her achievements as one of the most talented vocalists in American popular music history.

#### ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 103. An act for the relief of Lindita Idrizi Heath.

H.R. 218. An act to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 6:21 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill (H.R. 4613) making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes for the two Houses thereon and appoints the following members as the managers of the conference on the part of the House:

Ordered, that Mr. LEWIS of California, Mr. YOUNG of Florida, Mr. HOBSON, Mr. BONILLA, Mr. NETHERCUTT, Mr. CUNNINGHAM, Mr. FRELINGHUYSEN, Mr. TIAHRT, Mr. WICKER, Mr. MURTHA, Mr. DICKS, Mr. SABO, Mr. VISCLOSKY, Mr. MORAN of Virginia, and Mr. OBEY, be the managers of the conference on the part of the House.

#### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4380. An act to designate the facility of the United States Postal Service located at 4737 Mile Stretch Drive in Holiday, Florida, as the "Sergeant First Class Paul Ray Smith Post Office Building"; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 144. Concurrent resolution expressing the sense of Congress that Dinah Washington should be recognized for her achievements as one of the most talented vocalists in American popular music history; to the Committee on the Judiciary.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-8453. A communication from the Acting Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Procedures for Implementation of the National Construction Safety Team Act" (RIN0693-AB53) received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8454. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Magnuson Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Groundfish Fishery; Groundfish Observer Program" (RIN0648-AK26) received on July 7, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8455. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of the Quarter II Fishery for Loligo Squid" (ID060804G) received on July 7, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8456. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Amendment 13 Regulatory Amendment" (RIN0648-AN17) received on July 7, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8457. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revision of Export and Reexport Restrictions on Cuba" (RIN0694-AD17) received on July 7, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8458. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Export Administration Regulations to Remove Certain Regional Stability and Crime Control License Requirements to New North Atlantic Treaty Organization (NATO) Member Countries" (RIN0694-AD11) received on July 7, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8459. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: NARCO Avionics Inc. AT150 Transponders Doc. No. 2002-NE-32" (RIN2120-AA64) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8460. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Airplanes Doc. No. 2003-NM-96" (RIN2120-AA64) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8461. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dowty Aerospace Propellers Type R321/4-82-F/8, R324/4-82-F/9, R333/4-82-F/12, and R334/4-82-F/13 Propellers Assemblies Doc. No. 2001-NE-50" (RIN2120-AA64) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8462. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Burkhart Grob Luft-Und GmbH and Co. KG Models G103 Twin Artir, G103A Twin II Acro, and G103C Twin III Acro Sailplanes Doc. No. 2003-CE-35" (RIN2120-AA64) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8463. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD-11 and 11F Airplanes Doc. No. 2003-NM-76" (RIN2120-AA64) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8464. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, A320, and A321 Airplanes Doc. No. 2003-NM-63" (RIN2120-AA64) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8465. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757-200 Airplanes Doc. No. 2003-NM-177" (RIN2120-AA64) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8466. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Charleston, MO Doc. No. 04-ACE-12" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8467. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Chadron, NE Doc. No. 04-ACE-01" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8468. A communication from the Paralegal Specialist, Federal Aviation Adminis-

tration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Cedar Rapids, IA Doc. No. 04-ACE-10" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8469. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Chappell, NE Doc. No. 04-ACE-22" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8470. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Larned, KS Doc. No. 04-ACE-9" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8471. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Cozard, NE Doc. No. 04-ACE-23" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8472. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Neodesha, KS Doc. No. 04-ACE-6" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8473. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Broken Bow, NE Doc. No. 04-ACE-39" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8474. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Holdrege, NE Doc. No. 04-ACE-25" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8475. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Lexington, NE Doc. No. 04-ACE-40" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8476. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Minden, NE Doc. No. 04-ACE-26" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8477. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Trinidad, CO Doc. No. 03-ANM-04" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8478. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Festus, MO Doc. No. 04-ACE-14" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8479. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Superior, NE 04-ACE-30" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8480. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Tekamah, NE Doc. No. 04-ACE-29" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8481. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Oshkosh, NE Doc. No. 04-ACE-27" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8482. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Gothenburg, NE Doc. No. 04-ACE-24" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8483. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce (1971) Limited, Bristol Engine Division Model Viper Mk.601-22 Turbojet Engine Doc. No. 2003-NE-39" (RIN2120-AA64) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8484. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (41) Amendment No. 3093" (RIN2120-AA65) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8485. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Paola, KS Doc. No. 04-ACE-5" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8486. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "CORRECTION: Establishment of Restricted Area 2204, Oliktok Point, AK Doc. No. 03-AAL-1" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8487. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Iowa City, IA Doc. No. 04-ACE-91"

(RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8488. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Hays, KS Doc. No. 04-ACE-7" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8489. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (78) Amendment No. 3092" (RIN2120-AA65) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8490. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Norfolk, VA Doc. No. 04-AEA-08" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8491. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Richmond, VA Doc. No. 04-AEA-07" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8492. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Richmond, VA Doc. No. 04-AEA-09" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8493. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Norfolk, VA Doc. No. 04-AEA-06" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8494. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D Airspace; Ogden, Hill Air Force Base UT Doc. No. 04-ANM-04" (RIN2120-AA66) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8495. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hybrid III 6YO Weighted Test Dummy" (RIN2127-AI58) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8496. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials Regulations: Minor Editorial Corrections" received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8497. A communication from the Secretary, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Rule Concerning Disclosures re: Energy

Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule") (Water Heater Ranges)" (RIN3084-AA74) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8498. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC 8 101, 102, 103, 106, 201, 301, 311, 315 Airplanes on Which Engine Oil Coolers Have Been Installed per LORI, Inc. Sup Type Cert. SA8937SW; Doc. No. 2003-NM-222" (RIN2120-AA64) received on July 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8499. A communication from the Counsel for Legislation and Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Community Development Block Grant Program; Small Cities and Insular Areas Programs" (RIN2506-AC17) received on . . .

EC-8500. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to plutonium storage at the Savannah River Site located near Aiken, South Carolina; to the Committee on Energy and Natural Resources.

EC-8501. A communication from the Acting Assistant Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report relative to the conversion of full time employee equivalents (FTE); to the Committee on Environment and Public Works.

EC-8502. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 112(1) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Pulp Mills; State of Alabama" (FRL#7786-2) received on July 7, 2004; to the Committee on Environment and Public Works.

EC-8503. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Effluent Limitations Guidelines and New Source Performance Standards for the Concentrated Aquatic Animal Production Joint Source Category" (FRL#7783-6) received on July 7, 2004; to the Committee on Environment and Public Works.

EC-8504. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Stationary Combustion" (FRL#7783-7) received on July 7, 2004; to the Committee on Environment and Public Works.

EC-8505. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Hawaii State Implementation Plan" (FRL#7778-5) received on July 7, 2004; to the Committee on Environment and Public Works.

EC-8506. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Solicitation for Taiwan Environmental Study Tours Project" received on July 7, 2004; to the Committee on Environment and Public Works.

EC-8507. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "TSCA Inventory Update Rule Corrections" (FRL#7332-3) received on July 7, 2004; to the Committee on Environment and Public Works.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 155. A bill to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation (Rept. No. 108-302).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1467. A bill to establish the Rio Grande Outstanding Natural Area in the State of Colorado, and for other purposes (Rept. No. 108-303).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 1521. A bill to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community (Rept. No. 108-304).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 1658. A bill to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes (Rept. No. 108-305).

## 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. LIEBERMAN (for himself and Ms. COLLINS):

S. 2639. A bill to reauthorize the Congressional Award Act; to the Committee on Governmental Affairs.

By Mr. ENSIGN (for himself and Mr. REID):

S. 2640. A bill to designate the facility of the United States Postal Service located at 1050 North Hills Boulevard in Reno, Nevada, as the "Guardians of Freedom Memorial Post Office Building" and to authorize the installation of a plaque at such site, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ENZI (for himself and Mr. CAMPBELL):

S. 2641. A bill to recognize conservation efforts to restore the American bison from extinction by placing the image of the American bison on the nickel, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WYDEN:

S. 2642. A bill to amend the Internal Revenue Code of 1986 to deter the smuggling of tobacco products into the United States, and for other purposes; to the Committee on Finance.

By Mr. DURBIN:

S. 2643. A bill to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ENSIGN (for himself and Mr. MCCAIN):

S. 2644. A bill to amend the Communications Act of 1934 with respect to the carriage of direct broadcast satellite television signals by satellite carriers to consumers in rural areas, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN:

S. 2645. A bill to amend the Communications Act of 1934 to authorize appropriations for the Corporation for Public Broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CHAFEE (for himself, Mr. REED, Mr. KERRY, and Mr. KENNEDY):

S. 2646. A bill to direct the Director of the National Park Service to prepare a report on the sustainability of the John H. Chafee Blackstone River Valley National Heritage Corridor and the John H. Chafee Blackstone River Valley National Heritage Commission; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. INOUE, and Mr. GREGG):

S. 2647. A bill to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, to ensure effective interagency coordination, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. STEVENS, and Mr. INOUE):

S. 2648. A bill to strengthen programs relating to ocean science and training by providing improved advice and coordination of efforts, greater interagency cooperation, and the strengthening and expansion of related programs administered by the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN:

S. 2649. A bill to amend the Workforce Investment Act of 1998 to authorize the Secretary of Labor to provide for 5-year pilot projects to establish a system of industry-validated national certifications of skills in high-technology industries and a cross-disciplinary national certification of skills in homeland security technology; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN:

S. 2650. A bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to strengthen programs under such Act; 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. SMITH (for himself and Mrs. FEINSTEIN):

S. Res. 404. A resolution designating August 9, 2004, as "Smokey Bear's 60th Anniversary"; to the Committee on the Judiciary.

By Mr. BROWNBACk (for himself, Mr. CORZINE, Mrs. DOLE, Mr. LIEBERMAN, Mr. DEWINE, and Mr. FITZGERALD):

S. Con. Res. 124. A concurrent resolution declaring genocide in Darfur, Sudan; to the Committee on Foreign Relations.

#### ADDITIONAL COSPONSORS

S. 303

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 303, a bill to prohibit human cloning and protect stem cell research.

S. 540

At the request of Mr. INHOFE, the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from Colorado (Mr. CAMPBELL), the Senator from Washington (Mrs. MURRAY) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 540, a bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States.

S. 859

At the request of Mr. CORZINE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 859, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1068

At the request of Mr. DODD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1068, a bill to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, and for other purposes.

S. 1104

At the request of Mr. FITZGERALD, his name was added as a cosponsor of S. 1104, a bill to amend title 10, United States Code, to provide for parental involvement in abortions of dependent children of members of the Armed Forces.

S. 1559

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1559, a bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

S. 1993

At the request of Mrs. DOLE, her name was added as a cosponsor of S. 1993, a bill to amend title 23, United States Code, to provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2360

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2360, a bill to provide higher education assistance for nontraditional students, and for other purposes.

S. 2382

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2382, a bill to establish grant programs for the development of telecommunications capacities in Indian country.

S. 2428

At the request of Mr. DODD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2428, a bill to provide for educational opportunities for all students in State public school systems, and for other purposes.

S. 2502

At the request of Mr. CRAIG, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2502, a bill to allow seniors to file their Federal income tax on a new Form 1040S.

S. 2520

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2520, a bill to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families.

S. 2539

At the request of Mr. CAMPBELL, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2539, a bill to amend the Tribally Controlled Colleges or University Assistance Act and the Higher Education Act to improve Tribal Colleges and Universities, and for other purposes.

S. 2603

At the request of Mr. SMITH, the names of the Senator from Florida (Mr. NELSON) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 2603, a bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

S. 2611

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2611, a bill to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries.

S. 2623

At the request of Mr. SMITH, the name of the Senator from Kansas (Mr. BROWNBACk) was added as a cosponsor

of S. 2623, a bill to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide a 2-year extension of supplemental security income in fiscal years 2005 through 2007 for refugees, asylees, and certain other humanitarian immigrants.

S. 2634

At the request of Mr. SMITH, the names of the Senator from Colorado (Mr. CAMPBELL), the Senator from Texas (Mr. CORNYN) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 2634, an act to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, to provide funds for campus mental and behavioral health service centers, and for other purposes.

S.J. RES. 40

At the request of Mrs. DOLE, her name was added as a cosponsor of S.J. Res. 40, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S.J. RES. 41

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S.J. Res. 41, a joint resolution commemorating the opening of the National Museum of the American Indian.

S. RES. 389

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 389, a resolution expressing the sense of the Senate with respect to prostate cancer information.

S. RES. 392

At the request of Mr. BINGAMAN, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from New Jersey (Mr. CORZINE), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Res. 392, a resolution conveying the sympathy of the Senate 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.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself and Mr. CAMPBELL):

S. 2641. A bill to recognize conservation efforts to restore the American bison from extinction by placing the image of the American bison on the nickel, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, today I join with my friend and colleague from the State of Colorado to introduce the Bison Nickel Restoration Act of 2004 to bring the image of the American bison back to the 5-cent coin.

The American bison is one of the most powerful symbols of the Amer-

ican West. Meriwether Lewis and William Clark encountered many bison on their western expedition. Native Americans in the Great Plains States have held the American bison as one of the most sacred animals, as it represents a spiritual being supplying everything necessary to survive. The bison also is an enduring symbol of the growth of the United States westward. The symbol of the bison is so powerful that the State of Wyoming has put its image on the State flag and the U.S. Department of the Interior uses the bison image on its official seal.

Many don't realize how close we came to losing this important animal. At one time, the American bison population was conservatively estimated at 60,000,000 strong. In the early 1900's, the worldwide bison population fell below 1000 and was virtually extinct. At that time, less than 100 free-range bison existed and there remained only 29 bison under Federal Government control, 21 in Yellowstone National Park and eight in the National Zoo in Washington, DC.

However, the restoration of the bison herds is one of the most shining examples of conservation efforts of our Nation's history. From the dwindling number of bison in the early 1900's, it is anticipated that the North American bison herd will surpass half of a million in the next year. In addition, the bison herd of 21 in Yellowstone National Park has now grown to more than 4,000 bison. It is the largest free-range bison herd in the United States.

The conservation effort of the bison began in the early 1900's. At that time, the American Bison Society was formed with President Teddy Roosevelt as its honorary president. Soon, we will be celebrating the centennial anniversary in 2008 of the signing into law by President Roosevelt of the creation of the National Bison Range. While Federal efforts to restore the bison have been beyond our expectations, a very large part of the successful restoration of the bison herd is due to the private sector. Today, bison can be found in all 50 States, including Hawaii. Many anticipate that the bison population may pass 1 million by the end of the decade.

Today, the bison ranching sector has become a viable business for many small- and medium-sized ranchers. According to a recent U.S. Department of Agriculture census, Wyoming ranches raised 12,580 bison for agricultural purposes during 2002. Restoring the bison to our coinage is a fitting tribute, especially during this July, which is National Bison Month.

A fitting honor for the American bison would be to restore the image on the back of the nickel. This not only would honor the restoration of the bison herd but it would be a symbol of the West. It is my hope that the millions of bison nickels would inspire school children to recognize the importance of our western heritage, the importance of the bison in Native American culture, and the importance of the

public/private efforts to restore the American bison. While our Nation's symbol is the bald eagle, there is little doubt that the symbol of the west is the American bison.

The Bison Nickel Restoration Act of 2004 would restore the American 5-Cent Coin Design Continuity Act of 2003 to its original three-year time frame. Due to the late passage of this law, the U.S. Mint was unable to mint newly designed nickels for 2003. In addition, our bill would require that one of the new images on the reverse of the nickel be of an American bison. I can think of no more fitting tribute to the restoration of the American bison herd than to restore the image of the bison on the back of the nickel.

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. 2641

*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 "Bison Nickel Restoration Act of 2004".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) the American bison is one of the most enduring symbols of the expedition of Meriwether Lewis and William Clark;

(2) Native Americans in the Great Plains States have held the American bison as one of the most sacred animals, as it represents a spiritual being supplying everything necessary to survive;

(3) the American bison continues to be a symbol of Western States and the growth of the United States westward in the 19th century;

(4) the population of the American bison herd has been restored from near extinction levels due to exceptional conservation efforts;

(5) the American bison herd, which once numbered approximately 60,000,000 fell below 100 for free-range bison in the early 1900s;

(6) at the time, only 21 American bison were living in Yellowstone National Park, and 8 in the National Zoo in Washington, DC;

(7) the conservation efforts to restore the American bison officially began with the efforts of President Theodore Roosevelt with the American Bison Society in 1905, the first United States conservation effort to restore a single species from extinction;

(8) the centennial of the signing into law by President Roosevelt of the creation of the National Bison Range in Montana will take place on May 23, 2008; and

(9) in 2004, the bison herd in North America is anticipated to surpass 500,000, and the American Bison has been restored and has become a viable commercial ranching enterprise for many small- and medium-sized ranchers.

#### SEC. 3. BISON COIN AUTHORITY EXTENSION.

Section 101 of the American 5-Cent Coin Design Continuity Act of 2003 (31 U.S.C. note) is amended—

(1) by striking "and 2005" each place that term appears, other than in subsection (b)(2), and inserting "2005, and 2006"; and

(2) in subsection (b)(2), by adding at the end the following: "If the Secretary of the Treasury elects to change the reverse of the 5-cent coins issued during 2006, one of the designs selected shall depict the image of an

American bison as part of such emblematic images.”.

**SEC. 4. EXTENSION OF THE AMERICAN 5-CENT COIN DESIGN CONTINUITY ACT OF 2003.**

Section 5112(d)(1) of title 31, United States Code, is amended in the 5th sentence, by striking “December 31, 2005” and inserting “December 31, 2006”.

By Mr. WYDEN:

S. 2642. A bill to amend the Internal Revenue Code of 1986 to deter the smuggling of tobacco products into the United States, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, today I am introducing the Smuggled Tobacco Prevention Act of 2004, and Representative DOGGETT of Texas is introducing identical legislation in the House of Representatives.

As many of my colleagues know, I have long believed that we must do everything we can to help protect our children from becoming addicted to tobacco. Whether a child is in Bend, OR or in Bangladesh, that child should be able to grow up tobacco-free.

Cigarettes are the world’s most smuggled legal consumer product. Tobacco smuggling contributes to the availability of cheap cigarettes and not only deprives governments of needed revenue, but harms the health of our citizens and of people around the world. Last month the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives reported that they have more than 300 open cases of illicit cigarette trafficking, up from only a handful five years ago. Some of those cases have been linked to the funding of terrorism.

In our country traffickers buy a large volume of cigarettes in States where the cigarette tax is low, and take them to States with higher taxes and sell them at a discount without paying the higher cigarette tax in those States. That illegal activity deprives States and localities of funds needed for schools, policing, and roads.

With better labeling, tracing, and record-keeping we believe we can end this illegal activity. Our legislation takes those common sense steps and requires that individual product packages be marked with the destination and that bonds be posted until we are assured that the tobacco product has reached its destination. The legislation would require record keeping and making those records available for inspection. The Smuggled Tobacco Prevention Act also provides whistle-blower protection for those who help authorities in locating smuggling activity.

I urge my colleagues to join me in strengthening our laws against cigarette smuggling because it is good health policy, and it is sound fiscal policy and good leadership to do so.

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

S. 2642

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

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) SHORT TITLE.—This Act may be cited as the “Smuggled Tobacco Prevention Act of 2004”.

**TITLE I—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986**

**SEC. 101. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in this title 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. 102. IMPROVED MARKING AND LABELING; EXPORT BONDS.**

(a) IN GENERAL.—Subsection (b) of section 5723 (relating to marks, labels, and notices) is amended—

(1) by striking “, if any,” and  
(2) by adding at the end the following: “Such marks, labels, and notices shall include marks and notices relating to the following:

“(1) IDENTIFICATION.—Each person who is a manufacturer or importer of tobacco products shall (in accordance with regulations prescribed by the Secretary) legibly print a unique serial number on all packages of tobacco products manufactured or imported by such person for sale or distribution. Such serial number shall be designed to enable the Secretary to identify the manufacturer of the product (and, in the case of importation, the manufacturer and importer of the product), the location and date of manufacture (and, if imported, the location and date of importation), and any other information the Secretary determines necessary or appropriate for the proper administration of the chapter. The Secretary shall determine the size and location of the serial number.

“(2) MARKING REQUIREMENTS FOR EXPORTS.—Each package of a tobacco product that is exported shall be marked for export from the United States and shall be marked as to the foreign country which is to be the final destination of such product. Such marking shall be visible and prominent and shall be in English and in the primary language of such foreign country. The Secretary shall promulgate regulations to determine the size and location of the mark.”.

(b) SALES ON INDIAN RESERVATIONS; PACKAGE DEFINED.—Section 5723 is amended by adding at the end the following new subsections:

“(f) SALES ON INDIAN RESERVATIONS.—Each package of a tobacco product that is sold on an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)) shall be visibly and prominently labeled as such. The Secretary, in consultation with the Secretary of the Interior, shall promulgate regulations with respect to such labeling, including requirements for the size and location of the label.

“(g) DEFINITION OF PACKAGE.—For purposes of this section, the term ‘package’ means the innermost sealed container visible from the outside of the individual container irrespective of the material from which such container is made, in which a tobacco product is placed by the manufacturer and in which such tobacco product is offered for sale to a member of the general public.”.

(c) REQUIREMENTS FOR TRACKING OF TOBACCO PRODUCTS.—

(1) IN GENERAL.—Subchapter B of chapter 52 is amended by adding at the end the following new section:

**“SEC. 5714. EXPORT BONDS.**

“(a) POSTING OF BOND.—

“(1) IN GENERAL.—It shall be unlawful for any person to export any tobacco product unless such person—

“(A) has posted with the Secretary a tobacco product bond in accordance with this section for such product that contains a disclosure of the country to which such product will be exported; and

“(B) receives a written statement from the recipient of the tobacco products involved that such person—

“(i) will not knowingly and willfully violate or cause to be violated any law or regulation of such country, the United States, any State, the District of Columbia, or any possession of the United States with respect to such products; and

“(ii) has never been convicted of any offense with respect to tobacco products.

“(2) REGULATIONS.—The Secretary shall promulgate regulations that determine the frequency and the amount of each bond that must be posted under paragraph (1), but in no case shall such amount be less than an amount equal to the tax imposed under this chapter on the value of the shipment of the products involved if such products were consumed within the United States.

“(3) EXPORT.—For purposes of this subsection, property shall be treated as exported if it is shipped to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

“(b) RETURN OF BOND.—The Secretary shall return a bond posted under subsection (a)—

“(1) upon a determination by the Secretary (based on documentation provided by the person who posted the bond in accordance with regulations promulgated by the Secretary) that the items to which the bond applies have been received in the country of final destination as designated in the bond, or

“(2) under such other circumstance as the Secretary may specify.”

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end the following new item:

“Sec. 5714. Export bonds.”

**SEC. 103. WHOLESALERS REQUIRED TO HAVE PERMIT.**

Section 5712 (relating to application for permit) is amended by inserting “, wholesaler,” after “manufacturer”.

**SEC. 104. CONDITIONS OF PERMIT.**

Subsection (a) of section 5713 (relating to issuance of permit) is amended to read as follows:

“(a) ISSUANCE.—

“(1) IN GENERAL.—A person shall not engage in business as a manufacturer, wholesaler, or importer of tobacco products or as an export warehouse proprietor without a permit to engage in such business. Such permit shall be issued in such form and in such manner as the Secretary shall by regulation prescribe, to every person properly qualified under sections 5711 and 5712. A new permit may be required at such other time as the Secretary shall by regulation prescribe.

“(2) CONDITIONS.—The issuance of a permit under this section shall be conditioned upon the compliance with the requirements of—

“(A) this chapter,

“(B) the Contraband Cigarette Trafficking Act (18 U.S.C. chapter 114),

“(C) the Act of October 19, 1949 (15 U.S.C. chapter 10A),

“(D) any regulations issued pursuant to such statutes, and

“(E) any other federal laws or regulations relating to the taxation, sale, or transportation of tobacco products.”.

**SEC. 105. RECORDS TO BE MAINTAINED.**

Section 5741 (relating to records to be maintained) is amended—

(1) by inserting “(a) IN GENERAL.—” before “Every manufacturer”,

(2) by inserting “every wholesaler,” after “every importer,”

(3) by striking “such records” and inserting “records concerning the chain of custody of the tobacco products (including the foreign country of final destination for packages marked for export) and such other records”, and

(4) by adding at the end the following new subsection:

“(b) RETAILERS.—Retailers shall maintain records of receipt of tobacco products, and such records shall be available to the Secretary for inspection and audit. An ordinary commercial record or invoice shall satisfy the requirements of this subsection if such record shows the date of receipt, from whom tobacco products were received, and the quantity of tobacco products received. The preceding provisions of this subsection shall not be construed to limit or preclude other recordkeeping requirements imposed on any retailer.”

#### SEC. 106. REPORTS.

Section 5722 (relating to reports) is amended—

(1) by inserting “(a) IN GENERAL.—” before “Every manufacturer”, and

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

“(b) REPORTS BY EXPORT WAREHOUSE PROPRIETORS.—

“(1) IN GENERAL.—Prior to exportation of tobacco products from the United States, the export warehouse proprietor shall submit a report (in such manner and form as the Secretary may by regulation prescribe) to enable the Secretary to identify the shipment and assure that it reaches its intended destination.

“(2) AGREEMENTS WITH FOREIGN GOVERNMENTS.—Notwithstanding section 6103 of this title, the Secretary is authorized to enter into agreements with foreign governments to exchange or share information contained in reports received from export warehouse proprietors of tobacco products if—

“(A) the Secretary believes that such agreement will assist in—

“(i) ensuring compliance with the provisions of this chapter or regulations promulgated thereunder, or

“(ii) preventing or detecting violations of the provisions of this chapter or regulations promulgated thereunder, and

“(B) the Secretary obtains assurances from such government that the information will be held in confidence and used only for the purposes specified in clauses (i) and (ii) of subparagraph (A).

No information may be exchanged or shared with any government that has violated such assurances.”

#### SEC. 107. FRAUDULENT OFFENSES.

(a) IN GENERAL.—Subsection (a) of section 5762 (relating to fraudulent offenses) is amended by striking paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(b) OFFENSES RELATING TO DISTRIBUTION OF TOBACCO PRODUCTS.—Section 5762 is amended—

(1) by redesignating subsection (b) as subsection (c),

(2) in subsection (c) (as so redesignated), by inserting “or (b)” after “(a)”, and

(3) by inserting after subsection (a) the following new subsection:

“(b) OFFENSES RELATING TO DISTRIBUTION OF TOBACCO PRODUCTS.—It shall be unlawful—

“(1) for any person to engage in the business as a manufacturer or importer of tobacco products or cigarette papers and tubes, or to engage in the business as a wholesaler or an export warehouse proprietor, without filing the bond and obtaining the permit

where required by this chapter or regulations thereunder;

“(2) for a manufacturer, importer, or wholesaler permitted under this chapter intentionally to ship, transport, deliver, or receive any tobacco products from or to any person other than a person permitted under this chapter or a retailer, except a permitted importer may receive foreign tobacco products from a foreign manufacturer or a foreign distributor that have not previously entered the United States;

“(3) for any person (other than the original manufacturer of such tobacco products or an export warehouse proprietor authorized to receive any tobacco products that have previously been exported and returned to the United States) to receive any tobacco products that have previously been exported and returned to the United States;

“(4) for any export warehouse proprietor intentionally to ship, transport, sell, or deliver for sale any tobacco products to any person other than the original manufacturer of such tobacco products, another export warehouse proprietor, or a foreign purchaser;

“(5) for any person (other than a manufacturer or an export warehouse proprietor permitted under this chapter) intentionally to ship, transport, receive, or possess, for purposes of resale, any tobacco product in packages marked pursuant to regulations issued under section 5723, other than for direct return to a manufacturer for repacking or for re-exportation or to an export warehouse proprietor for re-exportation;

“(6) for any manufacturer, importer, export warehouse proprietor, or wholesaler permitted under this chapter to make intentionally any false entry in, to fail willfully to make appropriate entry in, or to fail willfully to maintain properly any record or report that such person is required to keep as required by this chapter or the regulations promulgated thereunder;

“(7) for any person to alter, mutilate, destroy, obliterate, or remove any mark or label required under this chapter upon a tobacco product held for sale, except pursuant to regulations of the Secretary authorizing relabeling for purposes of compliance with the requirements of this section or of State law; and

“(8) for any person to sell at retail more than 5,000 cigarettes in a single transaction or in a series of related transactions, or, in the case of other tobacco products, an equivalent quantity as determined by regulation. Any person violating any of the provisions of this subsection shall, upon conviction, be fined as provided in section 3571 of title 18, United States Code, imprisoned for not more than 5 years, or both.”

(c) INTENTIONALLY DEFINED.—Section 5762 is amended by adding at the end the following:

“(d) DEFINITION OF INTENTIONALLY.—For purposes of this section and section 5761, the term ‘intentionally’ means doing an act, or omitting to do an act, deliberately, and not due to accident, inadvertence, or mistake, regardless of whether the person knew that the act or omission constituted an offense.”

#### SEC. 108. CIVIL PENALTIES.

Subsection (a) of section 5761 (relating to civil penalties) is amended—

(1) by striking “willfully” and inserting “intentionally”, and

(2) by striking “\$1,000” and inserting “\$10,000”.

#### SEC. 109. DEFINITIONS.

(a) EXPORT WAREHOUSE PROPRIETOR.—Subsection (i) of section 5702 (relating to definition of export warehouse proprietor) is amended by inserting before the period the following: “or any person engaged in the business of exporting tobacco products from

the United States for purposes of sale or distribution. Any duty free store that sells, offers for sale, or otherwise distributes to any person in any single transaction more than 30 packages of cigarettes, or its equivalent for other tobacco products as the Secretary shall by regulation prescribe, shall be deemed an export warehouse proprietor under this chapter”.

(b) RETAILER; WHOLESALER.—Section 5702 is amended by adding at the end the following:

“(p) RETAILER.—The term ‘retailer’ means any dealer who sells, or offers for sale, any tobacco product at retail. The term ‘retailer’ includes any duty-free store that sells, offers for sale, or otherwise distributes at retail in any single transaction 30 or fewer packages of cigarettes, or its equivalent for other tobacco products.

“(q) WHOLESALER.—The term ‘wholesaler’ means any person engaged in the business of purchasing tobacco products for resale at wholesale, or any person acting as an agent or broker for any person engaged in the business of purchasing tobacco products for resale at wholesale.”

#### SEC. 110. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 1, 2005.

### TITLE II—AMENDMENTS TO THE CONTRABAND CIGARETTE TRAFFICKING ACT

#### SEC. 201. AMENDMENTS TO THE CONTRABAND CIGARETTE TRAFFICKING ACT.

(a) EXPANSION OF ACT TO COVER OTHER TOBACCO PRODUCTS.—

(1) Paragraphs (1) through (2) of section 2341 of title 18, United States Code, are amended to read as follows:

“(1) the term ‘tobacco product’ has the meaning given to such term by section 5702 of the Internal Revenue Code of 1986;

“(2) the term ‘contraband tobacco product’ means any tobacco product if—

“(A)(i) in the case of cigarettes, such cigarettes are in a quantity in excess of 2,000 cigarettes; or

“(ii) in the case of a tobacco product other than a cigarette, such product is in a quantity in excess of the equivalent of 2,000 cigarettes as determined under rules made by the Attorney General;

“(B)(i) if the State in which such tobacco product is found requires a stamp, impression, or other indication to be placed on packages or other containers of product to evidence payment of tobacco taxes, such tobacco product bears no evidence of such payment; or

“(ii) if such State has no such requirement, applicable tobacco taxes are found to be not paid; and

“(C) such tobacco product is in the possession of any person other than—

“(i) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as a manufacturer or importer of tobacco products or as an export warehouse proprietor, or a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311 or 1555) or an agent of such person;

“(ii) a common or contract carrier transporting the tobacco product involved under a proper bill of lading or freight bill which states the quantity, source, and destination of such product;

“(iii) a person—

“(I) who is licensed or otherwise authorized by the State where the tobacco product is found to account for and pay tobacco taxes imposed by such State; and

“(II) who has complied with the accounting and payment requirements relating to such license or authorization with respect to the tobacco product involved; or

“(iv) an officer, employee, or other agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State) having possession of such tobacco product in connection with the performance of official duties;”.

(2) Section 2345 of title 18, United States Code, is amended—

(A) by striking “cigarette tax laws” each place it appears and inserting “tobacco tax laws”, and

(B) by striking “cigarettes” and inserting “tobacco products”.

(b) UNLAWFUL ACTS.—Section 2342 of title 18, United States Code, is amended to read as follows:

**“§ 2342. Unlawful acts**

“(a) It shall be unlawful for any person knowingly to ship, transport, receive, possess, sell, distribute, or purchase contraband tobacco products.

“(b)(1) It shall be unlawful for any person knowingly—

“(A) to make any false statement or representation with respect to the information required by this chapter to be kept in the records or reports of any person who ships, sells, or distributes (in a single transaction or in a series of related transactions) any quantity of tobacco product in excess of the quantity specified in or pursuant to section 2341(2)(A) with respect to such product, or

“(B) to fail to maintain records or reports, alter or obliterate required markings, or interfere with any inspection, required under this chapter, with respect to such quantity of tobacco product.

“(c) It shall be unlawful for any person knowingly to transport tobacco products under a false bill of lading or without any bill of lading.”.

(c) CONFORMING AMENDMENTS RELATING TO RECORDKEEPING.—

(1) Subsections (a) and (b) of section 2343 of title 18, United States Code, are each amended by striking “any quantity of cigarettes in excess of 60,000 in a single transaction” and inserting “(in a single transaction or in a series of related transactions) any quantity of tobacco product in excess of the quantity specified in or pursuant to section 2341(2)(A) with respect to such product”.

(d) PENALTIES.—Section 2344 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting “or (c)” after “section 2342(b)”; and

(2) by striking subsection (c) and inserting the following new subsection:

“(c) Any contraband tobacco products involved in any violation of this chapter shall be subject to seizure and forfeiture, and all provisions of section 9703(o) of title 31, United States Code, shall, so far as applicable, extend to seizures and forfeitures under this chapter.”.

(e) JENKINS ACT AMENDMENTS.—

(1) Section 4 of the Act of October 19, 1949 (15 U.S.C. 378) is amended by adding at the end the following: “A State tobacco tax authority may commence a civil action to obtain appropriate relief with respect to a violation of this Act.”.

(2) Paragraph (2) of section 1 of such Act is amended to read as follows:

“(2) The term ‘tobacco product’ has the meaning given to such term by section 5702 of the Internal Revenue Code of 1986.”.

(3) Such Act is further amended by striking “cigarette” and “cigarettes” each place either appears and inserting “tobacco product” and “tobacco products” respectively.

(f) NON-PREEMPTION.—Nothing in this title or the amendments made by this title shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of State law.

**TITLE III—WHISTLEBLOWER PROTECTION PROVISIONS**

**SEC. 301. WHISTLEBLOWER PROTECTION.**

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

**“§ 1514B. Civil action to protect against retaliation in contraband tobacco cases**

“(a) WHISTLEBLOWER PROTECTION FOR CONTRABAND TOBACCO.—No person may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

“(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 2342 or any other provision of Federal law relating to contraband tobacco, when the information or assistance is provided to or the investigation is conducted by—

“(A) a Federal regulatory or law enforcement agency;

“(B) any Member of Congress or any committee of Congress; or

“(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

“(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 2342, or any provision of Federal law relating to contraband tobacco.

“(b) ENFORCEMENT ACTION.—

“(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

“(A) filing a complaint with the Secretary of Labor; or

“(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

“(2) PROCEDURE.—

“(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

“(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

“(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

“(c) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

“(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

“1514B. Civil action to protect against retaliation in contraband tobacco cases.”.

By Mr. DURBIN:

S. 2643. A bill to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce, Science, and Transportation

Mr. DURBIN. Mr. President, I rise today to introduce the Cigarette Fire Safety Act of 2004. Joe Moakley started his effort to require less fire-prone cigarettes in 1979 and championed this issue until his death in May of 2001. I am here to finish what he started.

The statistics regarding cigarette-related fires are startling. Cigarette-ignited fires account for an estimated 140,800 fires in the United States. Such fires cause more than 900 deaths and 2,400 injuries each year. Annually, more than \$400 million in property damage is reported due to a fire caused by a cigarette. According to the National Fire Protection Association, one out of every four fire deaths in the United States are attributed to tobacco products—by far the leading cause of civilian deaths in fires. Overall, the Consumer Product Safety Commission estimates that the cost of the loss of human life and personal property from not having a fire-safe cigarette standard is approximately \$4.6 billion per year.

In my State of Illinois, cigarette-related fires have also caused too many senseless tragedies. In 1998 alone, the most recent year for which we have data, there were more than 1,700 cigarette-related fires, of which more than 900 were in people's homes. These fires led to 109 injuries and 8 deaths.

Tobacco companies spend billions on marketing and learning how to make cigarettes appealing to kids. It is not unreasonable to ask those same companies to invest in safer cigarette paper to make their products less likely to burn down a house. The State of New York has taken the first step, and by June 2004, all cigarettes sold in the State will be tested for fire safety and required to self-extinguish. It is time to establish a national standard to ensure that our nation's children, elderly and families are protected.

The Cigarette Fire Safety Act of 2004 requires the Consumer Product Safety Commission to promulgate a fire safety standard, specified in the legislation, for cigarettes. The CPSC would also have the authority to regulate the

ignition propensity of cigarette paper for roll-your-own tobacco products. The Act gives the Consumer Product Safety Commission authority over cigarettes only for purposes of implementing and enforcing compliance with this Act and with the standard promulgated under the Act. It also allows states to pass more stringent fire-safety standards for cigarettes.

When Joe Moakley set out more than two decades ago to ensure that the tragic cigarette-caused fire that killed five children and their parents in Westwood, MA was not repeated, he made a difference. He introduced three bills, two of which passed. One commissioned a study that concluded it was technically feasible to produce a cigarette with a reduced propensity to start fires. The second required that the National Institute of Standards and Technology develop a test method for cigarette fire safety, and the last and final bill, the Fire-Safe Cigarette Act of 1999, mandates that the Consumer Product Safety Commission use this knowledge to regulate cigarettes with regard to fire safety.

Today I am here to reintroduce Moakley's bill and to accomplish what he set out to do. I hope that the Commerce Committee will consider this legislation expeditiously and that my colleagues will join me in supporting this effort. Joe waited long enough. Let's get this done for him.

By Mr. MCCAIN:

S. 2645. A bill to amend the Communications Act of 1934 to authorize appropriations for the Corporation for Public Broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I rise today to introduce The Public Broadcasting Reauthorization Act of 2004. This legislation is designed to reauthorize the Corporation for Public Broadcasting (CPB or "the Corporation") through 2011 to carry forth its mission to support the Nation's public broadcasting system. This private, non-profit corporation has not been reauthorized since 1996.

In 1967, Congress created the Corporation, declaring, "It is in the public interest to encourage the growth and development of public radio and television broadcasting, including the use of such media for instructional, educational and cultural purposes." Today, the primary function of the CPB is to receive and distribute governmental funds to stations, develop national programming, and maintain universal access to public broadcasting's educational programs and services through 356 public television stations and almost 800 public radio stations.

In addition to authorizing the Corporation, the bill would explicitly provide public broadcast stations the ability to use CPB funds to produce local programming. An April 2004 General Accounting Office (GAO) report noted

that 79 percent of the public television stations surveyed found that the amount of local programming they currently produce is not sufficient to meet local community needs. Eighty-five percent of the stations surveyed stated that they do not have adequate funds for local programming or that they would produce more local programming if they could obtain additional sources of funding. The bill would provide the Corporation the explicit authority to award grants for the production and acquisition of local programming and allow stations to use CPB funds supporting the digital transition to produce local digital programming.

Furthermore, the bill would expand the definition of public telecommunications services to capture the services public broadcasters are now providing through their web sites and through digital multicasting. The bill would also allow CPB to recoup some federal funds provided to a public broadcast station if the broadcaster sells the station to an entity that does not offer public broadcasting services.

Reauthorization would allow the CPB to continue carrying out its many responsibilities. I look forward to working with my colleagues to expeditiously move this measure through the legislative process.

Today the Senate Committee on Commerce, Science, and Transportation held a hearing on public broadcasting. Mr. Ken Burns, a filmmaker, spoke eloquently at the hearing on the benefits public broadcasting provides to local communities. Mr. President, I ask unanimous consent that Mr. Burns' testimony and the text of the bill be printed in the RECORD.

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

S. 2645

*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 "Public Broadcasting Reauthorization Act of 2004".

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

(a) CORPORATION FOR PUBLIC BROADCASTING.—Section 396(k)(1) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)) is amended by striking subparagraphs (B) through (F) and inserting the following:

"(B) There is authorized to be appropriated to the Fund, for each of the fiscal years 2007, 2008, 2009, 2010 and 2011, an amount equal to 40 percent of the total amount of non-Federal financial support received by public broadcasting entities during the second fiscal year preceding each such fiscal year, except that the amount so appropriated shall not exceed—

- "(i) \$416,000,000 for fiscal year 2007;
- "(ii) \$432,000,000 for fiscal year 2008;
- "(iii) \$450,000,000 for fiscal year 2009;
- "(iv) \$468,000,000 for fiscal year 2010; and
- "(v) \$487,000,000 for fiscal year 2011.

"(C) In addition to any amounts authorized under any other provision of this or any other Act, there are authorized to be appropriated to the Fund, (notwithstanding any other provision of this subsection) specifically for transition from the use of analog to digital technology for the provision of public

telecommunications services and for the acquisition or production of digital programming of local, regional, and national interest—

- "(i) \$50,000,000 for fiscal year 2005;
- "(ii) \$50,000,000 for fiscal year 2006;
- "(iii) \$40,000,000 for fiscal year 2007;
- "(iv) \$30,000,000 for fiscal year 2008; and
- "(v) \$20,000,000 for fiscal year 2009.

"(D) Funds appropriated under this subsection shall remain available until expended and shall be disbursed by the Secretary of the Treasury for obligation and expenditure as soon after appropriation as practicable. The Corporation shall distribute funds authorized by subparagraph (C) and allocated to public broadcast stations under this subsection as expeditiously as practicable when made available by the Secretary of the Treasury, and in a manner that is determined, in consultation with public radio and television licensees or permittees and their designated representatives."

(b) PUBLIC BROADCASTING INTERCONNECTION SYSTEM.—Section 396(k)(10) of the Communications Act of 1934 (47 U.S.C. 396(k)(10)) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) There are authorized to be appropriated to the Satellite Interconnection Fund \$250,000,000 for fiscal year 2005. If the amount appropriated to the Satellite Interconnection Fund for fiscal year 2005 is less than \$250,000,000, the amount by which that sum exceeds the amount appropriated is authorized to be appropriated for fiscal years 2006 through 2008 until the full \$250,000,000 has been appropriated to the Fund. Funds appropriated to the Satellite Interconnection Fund shall remain available until expended.

"(C) The Secretary of the Treasury shall make available and disburse to the Corporation, at the beginning of fiscal year 2005 and of each succeeding fiscal year thereafter, such funds as have been appropriated to the Satellite Interconnection Fund for the fiscal year in which such disbursement is to be made."

(c) PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM GRANTS.—Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking "\$42,000,000 for each of the fiscal years 1992, 1993, and 1994," and inserting "\$50,000,000 for fiscal year 2005, \$52,000,000 for fiscal year 2006, \$54,008,000 for fiscal year 2007, \$56,240,000 for fiscal year 2008, \$58,490,000 for fiscal year 2009, \$60,820,000 for fiscal year 2010, and \$63,250,000 for fiscal year 2011,"; and

(2) by striking "facilities" each place it occurs and inserting "facilities, including analog and digital broadcast facilities and equipment,".

**SEC. 3. RECOUPMENT OF FUNDS BY CORPORATION.**

Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end the following:

"(13) Funds may not be distributed pursuant to this section to any public broadcast station unless it agrees that, upon request by the Corporation, at such time as it ceases to provide public telecommunications services or transfers or assigns its broadcast license or permit to an entity that will not provide public telecommunications services (as defined in section 397(14) of this Act), it will—

"(A) return any or all unexpended funds for all grants made by the Corporation; and

"(B) with respect to grants made by the Corporation during the prior 5 years for the purchase or construction of public telecommunications facilities, return an amount that is no more than an amount bearing the same ratio to the current value of such facilities at the time of cessation of public telecommunications service as the ratio that

the Corporation's contribution bore to the total cost of purchasing or constructing such facilities."

**SEC. 4. REDEFINITION OF PUBLIC TELECOMMUNICATIONS SERVICES TO INCLUDE NEW TECHNOLOGIES.**

(a) TRANSITION AND PROGRAMMING AUTHORIZATION.—Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)), as amended by section 2(a) of this Act, is further amended by striking "public broadcasting services," and inserting "public telecommunications services,".

(b) PUBLIC TELECOMMUNICATIONS SERVICES TO INCLUDE NEW TECHNOLOGIES.—Section 397(14) of the Communications Act of 1934 (47 U.S.C. 397(14)) is amended to read as follows:

"(14) The term 'public telecommunications services' means noncommercial educational and cultural—

"(A) radio and television programming or other content; and

"(B) instructional or informational material (including data) transmitted electronically."

**SEC. 5. LOCAL CONTENT, PROGRAMMING, AND SERVICES.**

Section 396(k)(7) of the Communications Act of 1934 (47 U.S.C. 396(k)(7)) is amended by striking "to the production and acquisition of programming." and inserting "to the support of content, programming, and services, especially those that serve the needs and interests of the recipient's local community."

Mr. Chairman and Members of the Committee: It is an honor for me to appear before you today on behalf of PBS. I am grateful that you have given me this opportunity to express my thoughts. Let me say from the outset—as a film producer and as a father of two daughters increasingly concerned about the sometimes dangerous landscape of our television environment—that I am a passionate, life-long supporter of public television and its unique role in helping to stitch our exquisite, diverse, and often fragile culture together.

Few institutions provide such a direct, grassroots way for our citizens to participate in the shared glories of their common past, in the power of the priceless ideals that have animated our remarkable republic and our national life for more than two hundred years, and in the inspirational life of the mind and the heart that an engagement with the arts always provides. It is my wholehearted belief that anything that threatens this institution weakens our country. It is as simple as that.

For more than 25 years I have been producing historical documentary films, celebrating the special messages American history continually directs our way. The subjects of these films range from the construction of the Brooklyn Bridge and the Statue of Liberty to the life of the turbulent demagogue Huey Long; from the graceful architecture of the Shakers to the early founders of radio; from the sublime pleasures and unexpected lessons of our national pastime and Jazz to the searing transcendent experience of our Civil War; from Thomas Jefferson and Lewis and Clark to Frank Lloyd Wright, Elizabeth Cady Stanton and Mark Twain. I even made a film on the history of this magnificent Capitol building and the much maligned institution that is charged with conducting the people's business.

In every instance, I consciously produced these films for national public television broadcast, not the commercial networks or cable.

As an educational filmmaker, I am grateful to play even a small part in an underfunded broadcasting entity with one foot tenuously in the marketplace and the other decidedly and proudly out, which, among

dozens of fabulously wealthy networks, just happens to produce—on shoestring budgets—the best news and public affairs programming on television, the best science and nature programming on television, the best arts on television, the best children's shows on television, and, some say, the best history on television.

When I was working more than 15 years ago on my film about the Statue of Liberty, its history and powerful symbolism, I had the great good fortune to meet and interview Vartan Gregorian, who was then the president of the New York Public Library. After an extremely interesting and passionate interview on the meaning behind the statue for an immigrant like him—from Tabriz, Iran—Vartan took me on a long and fascinating tour of the miles of stacks of the Library. Finally, after galloping down one claustrophobic corridor after another, he stopped and gestured expansively. "This," he said, surveying his library from its guts, "this is the DNA of our civilization."

I think he was saying that that library, indeed, all libraries, archives, and historical societies are the DNA of our society, leaving an imprint of excellence and intention for generations to come. It occurs to me this morning, as we consider the rich history of service and education of PBS, that we must certainly include this great institution in that list of the DNA of our civilization. That public television is part of the great genetic legacy of our Nation. And that cannot, should not, be denied us or our posterity.

PBS has consistently provided, with its modest resources, and over more than three tumultuous decades, quite simply an antidote to the vast wasteland of television programming Newton Minnow so accurately described. We do things differently. We are hardly a "disappearing niche," as some suggest, but a vibrant, galvanic force capable of sustaining this experiment well into our uncertain future.

Some critics say that PBS is no longer needed in this multi-channel universe, that our government has no business in television or the arts and humanities, that we must let the marketplace alone determine everything in our cultural life, that a few controversial programs prove the political bias of the public television community. I feel strongly that I must address those assertions.

First let me share a few facts that might surprise you: As a result of media consolidation, public stations are frequently the last and only locally owned media operations in their markets. Despite the exponential growth of television options, 84 million people a week watch PBS—more than any cable outlet. It is the number one choice of video curriculum in the classroom and its non-violent, non-commercial children's programs are the number one choice of parents. Indeed, as commercial television continues in its race to the bottom for ratings, PBS has earned the Nation's trust to deliver programs that both entertain and educate and that do so in a manner that the public consistently rates as balanced and objective.

But above and beyond these facts that demonstrate the ways in which PBS is more important than ever in helping to address the public's needs today, there is a larger argument to be made—one that is rooted in our Nation's history.

Since the beginning of this country, our government has been involved in supporting the arts and the diffusion of knowledge, which was deemed as critical to our future as roads and dams and bridges. Early on, Thomas Jefferson and the other founding fathers knew that the pursuit of happiness did not mean a hedonistic search for pleasure in the marketplace of things, but an active involvement of the mind in the higher aspects of

human endeavor—namely education, music, the arts, and history—a marketplace of ideas. Congress supported the journey of Lewis and Clark as much to explore the natural, biological, ethnographic, and cultural landscape of our expanding Nation as to open up a new trading route to the Pacific. Congress supported numerous geographical, artistic, photographic, and biological expeditions to nearly every corner of the developing West. Congress funded, through the Farm Securities Administration, the work of Walker Evans and Dorothea Lange and other great photographers who captured for posterity the terrible human cost of the Depression. At the same time, Congress funded some of the most enduring writing ever produced about this country's people, its monuments, buildings, and back roads in the still much used and admired WPA guides. Some of our greatest symphonic work, our most treasured dramatic plays, and early documentary film classics came from an earlier Congress' support.

With Congress' great insight PBS was born and grew to its startlingly effective maturity echoing the same time-honored sense that our Government has an interest in helping to sponsor Communication, Art and Education just as it sponsors Commerce. We are not talking about a 100 percent sponsorship, a free ride, but a priming of the pump, a way to get the juices flowing, in the spirit of President Reagan's notion of a partnership between the government and the private sector. The Corporation for Public Broadcasting grant I got for the Civil War series attracted even more funds from General Motors and several private foundations; money that would not have been there had not the Corporation for Public Broadcasting blessed this project with their rigorously earned imprimatur.

But there are those who are sure that without public television, the so-called "marketplace" would take care of everything; that what won't survive in the marketplace, doesn't deserve to survive. Nothing could be further from the truth. Because we are not just talking about the commerce of a Nation. We are not just economic beings, but spiritual and intellectual beings as well, and so we are talking about the creativity of a Nation. Now, some forms of creativity thrive in the marketplace and that is a wonderful thing, reflected in our Hollywood movies and our universally popular music. But let me say that the marketplace could not have made and to this day could not make my Civil War series, indeed any of the films I have worked on.

That series was shown on public television, outside the marketplace, without commercial interruption, by far the single most important factor for our insuring PBS's continuing existence and for understanding the Civil War series' overwhelming success. All real meaning in our world accrues in duration; that is to say, that which we value the most—our families, our work, the things we build, our art—has the stamp of our focused attention. Without that attention, we do not learn, we do not remember, we do not care. We are not responsible citizens. Most of the rest of the television environment has ignored this critical truth. For several generations now, TV has disrupted our attention every eight minutes (or less) to sell us five or six different things, then sent us back, our ability to digest all the impressions compromised in the extreme. The programming on PBS in all its splendid variety, offers the rarest treat amidst the outrageous cacophony of our television marketplace—it gives us back our attention and our memory. And by so doing, insures that we have a future.

The marketplace will not, indeed cannot, produce the good works of PBS. Just as the

marketplace does not come to your house at 3:00 a.m. when it is on fire or patrols the dangerous ground in Afghanistan and Iraq. No, the marketplace does not and will not pay for our fire departments or more important our Defense Department, things essential to the safety, defense and well-being of our country. It takes government involvement, eleemosynary institutions, individual altruism, extra-marketplace effort to get these things made and done. I also know, Mr. Chairman, that PBS has nothing to do with the actual defense of our country. I know that—PBS, I believe with every fiber of my being, just helps make our country worth defending.

The meat and potatoes of public television reaches out to every corner of the country and touches people in positive ways the Federal Government rarely does. Recent research suggests that PBS is the most trusted national institution in the United States. Indeed, it would be elitist itself to abolish public television, to trust to the marketplace and the "natural aristocracy" that many have promised over the last two hundred years would rise up to protect us all—and hasn't. Those who labor in public television are not unlike those in public service who sacrifice job security, commensurate pay, and who are often misunderstood by a media culture infatuated by their seemingly more glamorous colleagues.

With regard to my own films, I have been quite lucky. The Civil War series was public television's highest rated program and has been described as one of the best programs in the history of the medium. But that show, indeed all of my films produced over the last quarter of a century, are only a small part, a tiny fraction, of the legacy of PBS. If public television's mission is severely hampered or curtailed, I suppose I will find work, but not the kind that ensures good television or speaks to the overarching theme of all my films—that which we Americans all hold in common. But more to the point, where will the next generation of filmmakers be trained? By the difficult rigorous proposal process of CPB and PBS or by the "gotcha," hit and run standards of our commercial brethren? I hope it will be the former.

The former Speaker of the House of Representatives Newt Gingrich spoke eloquently and often of an American people poised for the twenty-first century, endowed with a shared heritage of sacrifice and honor and the highest ideals mankind has yet advanced, but also armed with new technologies that would enable us to go forward as one people. I say to all who would listen that we have in public television exactly what he envisions.

Unfortunately, some continue to believe that public television is a hot-bed of thinking outside the mainstream. I wonder, though, have they ever been to a PBS station? I doubt it. PBS is the largest media enterprise in the world, reaching into the most remote corners of every state in the Union and enriching the lives of people of all backgrounds. It is also the largest educational institution in the country—because of national and local services that help build school readiness, support schools, provide distance learning, GED prep and essential workplace skills. Local public television stations are essentially conservative institutions, filled with people who share the concerns of most Americans and who reflect the values of their own communities. And Mr. Chairman, I know many people who criticize us as too conservative, too middle of the road, too safe.

And in a free society, the rare examples of controversy that may run counter to our accepted cannon, or one group's accepted cannon ought to be seen as a healthy sign that

we are a nation tolerant of ideas, confident—as the recent tide of geo-political history has shown—that the best ideas will always prevail.

One hundred and sixty-six years ago, in 1838, well before the Civil War, Abraham Lincoln challenged us to consider the real threat to the country, to consider forever the real cost of our inattention: "Whence shall we expect the approach of danger?" he wrote. "Shall some transatlantic giant step the earth and crush us at a blow? Never. All the armies of Europe and Asia could not by force take a drink from the Ohio River or make a track in the Blue Ridge in the trial of a thousand years. No, if destruction be our lot, we must ourselves be its author and finisher." As usual, Mr. Lincoln speaks to us today with the same force he spoke to his own times.

The real threat always and still comes from within this favored land, that the greatest enemy is, as our religious teachings constantly remind us, always ourselves. Today, we have become so dialectically pre-occupied, stressing our differences; black/white, left/right, young/old, in/out, good/bad, that we have forgotten to select for the mitigating wisdom that reconciles these disparities into honest difference and collegiality, into a sense of belonging. And we long, indeed ache, for institutions that suggest how we might all be bound back to the whole. PBS is one such institution.

The clear answer is tolerance, a discipline sustained in nearly every gesture and breath of the public television I know. We are a Nation that loses its way only when we define ourselves by what we are against not what we are for. PBS is that rare forum where more often than not we celebrate what we are for; celebrate, why, against all odds, we Americans still agree to cohere.

On the other hand, in public television must not take ourselves too seriously. Sometimes our greatest strength, our earnestness and seriousness, has metastasized into our greatest weakness. Usually a faithful and true companion, that earnestness and seriousness is sometimes worked to death. And Lord, how we sometimes like to see our mission as the cure. I remember once, after giving an impassioned defense of what we do at PBS, a man came up to me and said simply, "It's not brain surgery, you know." He was right, of course, but sometimes we do effect subtler changes; help in quotidian ways.

Not too long ago, on a perfect spring day, I was walking with my oldest daughter through a park in a large American city on the way to her college interview. We were taking our time, enjoying the first warm day of the year, when a man of about thirty, dressed in a three piece suit, approached me.

"You're Ken Burns." he asked. I nodded. "I need to talk to you about Baseball," he said under his breath. "Okay." I hesitated. Then, he blurted out: "My brother's daughter died." I took a step backward, stepping in front of my daughter to protect her. "Okay," I said tentatively. I didn't know what else to say. "SIDS," he said. "Crib death. She was only one." "I'm so sorry," I said. "I have daughters."

"I didn't know what to do," he said in a halting, utterly sad voice. "My brother and I are very close. Then I thought of your film. I went home to our mother's house, got our baseball mitts, and went to my brother's. I didn't say a word. I handed him his mitt and we went out into the backyard and we played catch wordlessly for an hour. Then I went home. . . . I just wanted to thank you."

Maybe it is brain surgery. Mr. Chairman, most of us here, whether we know it or not, are in the business of words. And we hope with some reasonable expectations that those words will last. But alas, es-

pecially today, those words often evaporate, their precision blunted by neglect, their insight diminished by the sheer volume of their ever increasing brethren, their force diluted by ancient animosities that seem to set each group against the other.

The historian Arthur Schlesinger, Jr. has said that we suffer today from "too much pluribus, not enough unum." Few things survive in these cynical days to remind us of the Union from which so many of our personal as well as collective blessings flow. And it is hard not to wonder, in an age when the present moment overshadows all else—our bright past and our unknown future—what finally does endure? What encodes and stores that genetic material of our civilization, passing down to the next generation—the best of us—what we hope will mutate into betterness for our children and our posterity.

PBS holds one clear answer. It is the best thing we have in our television environment that reminds us why we agree to cohere as a people. And that is a fundamentally good thing.

Nothing in our daily life offers more of the comfort of continuity, the generational connection of belonging to a vast and complicated American family, the powerful sense of home, and the great gift of accumulated memory than does this great system which honors me by counting me a member one of its own.

By Mr. CHAFEE (for himself, Mr. REED, Mr. KERRY, and Mr. KENNEDY):

S. 2646. A bill to direct the Director of the National Park Service to prepare a report on the sustainability of the John H. Chafee Blackstone River Valley National Heritage Corridor and the John H. Chafee Blackstone River Valley National Heritage Commission; to the Committee on Energy and Natural Resources.

Mr. CHAFEE: Mr. President, I am joined today by Senators REED, KENNEDY and KERRY in introducing legislation that would study the sustainability of the John H. Chafee Blackstone River Valley National Heritage Corridor.

Established in 1986, the Blackstone Heritage Corridor recognizes the national and historical significance of the Blackstone region as the birthplace of the American Industrial Revolution. At the time of its inception, the Blackstone Corridor represented an entirely new approach for the National Park Service (NPS). Instead of designating the area as a unit of the National Park System, the Blackstone Corridor became an innovative model for how the NPS could work with States and local communities in recognizing and interpreting the history and resources of a region. Spanning two States and encompassing twenty communities and half a million people, the Corridor represents a unique partnership between the NPS, the States of Rhode Island and Massachusetts, and the local communities.

Charged with overseeing the Corridor, federally-appointed State and local representatives form the Blackstone Corridor Commission and work with the NPS to carry out the mission of preserving and interpreting the

unique resources and qualities of the Blackstone Valley. During the Commission's tenure, strong partnerships with local governments, private investors, and community stakeholders have been formed, introducing millions of dollars in private investment for heritage-related projects into the local economy. The success of the Corridor can be attributed to the dedication and hard work of the NPS and the Corridor Commission in bringing communities together to realize the common goals of revitalized communities, historic and economic restoration, and an improved environment. All this has been accomplished with a relatively small amount of Federal funding that has been leveraged many times over by State, local, and private sector dollars.

On a daily basis, the NPS and Corridor Commission are working directly with community stakeholders to transform the Blackstone Corridor; raise its economic and environmental status; and preserve the historic mill buildings, riverfronts, and town centers of the Blackstone River Valley. The ongoing success of the Blackstone Corridor, and the Federal Government's role in the region's many triumphs, underscore our interest in determining a future role for the Corridor Commission and NPS in the Blackstone Valley beyond the existing sunset date.

With authority for the Corridor Commission set to expire in November 2006, we are introducing legislation today that would authorize the NPS to conduct a sustainability study exploring future options for the Blackstone Corridor. We are asking that the agency conduct this study within a one-year timeframe, utilizing annual funds that have been appropriated for the Commission. The John H. Chafee Blackstone River Valley National Heritage Corridor Sustainability Study includes the following components: An evaluation of the progress that has been made in accomplishing the strategies and goals set forth in the Cultural Heritage and Land Management Plan for the Blackstone Corridor, including historic preservation, interpretation and education, environmental recovery, recreational development, and economic improvement; an analysis of the NPS's investment in the Corridor during its lifetime and a determination as to how these Federal funds have leveraged additional State, local and private sector funding; an analysis of the NPS's investment in the Corridor during its lifetime and a determination as to how these Federal funds have leveraged additional State, local and private sector funding; an analysis of the Commission form of authority and management structure for the Blackstone Corridor; and, an identification and evaluation of options for a permanent NPS designation or a State park or regional entity as a sustainable framework to achieve the national interest of the Blackstone Valley.

I look forward to working closely with the cosponsors of this bill, as well

as members of the Committee on Energy and Natural Resources and my Senate colleagues in moving this legislation forward in the months ahead.

I ask by unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2647

*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 "John H. Chafee Blackstone River Valley National Heritage Corridor Sustainability Report Act".

#### SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Blackstone River Valley National Heritage Corridor (redesignated the John H. Chafee Blackstone River Valley National Heritage Corridor in 1999) was established in 1986 in recognition of the national importance of the region as the birthplace of the American Industrial Revolution;

(2) the Corridor has become a national model of how the National Park Service can work cooperatively with local communities and a multi-agency partnership to create a seamless system of parks, preserved historic sites, and open spaces that enhance the protection and understanding of America's heritage, without Federal ownership and regulations;

(3) the Corridor is managed by a bi-State, 19-member Federal commission representing Federal, State and local authorities from the Commonwealth of Massachusetts and the State of Rhode Island whose mandate has been to implement an approved integrated resource management plan;

(4) the authorization and funding for the John H. Chafee Blackstone River Valley National Heritage Commission are scheduled to expire in November 2006, while the Federal designation of the area and its boundaries continues in perpetuity; and

(5) the National Park System Advisory Board will be reviewing the future of all national heritage areas and making recommendations to the Director of the National Park Service and the Secretary of the Interior.

(b) PURPOSES.—The purposes of this Act are—

(1) to explore the options for preserving, enhancing, and interpreting the resources of the John H. Chafee Blackstone River Corridor and the partnerships that sustain those resources; and

(2) to direct the Director of the National Park Service to submit to Congress a report that—

(A) analyzes the sustainability of the Corridor; and

(B) provides recommendations for the future of the Corridor.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) CORRIDOR.—The term "Corridor" means the John H. Chafee Blackstone River Valley National Heritage Corridor.

(2) COMMISSION.—The term "Commission" means the John H. Chafee Blackstone River Valley National Heritage Commission.

(3) DIRECTOR.—The term "Director" means the Director of the National Park Service.

#### SEC. 4. REPORT.

(a) IN GENERAL.—The Director shall prepare a report on the sustainability of the Corridor.

(b) COMPONENTS.—The report prepared under subsection (a) shall—

(1) document the progress that has been made in accomplishing the purpose of Public Law 99-647 (6 U.S.C. 461 note; 100 Stat. 3625) and the strategies and goals set forth in the Cultural Heritage and Land Management Plan for the Corridor, including—

(A) historic preservation;

(B) interpretation and education;

(C) environmental recovery;

(D) recreational development; and

(E) economic improvement;

(2) based on the results documented under paragraph (1), identify further actions and commitments that are needed to protect, enhance, and interpret the Corridor;

(3)(A) determine the extent of Federal funding provided to the Corridor; and

(B) determine how the Federal funds have leveraged additional Federal, State, local, and private funding for the Corridor since the establishment of the Corridor; and

(4)(A) evaluate the Commission form of authority and management structure for the Corridor, as established by Public Law 99-647 (6 U.S.C. 461 note; 100 Stat. 3625); and

(B) identify and evaluate options for a permanent National Park Service designation or a State park or regional entity as a sustainable framework to achieve the national interest of the Blackstone Valley.

(c) COORDINATION.—To the maximum extent practicable, the Director shall prepare the report in coordination with the National Park System Advisory Board.

(d) SUBMISSION TO CONGRESS.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Director shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate the report prepared under subsection (a).

(e) FUNDING.—Funding to prepare the report under this Act shall be made available from annual appropriations for the Commission.

By Mr. HOLLINGS (for himself,  
Mr. STEVENS, Mr. INOUE, and  
Mr. GREGG):

S. 2647. A bill to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, to ensure effective interagency coordination, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, today I rise to introduce the National Ocean Policy and Leadership Act, which is cosponsored by my colleagues Senators STEVENS and INOUE. The passage of this bill would mark a brand new day for our oceans and an important new chapter in Federal management of these waters.

Our oceans are critical to the economic and environmental security of our Nation. This is why I sponsored the Oceans Act of 2000, along with several of my distinguished colleagues. The Oceans Act created a Commission of national experts to conduct a rigorous assessment of ocean and coastal issues and offer their recommendations for a coordinated national ocean policy. The U.S. Commission on Ocean Policy, chaired by Admiral James Watkins, released its preliminary report in April and will issue its final report later this summer.

The Ocean Commission strongly urged us to pay more attention to our

ocean planet. Our oceans cover seven-tenths of the Earth's surface and are home to 80 percent of all life forms on Earth, holding incredible promise of new medicines, technologies, and ecological resources. However, 95 percent of the deep ocean remains unexplored and the Federal government spends only 3.5 percent of its research budget on oceans. Each day, more than 3,000 people move to coastal areas and these population and development pressures are resulting in degraded coastal habitat, polluted estuaries, and an increased risk of damage from coastal storms. Our fish stocks are being depleted, our corals are dying, and the number of oxygen-starved "dead zones" in our coastal waters have doubled in the past 15 years.

The Ocean Commission appropriately acknowledges the importance of the oceans to our Nation. It champions the notion that major changes are needed now if we are to preserve our marine resources for future generations. Among these urgent changes is a need to invest in ocean research and education in order to lay a foundation for the future. Even more importantly, the report stresses the need to improve the management framework governing our oceans and coasts, starting with the strengthening of the National Oceanic and Atmospheric Administration (NOAA) into the Nation's premier civilian ocean agency. These were some of the themes Admiral Watkins testified to at hearings on the preliminary report before the Committees on Commerce, Science and Transportation and Appropriations Committee on April 22 and 23, 2004.

The preliminary recommendations of the Ocean Commission were heard loud and clear in the Senate. I could not be more supportive of the need to strengthen NOAA and improve Federal coordination on ocean and coastal issues. That is why I am pleased to be introducing the National Ocean Policy and Leadership Act today.

The National Ocean Policy and Leadership Act provides a vision to guide this Nation's management of the oceans. It outlines a National Ocean Policy that articulates national oceanic and atmospheric policy goals to guide all federal agency activities. These include concepts such as ecosystem-based management, integration of land-water-air activities, and preservation of marine biodiversity. This vision also includes preserving the role of the United States as a global leader in ocean, atmospheric and climate-related activities.

The National Ocean Policy and Leadership Act also provides a NOAA Organic Act to strengthen, clarify and codify NOAA's missions. Specifically, it confirms that NOAA is the lead federal agency responsible for oceanic, weather, and atmospheric issues. Consistent with the original recommendations of the 1969 Stratton Commission, the bill also establishes NOAA as an independent agency, and legislatively

establishes a coherent and accountable line office structure headed by the NOAA Administrator. As recommended by the Commission, the bill would also encourage NOAA to streamline its line office structure, focus on integrated approaches, and organize its regional activities around common eco-regional boundaries. It also gives NOAA a firm hand in working with other agencies to reduce programmatic overlap, conflict and duplication.

Making NOAA independent is a tall order, and has raised questions from some of my colleagues, including those who believe that NOAA should one day be independent. I believe in the long term, the Nation will need an agency dedicated to addressing our oceanic and atmospheric environments—whether an independent NOAA or a Department of the Oceans and Environment. This bill thus provides for a transition period for reorganization of the agency, as well as a Presidential plan for future action. I look forward to working with our Chairman, Senator MCCAIN, and other colleagues on options for moving forward on this bill that will minimize disruption for the agency, but ensure we achieve our shared long-term goal.

Strengthening NOAA is only one piece of the puzzle. More than half of the Federal cabinet-level departments, plus four independent agencies, conduct programs or activities that affect oceans and coasts. Title III of the bill establishes formal mechanisms to force Federal agencies to coordinate budgets and programs and work cooperatively on cross-cutting activities that cannot be addressed by a single agency. It establishes a Council on Ocean Stewardship in the White House to bring Federal agencies together. It also adopts the Commission's recommendation of creating a non-Federal Presidential Panel of Advisors on Oceans and Climate to provide advice to the Council and NOAA. This title also sets the stage for future improvements in Federal ocean policy by directing the President to submit a plan to further strengthen NOAA, including elevation of the agency to departmental status and by transferring relevant ocean and atmospheric programs to NOAA.

The National Ocean Policy and Leadership Act provides the vision and management framework to guide Federal ocean policy well into the 21st century. The valuable work of the Ocean Commission has provided us with an extraordinary opportunity to re-shape federal ocean policy and meet the challenges that lay before us so that future generations may enjoy the same marine resources we enjoy today. It is critically important that we do not delay implementation of the Commission's recommendations. We can start right now with passage of this bill. I hope our colleagues will join us in co-sponsoring this measure.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2647

*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 Ocean Policy and Leadership Act".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

**TITLE I—NATIONAL OCEAN POLICY**

- Sec. 101. Findings.
- Sec. 102. Purposes.
- Sec. 103. Policy.

**TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

- Sec. 201. Establishment.
- Sec. 202. Functions and Purposes.
- Sec. 203. National Oceanic and Atmospheric Administration.
- Sec. 204. Responsibilities of the Administrator.
- Sec. 205. Powers of the Administrator.
- Sec. 206. Enforcement.
- Sec. 207. Regional capabilities.
- Sec. 208. Intergovernmental coordination.
- Sec. 209. International consultation and coordination.
- Sec. 210. Report on oceanic and atmospheric conditions and trends.
- Sec. 211. Conforming amendments and appeals.
- Sec. 212. Savings provision.
- Sec. 213. Transition.

**TITLE III—FEDERAL COORDINATION AND ADVICE**

- Sec. 301. Council on Ocean Stewardship.
- Sec. 302. Membership.
- Sec. 303. Functions of Council.
- Sec. 304. National priorities for coordination.
- Sec. 305. Employees.
- Sec. 306. Biennial report to Congress.
- Sec. 307. Presidential panel of advisors on oceans and climate.
- Sec. 308. Federal program recommendations.
- Sec. 309. Implementation.
- Sec. 310. No effect on other authorities.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of NOAA.

(2) COASTAL REGION.—The term "coastal region" means the coastal zone as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) and coastal watershed areas that have significant impact on such coastal zones.

(3) NOAA.—The term "NOAA" means the National Oceanic and Atmospheric Administration.

(4) OCEANS.—The term "ocean" includes coastal areas, the Great Lakes, the seabed, subsoil, and waters of the territorial sea of the United States, the waters of the exclusive economic zone of the United States; the waters of the high seas; and the seabed and subsoil of and beyond the Outer Continental Shelf marine environment, and the natural resources therein.

(5) PERSON.—The term "person" has the meaning given that term by section 1 of title 1, United States Code, but also means any State, political subdivision of a State, or agency or officer thereof.

(6) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto

Rico, the Virgin Islands, Guam, American Samoa, or any other Commonwealth, territory, or possession of the United States.

## TITLE I—NATIONAL OCEAN POLICY

### SEC. 101. FINDINGS.

The Congress finds the following:

(1) Covering more than two-thirds of the Earth's surface, the oceans play a critical role in the global water cycle and in regulating climate, sustain a large part of Earth's biodiversity, provide an important source of food and a wealth of other natural products, act as a frontier for scientific exploration, are critical to national and economic security, and provide a vital means of transportation. The coastal regions of the United States have remarkably high biological productivity and contribute approximately 50 percent of the gross domestic product of the United States.

(2) The oceans and the atmosphere are susceptible to change as a direct and indirect result of human activities, and such changes can significantly impact the ability of the oceans and atmosphere to provide the benefits upon which the Nation depends. Changes in ocean and atmospheric processes could affect global climate patterns, ecosystem productivity, health, and biodiversity, environmental quality, national security, economic competitiveness, availability of energy, vulnerability to natural hazards, and transportation safety and efficiency.

(3) Ocean resources are not infinite, and human pressure on them is increasing. One half of the Nation's population lives within 50 miles of the coast. If population trends continue as expected, coastal development and urbanization impacts, which can be substantially greater than population impacts alone, will present serious environmental, energy, and water challenges and increase our vulnerability to coastal hazards.

(4) Emissions of greenhouse gases and aerosols due to human activities continue to alter the oceans and atmosphere in ways that are expected to affect the climate, with adverse impacts on human health and the Nation's economic and environmental security. In some coastal regions, air deposition contributes between 30 - 50 percent of pollutant loadings to such areas. Improved understanding of such factors and ideas for mitigating any adverse impacts are urgently needed.

(5) There are enormous opportunities for science and technology to uncover new sources of energy, food, and pharmaceuticals from the oceans, and to increase general understanding of the planet including its atmosphere and climate. Realization of such benefits is jeopardized by a variety of activities and practices that have reduced the health and productivity of ocean and atmospheric systems, including pollution, unsustainable harvesting practices, increasing coastal development, and proliferation of harmful and invasive marine species.

(6) Threats to the oceans and atmosphere are exacerbated by the legal and geographic fragmentation of authority within the Federal government. Over half of the existing 15 departments and several independent agencies conduct activities and programs relating to ocean and atmosphere, including climate change activities. Efforts to understand and effectively address emerging ocean and atmospheric problems, including through existing coordination mechanisms, have not been adequate.

(7) Improving and coordinating Federal governance will require close partnerships with States, taking into account their public trust responsibilities, economic and ecological interests in ocean resources, and the role of State and local governments in implemen-

tation of ocean policies, and managing use of coastal lands and ocean resources.

(8) Effective enforcement of the laws to protect and enhance the marine environment, coastal security, and the Nation's natural resources, particularly through marine safety, fisheries enforcement, aids to navigation, and hazardous materials spill response activities is needed to ensure achievement of management goals, and priority should be given to increasing marine enforcement and compliance through coordinated Federal and State actions.

(9) It is the continuing mission of the Federal Government to create, foster, and maintain conditions, incentives, and programs that will further and assure the sustainable and effective conservation, management, and protection of the oceans and atmosphere, in order to fulfill the responsibility of each generation as trustee in protecting, and ensuring that, such resources will be available to meet the needs of future generations of Americans.

(10) This policy and mission can best be carried out and realized by formal establishment of a strengthened and expanded lead Federal civilian agency dedicated to ocean and atmospheric matters, and by undertaking the functions, programs, and activities of the Federal Government with respect to the conservation, management, and protection of the oceans and atmosphere, including monitoring, forecasting, and assessment, in a coordinated manner and in accordance with a national ocean policy.

### SEC. 102. PURPOSES.

The purposes of this Act are—

(1) to set forth a national policy relating to oceans and atmosphere, and, through an organic act, formally to establish the National Oceanic and Atmospheric Administration as the lead Federal agency concerned with ocean and atmospheric matters;

(2) to establish in the National Oceanic and Atmospheric Administration, by statute, the authorities, functions, and powers relating to the conservation, management, and protection of the oceans and atmosphere which have previously been established by statute or reorganization plan;

(3) to set forth the duties and responsibilities of the Administration, and the principal officers of the Administration;

(4) to establish a mechanism for Federal leadership and coordinated action on national ocean and atmospheric priorities that are essential to the economic and environmental security of the Nation; and

(5) to enhance Federal partnerships with the State and local governments with respect to ocean activities, include management of ocean resources and identification of appropriate opportunities for policy-making and decision making at the State and local level.

### SEC. 103. POLICY.

It is the policy of the United States to establish and maintain for the benefit of the Nation a coordinated, comprehensive, and long-range national program of ocean and atmospheric research, conservation, management, education, monitoring, and assessment that will—

(1) recognize the linkage of ocean, land, and atmospheric systems, including the linkage of those systems with respect to climate change;

(2) protect life and property against natural and manmade hazards, including protection through weather and marine forecasts and warnings;

(3) protect, maintain, and restore the long-term health, productivity, and diversity of the ocean environment, including its natural resources and to prevent pollution of the ocean environment;

(4) ensure responsible and sustainable use of fishery resources and other ocean and coastal resources held in the public trust, using ecosystem-based management and a precautionary and adaptive approach;

(5) assure sustainable coastal development based on responsible State and community management and planning, and reflecting the economic and environmental values of ocean resources;

(6) develop improved scientific information and use of the best scientific information available to make decisions concerning natural, social, and economic processes affecting ocean and atmospheric environments;

(7) enhance sustainable ocean-related and coastal-dependent commerce and transportation, balancing multiple uses of the ocean environment;

(8) provide for continued investment in and improvement of technologies for use in ocean and climate-related activities, including investments and technologies designed to promote national economic, environmental, and food security;

(9) expand human knowledge of marine and atmospheric environments and ecosystems, including the role of the oceans in climate and global environmental change, the interrelationships of ocean health and human health, and the advancement of education and training in fields related to ocean, coastal, and climate-related activities;

(10) facilitate a collaborative approach that encourages the participation of a diverse group of stakeholders and the public in ocean and atmospheric science and policy, including persons from under-represented groups;

(11) promote close cooperation among all government agencies and departments, academia, nongovernmental organizations, private sector and stakeholders based on this policy to ensure coherent, accountable, and effective planning, regulation, and management of activities affecting oceans and atmosphere, including climate; and

(12) promote governance and management of the nations ocean resources through a partnership of the Federal Government with States, territories, and Commonwealths that reflects their public trust responsibilities and interest in ocean environmental, cultural, historic, and economic resources.

(13) preserve the role of the United States as a global leader in ocean, atmospheric, and climate-related activities, and the cooperation in the national interest by the United States with other nations and international organizations in ocean and climate-related activities.

## TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

### SEC. 201. ESTABLISHMENT.

There is established an agency which shall be known as the National Oceanic and Atmospheric Administration, which shall be the civilian agency principally responsible for providing oceanic, weather, and atmospheric services and supporting research, conservation, management, and education to the nation. The National Oceanic and Atmospheric Administration established under this Act shall succeed the National Oceanic and Atmospheric Administration established on October 3, 1970, in Reorganization Plan No. 4 of 1970 and shall continue the activities of that agency as it was in existence on the day before the effective date of this Act.

### SEC. 202. FUNCTIONS AND PURPOSES.

(a) IN GENERAL.—NOAA shall be responsible for the following functions, through which it shall carry out the policy of this Act in a coordinated, integrated, and ecosystem-based manner for the benefit of the Nation:

(1) Management, conservation, protection, and restoration of ocean resources, including

living marine resources, habitats and ocean ecosystems;

(2) Observation, monitoring, assessment, forecasting, prediction, operations and exploration for ocean and atmospheric environments including weather, climate, navigation and marine resources; and

(3) Research, education and outreach, technical assistance, and technology development and innovation activities relating to ocean and atmospheric environments including basic scientific research and activities that support other agency functions and missions.

(b) TRANSFER OF FUNCTIONS.—There shall be transferred to the Administrator any authority established by law that, before the date of enactment of this Act, was vested in the Secretary of Commerce and pertains to the functions, responsibilities, or duties of NOAA under subsection (a).

### SEC. 203. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) ADMINISTRATOR.—

(1) APPOINTMENT.—NOAA shall be administered by the Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION.—The Administrator shall be compensated at the rate provided for level II of the Executive Schedule under section 5314 of title 5, United States Code.

(3) QUALIFICATIONS.—The Administrator shall have a broad background, professional knowledge, and substantial experience in oceanic or atmospheric affairs, including any field relating to marine or atmospheric science and technology, biological sciences, engineering, as well as education, economics, governmental affairs, planning, law, or international affairs.

(4) AUTHORITY.—The Administrator shall carry out all functions transferred to the Administrator by this Act and shall have authority and control over all personnel, programs, and activities of NOAA.

(b) DEPUTY ADMINISTRATOR.—There shall be a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, based on the individual's professional qualifications and without regard to political affiliation. The Deputy Administrator shall have a broad background, professional knowledge, and substantial experience in oceanic or atmospheric policy or programs, including science, technology, and education. The Deputy Administrator shall serve as an adviser to the Administrator on program and policy issues, including crosscutting program areas such as research, technology, and education and shall perform such functions and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act as Administrator during the absence or disability of the Administrator in the event of a vacancy in the office of Administrator. The Deputy Administrator shall be the Administrator's first assistant for purposes of subchapter III of chapter 33 of title 5, United States Code, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) ASSOCIATE ADMINISTRATOR FOR OCEAN MANAGEMENT AND OPERATIONS.—There shall be in NOAA an Associate Administrator for Ocean Management and Operations, who shall be appointed by the President, by and with the advice and consent of the Senate. The Associate Administrator for Ocean Management and Operations shall have a broad background, professional knowledge, and substantial experience in oceanic or atmospheric policy or programs, and shall perform such duties and exercise such powers as the Administrator shall from time to time designate. The Associate Administrator shall be

compensated at the rate provided for level V of the Executive Schedule under section 5315 of title 5, United States Code.

(d) ASSOCIATE ADMINISTRATOR FOR CLIMATE AND ATMOSPHERE.—There shall be in NOAA an Associate Administrator for Climate and Atmosphere, who shall be appointed by the President, by and with the advice and consent of the Senate. The Associate Administrator for Climate and Atmosphere shall have a broad background, professional knowledge, and substantial experience in oceanic or atmospheric policy or programs, and shall perform such duties and exercise such powers as the Administrator shall from time to time designate. The Associate Administrator shall be compensated at the rate provided for level V of the Executive Schedule under section 5315 of title 5, United States Code.

(e) CHIEF OPERATING OFFICER.—There shall be a Chief Operating Officer of NOAA, who shall assume the responsibilities held by the Deputy Undersecretary of Commerce prior to enactment of this Act. The Chief Operating Officer shall be responsible for ensuring the timely and effective implementation of NOAA's purposes and authorities and shall provide resource, budget, and management support to the Office of the Administrator. The Chief Operating Officer shall be responsible for all aspects of NOAA operations and management, including budget, financial operations, information services, facilities, human resources, procurements, and associated services. The Chief Operating Officer shall be a Senior Executive Service position authorized under section 3133 of title 5, United States Code.

(f) ASSISTANT ADMINISTRATORS.—There shall be in NOAA at least 3, but no more than 4, Assistant Administrators. The Assistant Administrators shall perform such programmatic and policy functions as the Administrator shall from time to time assign or delegate, and shall have background, professional knowledge, and substantial experience in 1 or more of the following aspects of ocean and atmospheric affairs:

(1) Resource management, protection, and restoration.

(2) Operations, forecasting, and services (including weather and climate).

(3) Science, technology, and education.

(g) GENERAL COUNSEL.—There shall be in NOAA a General Counsel appointed by the President upon recommendation by the Administrator. The General Counsel shall serve as the chief legal officer for all legal matters which may arise in connection with the conduct of the functions of NOAA.

(h) COMMISSIONED OFFICERS.—

(1) The Administrator shall designate an officer or officers to be responsible for oversight of NOAA's vessel and aircraft fleets and for the administration of NOAA's commissioned officer corps under section 228 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3028).

(2) The Commissioned Officer Corps of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of October 3, 1970, is the Commissioned Officer Corps of NOAA established under this Act.

(3) All statutes that applied to officers of the Commissioned Officers Corps of NOAA on the day before the date of enactment of this Act apply to officers of the Corps on and after such date.

(4) There are authorized to be on the lineal list of the Commissioned Officers Corps of NOAA at least 350 officers, plus any additional officers necessary to support NOAA's missions and the operation and maintenance of NOAA's ships and aircraft.

(5) The President may appoint in NOAA, by and with the advice and consent of the Sen-

ate, 2 commissioned officers to serve at any one time as the designated heads of 2 principal constituent organizational entities of NOAA, or the President may designate 1 such officer as the head of such an organizational entity and the other as the head of the commissioned corps of NOAA. Any such designation shall create a vacancy on the active list and the officer while serving under this subsection shall have the rank, pay, and allowances of a rear admiral (upper half).

(6) Any commissioned officer of NOAA who has served under paragraph (5) and is retired while so serving or is retired after the completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay, and allowances authorized by law for the highest grade and rank held by him, but any such officer, upon termination of his appointment in a rank above that of captain, shall, unless appointed or assigned to some other position for which a higher rank or grade is provided, revert to the grade and number he would have occupied had he not served in a rank above that of captain and such officer shall be an extra number in that grade.

(i) NAVAL DEPUTY.—The Secretary of the Navy may detail a Naval Deputy to the Administrator. This position shall be filled on an additional duty basis by the Oceanographer of the Navy. The Naval Deputy shall—

(1) act as a liaison between the Administrator and the Secretary of the Navy in order to avoid duplication between Federal oceanographic and atmospheric activities; and

(2) ensure coordination and joint planning by NOAA and the Navy on research, meteorological, oceanographic, and geospatial information services and programs of mutual organizational interest.

### SEC. 204. RESPONSIBILITIES OF THE ADMINISTRATOR.

In addition to administering and carrying out all activities, programs, functions and duties, and exercising those powers, that are assigned, delegated, or transferred to the Administrator by this Act, any other statute, or the President, the responsibilities of the Administrator include—

(1) management, conservation, protection, and restoration of ocean resources, including—

(A) living marine resources (including fisheries, vulnerable species and habitats, and marine biodiversity);

(B) ocean areas (including marine sanctuaries, estuarine reserves, and other managed areas);

(C) marine aquaculture;

(D) protection of ocean environments from threats to human and ecosystem health, including pollution and invasive species;

(E) sustainable management, beneficial use, protection, and development of coastal regions; and

(F) mitigation of impacts of natural and man-made hazards including climate change.

(2) partnering with and supporting State and local communities in undertaking management, conservation, protection, and restoration of ocean resources described in subsection (1).

(3) observation, analysis, processing, and communication of comprehensive data and information concerning the State of—

(A) the upper and lower atmosphere;

(B) the oceans and resources thereof; and

(C) the earth and near space environment;

(4) collection, storage, analysis, and provision of reliable scientific information relating to weather (including space weather), climate, air quality, water, navigation, marine resources, and ecosystems that can be used as a basis for sound management, policy, and public safety decisions;

(5) broadly based data, observing, monitoring, and information activities, programs and systems relating to oceanic and atmospheric monitoring and prediction, weather forecasting, and storm warning, including satellite-based and in-situ data collection and associated services;

(6) weather forecasting, storm warnings, and other responsibilities of the Secretary of Commerce and the National Weather Service under Reorganization Plan No. 2 of 1965, Reorganization Plan No. 4 of 1970, sections 3 and 4 of the Act of October 1, 1890 (15 U.S.C. 312 and 313) and the Weather Service Modernization Act (15 U.S.C. 313 note), and all other statutes, rules, plans, and orders in pari materia;

(7) providing navigation and assessment operations and services, including maps and charts for the safety of marine and air navigation, maintaining a network of geographic reference coordinates for geodetic control, and observing, charting, mapping, and measuring the marine environment and ocean resources;

(8) developing and improving geodetic and mapping methods and studies of geophysical phenomena such as crustal movement, earth tides, and ocean circulation, including estuarine areas;

(9) collecting, disseminating, and maintaining on a continuing basis information relating to the status, trends, health, use, and protection of the oceans and the atmosphere, to all interested parties, including through an integrated ocean observing system and national and regional ecosystem-based information management systems;

(10) administering, operating, and maintaining satellite and in-situ systems that can monitor global and regional atmospheric weather conditions, climate and related oceanic, solar, hydrological, and other environmental conditions, collect information required for research on weather, climate, and related environmental matters, and monitor the extent of human-induced changes in the lower and upper atmosphere and the related environment;

(11) collecting, analyzing, and disseminating environmental information, in support of environmental research and development, including data in the fields of climatology, atmospheric sciences, oceanography, biology, geology, geophysics, solar-terrestrial relationships, and the relationship among oceans, climate, and human health;

(12) undertaking a comprehensive, integrated, and ecosystem-based program of ocean, climate, and atmospheric research related to, and supportive of the missions of NOAA and which uses research products, new findings, and methodologies to develop the most current scientific advice for ecosystem-based management;

(13) conducting environmental research and development activities that are necessary to advance the Nation's ocean, atmospheric, engineering and technology expertise, including the development and operation of observing platforms such as ships, aircraft, satellites, data buoys, manned or unmanned research submersibles, underwater laboratories or platforms, and improved instruments and calibration methods, and the advancement of undersea diving techniques;

(14) conducting a continuing program of ocean exploration, discovery and conservation of significant undersea resources, including cultural resources, to benefit, inform, and inspire the American people, including communication of such knowledge to policymakers and the public;

(15) developing and implementing, in cooperation with other agencies and entities as appropriate, national ocean and atmospheric education, technical assistance, extension

services, and outreach programs designed to increase literacy concerning ocean and atmospheric issues, develop a diverse work force, and enhance stewardship of ocean and atmospheric resources and environments;

(16) ensuring the execution and implementation of national ocean, atmospheric, and environmental policy goals through a variety of ocean and atmospheric programs;

(17) undertaking activities involving the integration of domestic and international policy relating to the oceans and the atmosphere, including the provision of technical advice to the President on international negotiations involving ocean resources, ocean technologies, and climate matters;

(18) providing for, encouraging, and assisting public participation in the development and implementation of ocean and atmospheric policies and programs;

(19) conducting, supporting, and coordinating efforts to enhance public awareness of the National Oceanic and Atmospheric Administration, its purposes, programs, activities and the results thereof, including education and outreach to the public, teachers, students, and ocean resource managers;

(20) partnering with other government agencies, States, academia, and the private sector, via cooperative agreements or other formal or informal arrangements, to improve the acquisition of data and information and the implementation of management, monitoring, research, exploration, education, and other programs;

(21) partnering with other Federal agencies and with States and communities to address the issues of land-based activities and their impact on the ocean environment; and

(22) coordination with other Federal agencies having related responsibilities.

#### SEC. 205. POWERS OF THE ADMINISTRATOR.

(a) DELEGATION.—Unless otherwise prohibited by law or reserved by the Secretary of Commerce, the responsibilities of the Administrator may be delegated by the Administrator to other officials in NOAA, and may be redelegated as authorized by the Administrator.

(b) REGULATIONS.—The Administrator is authorized to issue, amend, and rescind such rules and regulations as are necessary or appropriate to carry out the responsibilities and functions of the Administrator. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5, United States Code.

(c) CONTRACTS.—The Administrator is authorized, without regard to section 3324(a) and (b) of title 31, United States Code, to enter into and perform such contracts, leases, grants, cooperative agreements, or other transactions (without regard to chapter 63 of title 31, United States Code), as may be necessary to carry out NOAA's purposes and authorities, on terms the Administrator deems appropriate, with Federal agencies, instrumentalities, and laboratories, State and local governments, including territories or possessions, Native American tribes and organizations, international organizations, foreign governments, educational institutions, nonprofit organizations, commercial organizations, and other public and private persons or entities.

(d) GIFTS AND DONATIONS.—

(1) IN GENERAL.—Notwithstanding section 1342 of title 31, United States Code, and subject to such conditions and covenants the Administrator deems appropriate, the Administrator is authorized to accept, hold, administer, and utilize—

(A) gifts, bequests or donations of services, money or property, real or personal (including patents and rights thereunder), mixed, tangible or intangible, or any interest therein;

(B) contributions of funds; and

(C) funds from Federal agencies, instrumentalities, and laboratories, State and local governments, Native American tribes and organizations, international organizations, foreign governments, educational institutions, nonprofit organizations, commercial organizations, and other public and private persons or entities.

(2) USE, OBLIGATION, AND EXPENDITURE.—The Administrator may use property and services accepted by NOAA under paragraph (1) to carry out the mission and purposes of NOAA. Amounts accepted by NOAA under paragraph (1) shall be available for obligation by NOAA, and be available for expenditure by NOAA to carry out mission and purposes of NOAA.

(e) FACILITIES AND PERSONNEL.—The Administrator may use, with their consent, and with or without reimbursement, the services, equipment, personnel, and facilities of Federal agencies, instrumentalities and laboratories, State and local governments, Native American tribes and organizations, international organizations, foreign governments, educational institutions, nonprofit organizations, commercial organizations, and other public and private persons or entities.

(f) INFORMATION.—The Administrator shall provide for the most practicable and widest appropriate dissemination of information concerning NOAA, its purposes, programs, activities and the results thereof, including authority to conduct education, technical assistance and outreach to the public, teachers, students, and ocean and coastal resource managers.

(g) ACQUISITION AND CONSTRUCTION.—The Administrator may—

(1) acquire (by purchase, lease, condemnation, or otherwise), lease, sell, or convey, services, money or property, real or personal (including patents and rights thereunder), mixed, tangible or intangible, or any interest therein; and

(2) construct, improve, repair, operate, maintain or dispose of real or personal property, including buildings, facilities, and land.

#### SEC. 206. ENFORCEMENT.

(a) AUTHORITY.—The Administrator shall have the authority to enforce the applicable provisions of any Act, the enforcement of which is, in whole or in part, assigned, delegated, or transferred to the Administrator, and any term of a license, permit, regulation, or order issued pursuant thereto. The Administrator may designate any person, officer, or agency to exercise his authority under this title.

(b) USE OF STATE PERSONNEL.—

(1) IN GENERAL.—The Administrator may—  
(A) utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any State agency to the extent the Administrator deems it necessary and appropriate for effective enforcement of any law for which the Administrator has enforcement authority; and

(B) designate such personnel to exercise the enforcement authority of the Administrator under subsection (a).

(2) STATUS AND POWERS.—Any personnel designated by the Administrator under paragraph (1)(B)—

(A) shall not be deemed to be Federal employees (except as provided in subparagraph (D)) and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, competitive examination, rates of compensation, and Federal employee benefits, but may be considered to be eligible for compensation for work-related injuries under subchapter III of chapter 81 of title 5, United States Code, sustained while acting pursuant to such designation;

(B) shall be considered to be investigative or law enforcement officers of the United States for purposes of the tort claim provisions of title 28, United States Code;

(C) may, to the extent specified by the Administrator, search, seize, arrest, and exercise any other law enforcement functions or authorities described in this title where such authorities are made applicable by this or other law to employees, officers, or other persons designated or employed by the Administrator; and

(D) shall be considered to be officers or employees of the Department of Commerce for purposes of sections 111 and 1114 of title 18, United States Code.

(c) **COOPERATIVE ENFORCEMENT AGREEMENTS.**—The Administrator may enter into cooperative agreements with State authorities to ensure coordinated enforcement of State and Federal laws and by such agreements assume enforcement authority under State law when the Administrator and State authorities deem it to be appropriate. When so authorized, the Administrator or the Administrator's designee may function as a State law enforcement officer within the scope of the delegation, except that Federal law shall control the resolution of any conflict concerning the employee status of any Federal officer while enforcing State law.

**SEC. 207. REGIONAL CAPABILITIES.**

The Administrator of The National Oceanic and Atmospheric Administration shall—

(1) organize agency activities and programs around common eco-regional boundaries identified through a process established by the Council on Ocean Stewardship, based upon recommendations of the Report of the U.S. Commission on Ocean Policy, so as to—

(A) enhance inter- and intra- agency cooperation;

(B) maximize federal capabilities in such region;

(C) develop coordinated, ecosystem-based management and research programs;

(D) develop research partnerships with States and academia;

(E) substantially improve the ability of the public to contact and work with all relevant federal agencies; and

(F) maximize opportunities to work in partnership with States in order to facilitate eco-regional management and enhance State and local capacity to manage issues on an eco-regional basis.

(2) work with other Federal agencies, including the Environmental Protection Agency, the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and State agencies to—

(A) encourage similar eco-regional organization and, if appropriate, co-location of related programs and facilities to achieve goals of paragraph (1).

(B) in planning and implementing eco-regional activities to encourage early cooperation, coordination, and integration across the federal agencies and with relevant State programs, and to assure applicable Federal and State ocean policies.

(3) NOAA shall in consultation with the States, develop regional information programs as recommended by the U.S. Commission on Ocean Policy, including—

(A) coordinated research strategies;

(B) integrated ocean and atmospheric monitoring and observation activities; and

(C) establishment of service centers and coordinators to support development of innovative tools, technologies, training, and technical assistance to facilitate the implementation of ecosystem-based management.

**SEC. 208. INTERGOVERNMENTAL COORDINATION.**

(a) **AVOIDANCE OF DUPLICATIVE REQUIREMENTS.**—In administering the provisions of this Act, the Administrator shall consult

and coordinate with the head of any Federal department or agency having authority to issue any license, lease, or permit to engage in an activity relation to the functions of the Administrator for purposes of assuring that inconsistent or duplicative requirements are not imposed upon any applicant for or holder of any such license, lease, or permit.

(b) **AVOIDANCE OF INCONSISTENT AND CONFLICTING ACTIVITIES AND POLICIES.**—To identify and resolve inconsistent or conflicting Federal oceanic and atmospheric activities and policies, the Administrator shall—

(1) consult and coordinate with the head of any Federal department or agency on the activities and policies of that department of agency related to the functions of the Administrator;

(2) request of the head of any Federal department or agency clarification and justification of those activities and policies that the Administrator determines are inconsistent or conflicting with his functions; and

(3) issue, as the Administrator deems appropriate, reports to the President, the Council on Ocean Stewardship, the head of any Federal department or agency, and to Congress concerning inconsistent or conflicting, activities and policies of any Federal department or agency relating to ocean and atmospheric activities, including recommendations on how to reconcile inconsistent and conflicting Federal oceanic and atmospheric activities and policies throughout the Federal government.

(c) **CONSULTATION WITH ADMINISTRATOR.**—The head of any Federal department or agency and all other Federal officials having responsibilities related to the functions of the Administrator shall consult with the Administrator when the subject matter of action of activities described in this Act are directly involved, to assure that all such activities are well coordinated.

(d) **COORDINATION WITH STATES.**—The Administrator shall ensure that NOAA programs work with the States (including territories and possessions) to encourage early cooperation, coordination, and integration of State and Federal ocean and atmospheric programs, including planning and implementing eco-regional activities.

(e) **OFFICE OF INTERGOVERNMENTAL AFFAIRS.**—The Administrator shall establish an office of intergovernmental affairs to assist in implementing this section and to facilitate planning of joint programs between NOAA line offices and other Federal agencies, including the Department of Defense.

**SEC. 209. INTERNATIONAL CONSULTATION AND COOPERATION.**

(a) **COOPERATION WITH SECRETARY OF STATE.**—The Administrator shall cooperate to the fullest practicable extent with the Secretary of State in providing representation at all meetings and conferences relating to actions or activities described in this Act in which representatives of the United States and foreign countries participate.

(b) **CONSULTATION WITH ADMINISTRATOR.**—The Secretary of State and all other officials having responsibilities for agreements, treaties, or understanding with foreign nations and international bodies shall consult with the Administrator when the subject matter or activities described in this Act are involved, with a view to assuring that such interests are adequately represented.

**SEC. 210. REPORT ON OCEANIC AND ATMOSPHERIC CONDITIONS AND TRENDS.**

Beginning not later than 12 months after the date of enactment of this Act, the Administrator shall, in consultation with relevant Federal and State agencies, submit to the Congress a biennial report on:

(a) the status and condition of the Nation's ocean and atmospheric environments (including with respect to climate change);

(b) current and foreseeable trends in the quality, management and utilization of such environments; and

(c) the effects of those trends on the social, economic, ecological, and other requirements of the Nation.

**SEC. 211. CONFORMING AMENDMENTS AND REPEALS.**

(a) **REORGANIZATION PLAN NO. 4.**—Reorganization Plan No. 4 of 1970 (5 U.S.C. App.) is repealed.

(b) **REFERENCES TO NOAA.**—Any reference to the National Oceanic and Atmospheric Administration, the Under Secretary of Commerce for Oceans and Atmosphere (either by that title or by the title of the Administrator of NOAA), or any other official of the National Oceanic and Atmospheric Administration, in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the National Oceanic and Atmospheric Administration established in this Act, or the position of Administrator established in this Act, respectively.

(c) **REFERENCES TO NOAA AS WITHIN THE DEPARTMENT OF COMMERCE.**—

(1) Section 407 of Public Law 99-659 (15 U.S.C. 1503b) is repealed.

(2) Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended by striking paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(d) **CONFORMING AMENDMENT TO TITLE 5.**—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Commerce (11)." and inserting "Assistant Secretaries of Commerce (10)."

**SEC. 212. SAVINGS PROVISION.**

All rules and regulations, determinations, standards, contracts, certifications, authorizations, appointments, delegations, results and findings of investigations, or other actions duly issued, made, or taken by or pursuant to or under the authority of any statute which resulted in the assignment of functions or activities to the Secretary, the Department of Commerce, the Under Secretary, the Administrator or any other officer of NOAA, in effect immediately before the date of enactment of this Act shall continue in full force and effect after the date of enactment of this Act until modified or rescinded.

**SEC. 213. TRANSITION.**

(a) **EFFECTIVE DATE.**—The provisions of title II of this Act shall become effective 2 years from the date of enactment of this Act.

(b) **REORGANIZATION.**—The Administrator of NOAA, in consultation with the Assistant Administrator for Program Planning and Integration, shall no later than 18 months after the date of enactment of this Act, submit a plan and budget proposal to Congress setting forth a proposal for program and agency reorganization that will—

(1) meet the requirements of title II;

(2) reflect the recommendations of the U.S. Commission on Ocean Policy, particularly with respect to ecosystem-based science and management and additional budgetary requirements; and

(3) provide integrated oceanic and atmospheric programs and services for the benefit of the Nation.

**TITLE III—FEDERAL COORDINATION AND ADVICE**

**SEC. 301. COUNCIL ON OCEAN STEWARDSHIP.**

There is established in the Executive Office of the President a Council on Ocean Stewardship.

**SEC. 302. MEMBERSHIP.**

(a) **MEMBERSHIP.**—The Council shall be composed of at least 3 but no more than 5

members who shall be appointed by the President to serve at the pleasure of the President, by and with the advice and consent of the Senate.

(b) CHAIRMAN.—The President shall designate 1 of the members of the Council to serve as Chairman.

(c) QUALIFICATIONS.—Each member shall be a person who, as a result of training, experience, and attachments, is exceptionally well qualified—

(1) to analyze and interpret ocean and atmospheric trends and information of all kinds;

(2) to appraise programs and activities of the Federal Government in the light of the policy set forth in title I;

(3) to be conscious of and responsive to the scientific, environmental, ecosystem, economic, social, aesthetic and cultural needs and interests of the Nation; and

(4) to formulate and recommend national policies to promote the improvement and the quality of the ocean and atmospheric environments, including as those environments relate to practices on land.

### SEC. 303. FUNCTIONS OF COUNCIL.

(a) COORDINATION AND ADVICE.—The Council—

(1) shall coordinate ocean and atmospheric activities among Federal agencies and departments, particularly focusing on the policy set forth in title I of this Act and national priorities identified in section 304, while minimizing duplication, including ensuring other ocean-related agencies work together at the operation, program, and research levels in cooperation with NOAA;

(2) shall provide a forum for improving Federal interagency planning, budget and program coordination, administration, outreach, and cooperation on such programs and activities;

(3) shall ensure that all Federal agencies engaged in ocean and atmospheric activities adopt and implement the principle of ecosystem-based management and take necessary steps to improve regional coordination and delivery of services around common eco-regional boundaries;

(4) shall review and evaluate the various programs and activities of the Federal Government in light of the policy set forth in title I of this Act and national priorities identified in section 304 for the purpose of determining the extent to which such programs and activities are effective and contributing to the achievement of such policy and the overall health of ocean and atmospheric environment, including marine ecosystems;

(5) shall conduct an annual review and analysis of funding proposed for ocean and atmospheric research and management in all Federal agency budgets, and provide budget recommendations to the President, the agencies, and the Office of Management and Budget that will achieve the policies set forth in title I and address the national priorities identified in section 304, improve coordination, cooperation, and effectiveness of such activities, eliminate unnecessary overlap, and identify areas of highest priority for funding and support;

(6) shall identify progress made by Federal ocean and atmospheric programs toward achieving the goals of—

(A) providing more effective protection and restoration of marine ecosystems;

(B) improving predictions of climate change and variability (weather), including their effects on coastal communities and the nation;

(C) improving the safety and efficiency of marine operations;

(D) more effectively mitigating the effects of natural hazards;

(E) reducing public health risks from ocean and atmospheric sources;

(F) ensuring sustainable use of resources; and

(G) improving national and homeland security;

(7) shall promote efforts to increase and enhance partnerships with coastal and Great Lakes States and other non-federal entities to support enhanced regional research, resource and hazards management, education and outreach, and marine ecosystem protection, maintenance, and restoration;

(8) shall identify statutory and regulatory redundancies or omissions and develop strategies to resolve conflicts, fill gaps, and address new and emerging ocean and atmospheric issues for national and regional benefit;

(9) shall emphasize the development and support of partnerships among government agencies and nongovernmental organizations, academia, and the private sector including regional partnerships;

(10) shall expand research, education, and outreach efforts by all Federal agencies undertaking ocean and atmospheric activities; and

(11) may establish a Federal Coordinating Committee on Oceans, chaired by the Council chairman, to carry out the coordination of ocean and atmospheric programs and priorities required under this Act.

(b) CONSULTATION.—In exercising its powers, functions, and duties under this Act, the Council shall—

(1) consult with the Administrator and with the Presidential Panel of Advisers on Oceans and Climate established under this Act to ensure input from potentially affected States, territories, and Commonwealths, the public and other stakeholders;

(2) work in close consultation and cooperation with the Council on Environmental Quality, the Office of Science and Technology Policy, the Council of Economic Advisers, and other offices within the Executive Office of the President;

(3) utilize the expertise and coordinating capabilities of the National Ocean Science Committee (and any ocean-related committees formed under the Council) with respect to ocean and atmospheric science, technology, and education matters, including development of a national research strategy; and

(4) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organization, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by NOAA and other established agencies.

(c) REVIEWS AND REPORTS.—The Council shall—

(1) prepare the biennial report required by section 306 of this title; and

(2) make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

### SEC. 304. NATIONAL PRIORITIES FOR COORDINATION.

The Council, in coordination with the National Ocean Science Committee, shall ensure that the Federal agencies conducting ocean and atmospheric activities give following areas priority attention and develop coordinated Federal budgets, programs, and operations that will minimize duplication and foster improved services and other benefits to the Nation:

(1) Prevention, management and control of nonpoint source pollution including regional or watershed strategies.

(2) An integrated ocean and coastal observing system and an associated earth observing system.

(3) Ecosystem-based management, protection, and restoration of ocean and atmospheric resources and environments, including management-oriented research, technical assistance and organization of programs and activities along common eco-regional boundaries.

(4) Ocean education and outreach.

(5) Regionally-based coastal land protection, conservation, maintenance, and restoration.

(6) Enhanced research and technology development on crosscutting areas, including—

(A) oceans and human health;

(B) social science and economics;

(C) atmospheric monitoring and climate change;

(D) marine ecosystems, marine biodiversity, and ocean exploration;

(E) marine and atmospheric hazards, including sea level rise and geological events; and

(F) marine aquaculture.

(7) Characterization and mapping of the coastal zone, coastal State waters, the territorial sea, the Exclusive Economic Zone and outer continental shelf, including ocean resources.

### SEC. 305. EMPLOYEES.

(a) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—For the purpose of carrying out the functions of the Council, each Federal agency or department that conducts oceanic or atmospheric activities shall furnish any assistance requested by the Council.

(2) FORMS OF ASSISTANCE.—Assistance furnished by Federal agencies and departments under paragraph (1) may include—

(A) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

(B) undertaking, upon request of the Chairman of the Council, such special studies for the Council as are necessary to carry out its functions.

(3) PERSONNEL MANAGEMENT.—The Chairman of the Council shall have the authority to make personnel decisions regarding any employees detailed to the Council.

(b) EMPLOYMENT OF PERSONNEL, EXPERTS, AND CONSULTANTS.—The Council may—

(1) employ such officers and employees as may be necessary to carry out its functions under this title;

(2) employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this chapter, in accordance with section 3109 of title 5, United States Code, (without regard to the last sentence thereof); and

(3) accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council notwithstanding section 1342 of title 31, United States Code.

### SEC. 306. BIENNIAL REPORT TO CONGRESS.

(a) IN GENERAL.—Beginning not later than 18 months after the date of enactment of this Act, the President, through the Council, shall submit to the Congress a biennial report on Federal ocean and atmospheric programs, priorities, and accomplishments which shall include—

(1) a comprehensive description of the ocean and atmospheric programs and accomplishments of all agencies and departments of the United States;

(2) an evaluation of such programs and accomplishments in terms of the national ocean policy set forth in this Act and the national priorities identified in section 304, specifying progress made with respect to the goals set forth in section 303(c)(3);

(3) a report on progress in improving Federal and State coordination on ocean and atmospheric activities, including coordination efforts required in this Act.

(4) an analysis of the Federal budget allocated to such programs including estimates of the funding requirements of each such agency or department for such programs during the succeeding 5-to-10 fiscal years;

(5) recommendations for remedying deficiencies, and for improving organization, effectiveness, and outreach of Federal ocean and atmospheric programs and services, on a regional and national basis, including support for State and local efforts that leverage public, nongovernmental, and private sector involvement; and

(6) recommendations for legislative or other action.

(b) **PRESIDENTIAL TRANSMITTAL.**—The President shall transmit the biennial report pursuant to this section to the Speaker of the House of Representatives and the President of the Senate not later than December 31 of the year in which it is due.

(c) **AGENCY COOPERATION.**—Each Federal agency and department shall cooperate by providing such data and information without cost as may be requested by the Council for the purpose of this section. Each Federal agency and department shall provide services and personnel on a cost reimbursable basis at the request of the Chairman of the Council for the purpose of accomplishing the requirements of this section.

**SEC. 307. PRESIDENTIAL PANEL OF ADVISERS ON OCEANS AND CLIMATE.**

(a) **ESTABLISHMENT; PURPOSE.**—The President shall establish an Presidential Panel of Advisers on Oceans and Climate. The purpose of the Presidential Panel shall be—

(1) to advise and assist the President and the Chairman of the Ocean Stewardship Council in identifying and fostering policies to protect, manage, and restore ocean and atmospheric environments and resources, both on a regional and national basis; and

(2) to undertake a continuing review, on a selective basis, of priority issues relating to national ocean and atmospheric policy (including climate change), conservation and management of ocean environments and resources, and the status of the ocean and atmospheric science and service programs of the United States.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Presidential Panel shall consist of not more than 25 members, one of whom shall be the Chairman of the Council on Ocean Stewardship, and 24 of whom shall be nonfederal members appointed by the President, including at least one representative nominated by a Governor from each of the coastal regions identified in the Report of the U.S. Commission on Ocean Policy and representatives of the States and various stakeholders.

(2) **CHAIR.**—The Chairman of the Council on Ocean Stewardship shall co-chair the Presidential Panel with a nonfederal member designated by the President.

(c) **APPOINTMENT AND QUALIFICATIONS.**—The members of the Presidential Panel shall be appointed by the President for 3-year terms from among individuals with diverse perspectives and expertise in 1 or more of the disciplines or fields associated with ocean and atmospheric policy, including—

(1) marine-related State and local government functions;

(2) ocean and coastal resource conservation and management;

(3) atmospheric or ocean science, engineering, and technology;

(4) the marine industry (including recreation and tourism);

(5) climate change;

(6) atmospheric or coastal hazards; and

(7) other fields appropriate for consideration of matters of oceanic or atmospheric policy.

(d) **VACANCIES.**—An individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. No individual may be reappointed to the Presidential Panel for more than 1 additional 3-year term. A member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office.

(e) **COMPENSATION.**—Each member of the Presidential Panel shall, while serving on business of the Commission, be entitled to receive compensation at a rate not to exceed a daily rate to be determined by the President consistent with other Federal advisory boards. Federal and State officials serving on the Commission and serving in their official capacity shall not receive compensation in addition to their Federal or State salaries for their time on the Commission. Members of the Presidential Panel may be compensated for reasonable travel expenses while performing their duties as members.

(f) **MEETINGS.**—The Presidential Panel shall meet at least twice per year, or as prescribed by the President.

(g) **REPORTS.**—

(1) **IN GENERAL.**—The Presidential Panel shall submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's ocean activities, and shall submit such other reports as may from time to time be requested by the President or the Congress. The Presidential Panel shall submit its annual report on or before June 30 of each year, beginning 2 years after the date of enactment of this Act.

(2) **COMMENT AND REVIEW BY COUNCIL.**—Each annual report shall also be submitted to the Chairman of the Council on Ocean Stewardship who shall, in consultation with the Administrator of the National Oceanic and Atmospheric Administration within 60 days after receipt thereof, transmit his or her comments and recommendations to the President and to the Congress.

**SEC. 308. FEDERAL PROGRAM RECOMMENDATIONS.**

Not later than 3 years after the issuance of the final report of the Commission on Ocean Policy established by section 3 of the Oceans Act of 2000, the President, in consultation with the Administrator, and considering the recommendations of the Commission on Ocean Policy, the Ocean Stewardship Council, and the Presidential Panel of Advisers on Oceans and Coasts, shall submit to the Congress recommendations—

(1) for the transfer of relevant oceanic or atmospheric programs, functions, services, and associated resources to the National Oceanic and Atmospheric Administration from any other Federal agency;

(2) for consolidation or elimination of oceanic or atmospheric programs, functions, services, or resources within or among Federal agencies if their consolidation or elimination would not undermine policy goals set forth in this Act; and

(3) regarding Federal reorganization, including elevation of NOAA to departmental status or the establishment of a new department that would provide increased national attention and resources to oceanic and atmospheric needs and priorities.

**SEC. 309. IMPLEMENTATION.**

Not later than 18 months after the date of enactment of this Act, the Administrator shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this title; and

(2) submit to the Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this title and the amendments made by this title.

**SEC. 310. NO EFFECT ON OTHER AUTHORITIES.**

Except as explicitly provided in this Act, nothing in this Act or the amendments made by this Act shall be construed to modify the authority of the Administrator under any other provision of law.

By Mr. HOLLINGS (for himself, Mr. STEVENS, and Mr. INOUE):

S. 2648. A bill to strengthen programs relating to ocean science and training by providing improved advice and coordination of efforts, greater inter-agency cooperation, and the strengthening and expansion of related programs administered by the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, today I rise to introduce the Ocean Research Coordination and Advancement Act, which is cosponsored by my colleagues Senators STEVENS and INOUE.

The oceans remain one of the least explored and understood resources on our planet. Our Nation needs a coordinated research and education program staffed by a skilled scientific and technical workforce to further our knowledge of the oceans and ensure their health and vitality well into the future. NOAA, the lead civilian Federal agency for oceanic and atmospheric affairs, is the linchpin to this effort. However, this is also a job that the entire Federal Government must take on, since NOAA will need the cooperation and resources of a variety of other Federal agencies to achieve our common scientific and educational goals.

The U.S. Commission on Ocean Policy, established by the Congress and President pursuant to the Oceans Act of 2000, issued its Preliminary Report in April and is set to release its final report later this summer. The Preliminary Report identifies ocean research and education as a high priority and calls for the doubling of ocean research funding over five years. It also recommends formal ocean research and education programs to cultivate a new generation of ocean scientists, educators, technicians and decision-makers.

This bill directly responds to the Ocean Commission's recommendations by establishing ocean research and education priorities both within NOAA and across the federal government.

First, the bill establishes a Federal Government-wide Ocean Science Committee to provide advice on ocean science and education to two high-level entities: the existing National Science and Technology Council and the new Council on Ocean Stewardship, to be established by the National Ocean Policy and Leadership Act, which I am also introducing today. A model for such a committee already exists at the NSTC, chaired by NOAA and NSF, and this would further define the Committee's tasks. This Federal Ocean Science

Committee would oversee implementation of many cross-cutting ocean science and technology needs, including an integrated ocean and coastal observing system and improved cooperation among Federal agencies.

The bill also calls for the development of a government-wide National Strategy for Ocean Science, Education and Technology, which is to include a doubling of the Federal ocean research budget. To assist in meeting this goal, the bill strengthens and focuses the multi-agency National Oceanographic Partnership Program, which is currently chaired by the NOAA Administrator, renaming it the National Ocean Partners Program. The bill also recognizes the need to focus Federal priorities in ocean education by establishing an interagency Ocean Education Program and an Ocean Science and Technology Scholarship Program to recruit and prepare students for ocean-related careers with the Federal Government.

I am particularly pleased that the bill specifically addresses NOAA's research and education programs. It directs the NOAA Administrator to prepare a 20-year research plan, as well as a plan for ocean education. Such a long-term vision is necessary to enable the agency to take the federal lead on an effective, integrated and coordinated national ocean research, operations, and management. The Commerce Committee has already taken action on important components of this research program, including S. 1218, the Oceans and Human Health Act, which passed the Senate unanimously earlier this year.

The bill also breaks new ground, placing NOAA at the head of a 10-year national marine ecosystem research program patterned on the approach we took in creating the Global Change Research Program. We have immense and critical information needs, specific questions, and management decisions to make concerning our oceans and their resources. Responding to these needs will require a coordinated and focused Federal effort. By pulling together Federal scientific data and expertise on this specific topic, and partnering with the external research community through a research grant program, we can really get some results that will make a difference to Federal and State managers and decision-makers.

The bill also promotes and encourages NOAA's ocean education activities, which have been conducted for many years under programs such as the National Sea Grant College Program, the National Marine Sanctuaries Program, the Ocean Exploration Program, and the Educational Partnership Program. It is high time that NOAA fully and publicly take a leadership role in this area, and the bill directs the Administrator to prepare a long-term ocean education plan that will help achieve this goal.

It is critically important that we invest in improving our understanding of

the oceans, as they are the lifeblood of this planet. No greater resource exists on Earth or in space that has such a tremendous impact on our economy, weather and climate, or our environment and overall quality of life.

I hope my colleagues will join me in sponsoring this important piece of legislation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2648

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Ocean Research Coordination and Advancement Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

**TITLE I—OCEAN SCIENCE COORDINATION AND ADVICE**

Sec. 101. National Ocean Science Committee.

Sec. 102. Subcommittee on Ocean Education.

Sec. 103. Ocean Research and Education Advisory Panel.

**TITLE II—INTERAGENCY PROGRAMS TO ADVANCE OCEAN AND COASTAL KNOWLEDGE**

Sec. 201. National strategy for ocean science, education, and technology.

Sec. 202. National ocean partners program.

Sec. 203. Ocean and coastal education program.

Sec. 204. Ocean science and technology scholarship program.

**TITLE III—NOAA PROGRAMS**

Sec. 301. Research plan.

Sec. 302. Marine ecosystem research.

Sec. 303. National Oceanic and Atmospheric Administration education program.

Sec. 304. Amendment to the National Sea Grant College Program Act.

**TITLE IV—AUTHORIZATIONS**

Sec. 401. Authorization of appropriations.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The coastal regions and marine waters of the United States are vital to the Nation's public safety, homeland security, transportation, trade, energy production, recreation and tourism, food production, scientific research and education, environmental health, and historical and cultural heritage.

(2) Coastal development, resource extraction, and other human activities, coupled with an expanding coastal population, are contributing to processes of environmental change that may significantly threaten the long-term health and sustainability of marine and coastal ecosystems.

(3) The ocean remains one of the least explored and understood environments on the planet providing a frontier for new discoveries and requiring regional, ecosystem-based management approaches.

(4) Development and implementation of education and training programs are essential to build a national scientific and technological workforce that meets the needs of growing ocean and coastal economies and better prepares the Nation for competition in the global economy.

(5) A coordinated program of education and basic and applied research would assist the Nation and the world to further knowledge of the oceans and the global climate system, ensure homeland and national security, develop innovative marine products, improve weather and climate forecasts, strengthen management of marine and coastal resources, increase the safety and efficiency of maritime operations, and protect the environment and mitigate man-made and natural hazards.

(6) Increased Federal cooperation and investment are essential to build on ocean and coastal research and education activities that are taking place within numerous federal, state, and local agencies, academic institutions and industries and to establish new partnerships for sharing ocean science resources, intellectual talent, and facilities.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **ADVISORY PANEL.**—The term “Advisory Panel” means the Ocean Research and Education Advisory Panel established under section 108.

(2) **COMMITTEE.**—The term “Committee” means the National Ocean Science Committee established under section 101.

(3) **COUNCIL.**—The term “Council” means the National Science and Technology Council.

(4) **OCEAN SCIENCE.**—The term “ocean science” includes the exploration of ocean, coastal, and Great Lakes environments, the development of methods and instruments to study and monitor such environments, and the conduct of basic and applied research and education activities to advance understanding of—

(A) the physics, chemistry, biology, and geology of the oceans, coasts, and Great Lakes;

(B) marine and coastal processes and interactions with other components of the total Earth system; and

(C) the impacts of the oceans, coastal regions, and Great Lakes on society and manner in which such environments are influenced by human activity.

(5) **STRATEGY.**—The term “strategy” means the National Strategy for Ocean Science, Education, and Technology developed under section 201.

(6) **SUBCOMMITTEE.**—The term “Subcommittee” means the Subcommittee on Ocean Education established under section 102.

**TITLE I—OCEAN SCIENCE COORDINATION AND ADVICE**

**SEC. 101. NATIONAL OCEAN SCIENCE COMMITTEE.**

(a) **COMMITTEE.**—The Chair of the National Science and Technology Council, in consultation with the Chair of the Council on Ocean Stewardship, shall establish a National Ocean Science Committee.

(b) **MEMBERSHIP.**—The Committee shall be composed of the following members:

(1) The Administrator of the National Oceanic and Atmospheric Administration.

(2) The Secretary of the Navy.

(3) The Director of the National Science Foundation.

(4) The Administrator of the National Aeronautics and Space Administration.

(5) The Under Secretary of Energy for Energy, Science, and Environment.

(6) The Administrator of the Environmental Protection Agency.

(7) The Under Secretary of Homeland Security for Research and Development.

(8) The Commandant of the Coast Guard.

(9) The Director of the United States Geological Survey.

(10) The Director of the Minerals Management Service.

(11) The Commanding General of the Army Corps of Engineers.

(12) The Director of the National Institutes of Health.

(13) Under Secretary of Agriculture for Research, Education, and Economics.

(14) The Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

(15) The Director of the Defense Advanced Research Projects Agency.

(16) The Director of the Office of Science and Technology Policy.

(17) The Director of the Office of Management and Budget.

(18) The leadership of such other Federal agencies and departments as the chair and vice chairs of the Committee deem appropriate

(c) **CHAIR AND VICE CHAIRS.**—The chair and vice chairs of the Committee shall be appointed every 2 years by a selection subcommittee of the Committee composed of, at a minimum, the Administrator of the National Oceanic and Atmospheric Administration, the Director of the National Science Foundation, and the Secretary of the Navy. The term of office of the chair and vice chairs shall be 2 years. A person who has previously served as chair or vice chair may be reappointed.

(d) **RESPONSIBILITIES.**—The Committee shall—

(1) serve as the primary source of advice and support on ocean science for the Council and the Council on Ocean Stewardship and assist in carrying out the functions of the Council as they relate to such matters, including budgetary analyses;

(2) serve as the committee on ocean science for the Council and carry out its functions under section 401 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651) that relate to ocean sciences;

(3) improve cooperation among Federal departments and agencies with respect to ocean science budgets, programs, operations, facilities and personnel;

(4) provide a forum for development of the strategy and oversee its implementation;

(5) suggest policies and procedures and provide support for interagency ocean science programs, including the National Ocean Partners Program;

(6) oversee the implementation of an integrated and sustained ocean and coastal observing system;

(7) establish interagency subcommittees and working groups as appropriate to develop comprehensive and balanced Federal programs and approaches to ocean science needs.

(8) coordinate United States government activities with those of other nations and with international ocean observing efforts, research and technology and education; and

(9) carry out such other activities as the Council may require.

#### **SEC. 102. SUBCOMMITTEE ON OCEAN EDUCATION.**

(a) **MEMBERSHIP.**—The Committee shall establish a Subcommittee on Ocean Education. Each member of the Committee and the Under Secretary of Education may designate a senior Federal agency representative with expertise in education to serve on the Subcommittee. The Committee shall select a Chair and one or more Vice Chairs from the membership of the Subcommittee.

(b) **RESPONSIBILITIES.**—The Subcommittee shall—

(1) support and advise the Committee and the Council on matters related to ocean and coastal education and outreach and lead development of a common perspective;

(2) provide recommendations on education goals and priorities for the strategy and guidance for educational investments;

(3) foster the development of education and outreach programs that are integrated with and based upon Federal ocean science programs;

(4) coordinate Federal ocean and coastal education activities for students at all levels, including funding for educational opportunities at the undergraduate, graduate; and post-doctoral levels;

(5) identify and work to establish linkages among Federal programs and those of States, academic institutions, museums and aquaria, industry, foundations and other non-governmental organizations;

(6) facilitate Federal agency efforts to work with minority-serving institutions, historically black colleges and universities, and traditionally majority-serving institutions to ensure that students of underrepresented groups have access to and support for pursuing ocean-related careers; and

(7) carry out such other activities as the Committee and the Council request.

#### **SEC. 103. OCEAN RESEARCH AND EDUCATION ADVISORY PANEL.**

(a) **MEMBERSHIP.**—The Committee shall maintain an Ocean Research and Education Advisory Panel consisting of not less than 10 and not more than 18 members appointed by the chair, including the following:

(1) Members representing the National Academy of Sciences, the National Academy of Engineering and the Institute of Medicine.

(2) Members selected from among individuals representing ocean industries, State governments, academia, and such other participants in ocean and coastal activities as the chair considers appropriate.

(3) Members selected from among individuals eminent in the fields of marine science, marine policy, ocean engineering or related fields.

(4) Members selected from among individuals eminent in the field of education.

(b) **RESPONSIBILITIES.**—The advisory panel will advise the Committee on the following:

(1) Development and implementation of the strategy.

(2) Policies and procedures to implement the National Ocean Partners Program and on establishment of topics and selection and allocation of funds for partnership projects.

(3) Matters relating to national oceanographic data requirements, ocean and coastal observing systems, ocean science education and training, oceanographic facilities, and modernization of the nation's marine laboratories.

(4) Any additional matters that the Committee considers appropriate.

(c) **PROCEDURAL MATTERS.**—

(1) All meetings of the Advisory Panel shall be open to the public, except that a meeting or any portion of it may be closed to the public if it concerns matters or information that pertains to national security, employment matters, litigation, or other reasons provided under section 552b of title 5, United States Code. Interested persons shall be permitted to appear at open meetings and present oral or written statements on the subject matter of the meeting. The Advisory Panel may administer oaths or affirmations to any person appearing before it.

(2) All open meetings of the Advisory Panel shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(3) Minutes of each meeting shall be kept and shall include a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Advisory Panel shall be available for public in-

spection and copying at a single location in the partners program office.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Advisory Panel.

(d) **FUNDING.**—The Chair and Vice Chairs of the Committee annually shall make funds available to support the activities of the Advisory Panel.

### **TITLE II—INTERAGENCY PROGRAMS TO ADVANCE OCEAN AND COASTAL KNOWLEDGE**

#### **SEC. 201. NATIONAL STRATEGY FOR OCEAN SCIENCE, EDUCATION, AND TECHNOLOGY.**

(a) **IN GENERAL.**—The Chair of the Council, through the Committee, shall develop a National Strategy for Ocean Science, Education and Technology. The Chair shall submit the strategy to the Congress within one year after the date of enactment of this title, and a revised strategy shall be submitted at least once every three years thereafter. The initial strategy shall be based on the recommendations of the United States Commission on Ocean Policy and shall establish, for the 10-year period beginning in the year the strategy is submitted, the scientific goals and priorities for research, technology, education, outreach, and operations which most effectively advance knowledge and provide usable information for ocean policy decisions.

(b) **SPECIFIC ACTIONS.**—The strategy shall—

(1) provide for a doubling of the Federal investment in ocean science research over 5 years and for additional investments in education and outreach, technology development, and ocean exploration;

(2) identify and address relevant programs and activities of the members of the Committee that contribute to the goals and priorities, setting forth the role of and funding for each such member in implementing the strategy;

(3) establish mechanisms for accelerating the transition of—

(A) commercial or military technologies and data to civilian research, education, and operations applications; and

(B) technologies and tools developed by government and university scientists to operations, including both governmental and non-governmental uses;

(4) consider and use, as appropriate, reports and studies conducted by Federal agencies and departments, the National Research Council, or other entities; and

(5) make recommendations for the coordination of Federal ocean science activities with those of States, regional entities, other nations, and international organizations.

(c) **ELEMENTS.**—The strategy shall include the following elements:

(1) Global measurements on all relevant spatial and time scales.

(2) Partnerships among Federal agencies, states, academia, industries, and other members of the ocean science community.

(3) Oceanographic facility support, including the procurement, maintenance and operation of observing and research platforms, such as ships and aircraft, laboratories, and related infrastructure.

(4) Focused research initiatives and competitive research grants.

(5) Technology and sensor development, including the transition of such technologies to operations.

(6) Workforce and professional development including traineeships, scholarships, fellowships and internships.

(7) Ocean science education coordination and establishment of mechanisms to improve ocean literacy and contribute to public awareness of the condition and importance of the oceans.

(8) Information management systems that allow analysis of data from varied sources to produce information readily usable by policymakers and stakeholders.

(d) **PUBLIC PARTICIPATION.**—In developing the strategy, the Committee shall consult with the Advisory Panel, academic, State, industry, and conservation groups and representatives. Not later than 90 days before the Chair of the Council submits the strategy, or any revision thereof, to the Congress, a summary of the proposed strategy or revision shall be published in the Federal Register for a public comment period of not less than 60 days.

**SEC. 202. NATIONAL OCEAN PARTNERS PROGRAM.**

(a) **PURPOSE.**—Building on the program established under section 7901 of title 10, United States Code, the Committee shall establish and maintain a National Ocean Partners Program that identifies and carries out ocean science partnerships among the National Oceanic and Atmospheric Administration, the National Science Foundation, the Office of Naval Research and Oceanographer of the Navy, other Federal agencies, States, academia, industries, and other members of the ocean science community.

(b) **PROJECT SELECTION.**—At least annually, the Committee shall establish a limited number of topics for partnership awards and partners may submit projects on such topics for implementation under the program. Partnership projects shall be competitively reviewed, selected, and allocated funding based on the following criteria:

(1) The project is consistent with the strategy and addresses—

- (A) ocean and coastal observing systems;
- (B) ocean education;
- (C) ocean infrastructure coordination; or
- (D) interagency collaboration on national ocean science and research priorities.

(2) The project has broad participation within the ocean community.

(3) The partners have a long-term commitment to the objectives of the project.

(4) Resources supporting the project are shared among the partners.

(5) The project includes a plan for education and outreach.

(6) The project has been subject to peer review.

(c) **ANNUAL REPORT.**—Not later than March 1 of each year, the Committee shall submit to Congress a report on the National Ocean Partners Program. The report shall contain the following:

(1) A description of activities of the program carried out during the previous fiscal year, together with a list of the members of the Advisory Panel and any working groups in existence during that fiscal year.

(2) A general outline of the activities planned for the program during the fiscal year in which the report is prepared.

(3) A summary of projects continued from the previous fiscal year and projects expected to be started during the fiscal year in which the report is prepared and during the following fiscal year.

(4) An analysis of trends in the Federal investment in ocean science research, education and technology development.

(d) **PARTNERS PROGRAM OFFICE.**—The Committee shall establish a program office for the National Ocean Partners Program. The Committee shall use competitive procedures in selecting an operator for the partners program office and supervise performance of duties by such office. Responsibilities of the partners program office shall include—

(1) support for the activities of the Committee and any working groups or subcommittees under this section;

(2) management of the process for proposing partnership projects to the Com-

mittee, including the peer review process for such projects;

(3) annual preparation and submission to the Committee of status information on all partnership projects and program activities;

(4) development and maintenance of a database on investments by Federal agencies in ocean and coastal research and education; and

(5) any additional duties for the administration of the National Ocean Partners Program or to support Committee activities that the Committee considers appropriate.

(e) **CONTRACT, GRANT, AND INTERAGENCY FINANCING AUTHORITY.**—

(1) The Committee may authorize one or more of the members of the Committee to enter into contracts and make grants, using funds appropriated pursuant to an authorization for the National Ocean Partners Program, for the purpose of implementing the program and carrying out the responsibilities of the Committee. A project or activity under such program may be established by any instrument that the Committee considers appropriate, including grants, memoranda of understanding, cooperative research and development agreements, and similar instruments.

(2) The members of the Committee are authorized to participate in interagency financing and share, transfer, receive and spend funds appropriated to any member of the Committee for the purposes of carrying out any administrative or programmatic project or activity under the National Ocean Partnership Program, including support for a common infrastructure and system integration for an ocean observing system. Funds may be transferred among such departments and agencies through an appropriate instrument that specifies the goods, services, or space being acquired from another Committee member and the costs of the same.

(3) The Committee shall establish uniform proposal request and application procedures and reporting requirements for use by each Committee member that are applicable to all projects and activities under the National Ocean Partners Program.

(4) Projects under the program may include demonstration projects.

(f) **TRANSITIONAL PLAN.**—The Committee shall submit a plan and recommendations to the Congress for the transition of the National Oceanographic Partnership Program under chapter 665 of title 10, United States Code, to the National Ocean Partners Program established under subsection (a) of this section not later than 2 years after the date of enactment of this Act.

(g) **SUNSET OF NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.**—Chapter 665 of title 10, United States Code, is repealed as of the date that is 3 years after the date of enactment of this Act.

**SEC. 203. OCEAN AND COASTAL EDUCATION PROGRAM.**

(a) **ESTABLISHMENT.**—Consistent with the strategy, the Committee, through the Subcommittee, shall establish an interagency ocean and coastal education program to improve public awareness, understanding and appreciation of the role of the oceans in meeting our Nation's economic, social and environmental needs. The ocean and coastal education program shall include formal education activities for elementary, secondary, undergraduate, graduate and postdoctoral students, continuing education activities for adults, and informal education activities for learners of all ages.

(b) **ELEMENTS.**—The program shall use appropriate interagency coordination mechanisms and shall, at a minimum, provide sustained funding for—

(1) a national network of Centers for Ocean Sciences Education Excellence to improve

the acquisition of knowledge by students at all levels;

(2) a regional education network to support academic competition and experiential learning opportunities for high school students;

(3) teacher enrichment programs that provide for participation in research expeditions, voyages of exploration and the conduct of scientific research;

(4) development of model instructional programs for students at all levels;

(5) student training and support to provide diverse ocean-related education opportunities at the undergraduate, graduate, and postdoctoral levels; and

(6) mentoring programs and partnerships with minority-serving institutions to ensure diversity in the ocean and coastal workforce.

**SEC. 204. OCEAN SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.**

(a) **ESTABLISHMENT.**—

(1) The Committee shall establish a National Ocean Science and Technology Scholarship Program that is designed to recruit and prepare students for careers with Federal agencies and departments represented on the Committee (hereinafter referred to as "participating agencies"). The program shall award scholarships to individuals who are eligible to participate and selected through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(2) To carry out the program, participating agencies shall enter into contractual agreements with individuals selected under paragraph (1) under which the individuals agree to serve as full-time employees of the participating agency for the period described in subsection (d), in positions needed by the participating agency and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) **ELIGIBILITY CRITERIA.**—In order to be eligible to participate in the program, an individual shall—

(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965) in an academic field or discipline described in the list made available under subsection (c);

(2) be a United States citizen;

(3) at the time of the initial scholarship award, not be an employee of the department or agency providing the award;

(4) not have received a scholarship under this section for more than 4 academic years, unless the participating agency grants a waiver; and

(5) submit an application to a participating agency at such time, in such manner, and containing such information, agreements, or assurances as the participating agency may require.

(c) **SCHOLARSHIP AVAILABILITY AND LIMITS.**—

(1) The Committee shall make publicly available a list of academic programs and fields of study for which scholarships under the program may be used and shall update the list as necessary.

(2) A participating agency may provide a scholarship to an eligible individual to cover tuition, fees, and other authorized expenses as established by regulation. The dollar amount of a scholarship for an academic year shall in no case exceed the cost of attendance as such cost is determined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 108711).

(3) The participating agency may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(d) SERVICE.—

(1) Except as provided in subsection (f), the period of service for which an individual shall be obligated to serve as an employee of the participating agency is 12 months for each academic year for which a scholarship under this section is provided.

(2) Except as provided in subsection (f), obligated service under paragraph (1) may include contract employment if a full time equivalent position is not immediately available and shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(e) REPAYMENT.—

(1) Scholarship recipients who fail to maintain a high level of academic standing, as defined by the participating agency, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (f). The repayment period may be extended by the participating agency when determined to be necessary.

(2) Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the participating agency pursuant to subsection (f), shall be in breach of their contractual agreement. When recipients breach their agreements pursuant to this paragraph, the recipient shall be liable to the United States for an amount equal to the total amount of scholarships received by such individual under this section; plus the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States, multiplied by 3.

(f) DEFERRAL, CANCELLATION, OR WAIVER.—The participating agency shall by regulation provide for the deferral or the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the program (or a contractual agreement thereunder) whenever the participating agency determines that such a deferral, waiver or suspension is appropriate, compliance by the individual is impossible or would involve extreme hardship, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

**TITLE III—NOAA OCEAN SCIENCE AND EDUCATION PROGRAMS**

**SEC. 301. RESEARCH PLAN.**

The Administrator of the National Oceanic and Atmospheric Administration shall develop a 20-year integrated research plan for the agency setting forth research goals and priorities, as well as programmatic actions to carry out those goals and priorities. The plan shall—

(1) articulate goals, priorities, and programmatic actions for the agency in 5-year phases;

(2) identify linkages between Administration research activities and missions;

(3) identify how Administration laboratories, joint institutes, cooperative institutes, joint centers, and the extramural scientific community will participate and assist in achieving the goals of the plan;

(4) consider the recommendations of relevant reports prepared by the National Research Council and international scientific institutions and organizations;

(5) be developed in consultation with programmatic offices, the extramural scientific community, and interested members of the public; and

(6) be revised or updated every 5-to-7 years.

**SEC. 302. MARINE ECOSYSTEM RESEARCH.**

(a) MARINE ECOSYSTEM RESEARCH PROGRAM.—The Administrator of the National Oceanic and Atmospheric Administration, in cooperation with the National Science Foundation, the United States Geological Survey, the Office of Naval Research, and other members of the Committee, shall establish and maintain a 10-year interagency marine ecosystem research program, including competitive research grants to the scientific community, that complements or strengthens the Federal program for the purposes of—

(1) improving national understanding of marine ecosystem status and trends, including the patterns, processes, and consequences of changing marine biological diversity;

(2) improving the linkages between marine ecological and oceanographic sciences and providing a basis for ecosystem-based management of the oceans and coastal resources;

(3) increasing the effectiveness of ocean, coastal and fisheries conservation and management through application of ecosystem-based approaches;

(4) facilitating and encouraging the use of new technological advances, predictive models, and historical perspectives to characterize and assess marine ecosystems and to investigate marine biodiversity;

(5) strengthening and expanding the field of marine taxonomy, including use of genomics and proteomics;

(6) using new understanding gained through the program to improve predictions of the impacts of human activities on the marine environment, including pollution and coastal development, and of the impacts of changes in the marine environment on human well-being; and

(7) providing Federal, regional, and State decision makers with usable information and products to support policy and technical decisions under existing authorities, including the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act, the National Marine Sanctuaries Act, and the Coastal Zone Management Act.

(b) PROGRAM ELEMENTS.—The research program established under this section shall provide for the following:

(1) Dynamic access to biological and other data through an integrated ocean biogeographic information system that—

(A) links marine databases; and manages data generated by the program; and

(B) supports understanding of marine systems required for ecosystem-based conservation and management, including analysis of biodiversity and related physical and ecological parameters.

(2) Integrated national and regional studies and products that focus on appropriate scales to support ecosystem-based management; including habitat mapping and assessment.

(3) Improved biological sensors for ocean and coastal observing systems.

(4) Investment in exploration and taxonomy to study little known areas and describe new species.

(5) Studies of earlier changes in marine populations to trace information on biological abundance and diversity to the earliest historical periods of minimum human impact.

(6) Improved predictive capability to enhance the effectiveness of conservation and management programs and to facilitate and minimize adverse impacts of human activities and natural processes on marine and coastal ecosystems.

(7) Pilot projects focused on priority information needs for critical living marine resource management decisions under existing statutory authorities.

(c) BASELINE REPORT AND BIENNIAL ASSESSMENTS.—The Administrator of the National Oceanic and Atmospheric Administration, through the Committee, shall prepare and submit to the President and Congress—

(1) a baseline report on the state of knowledge concerning marine ecosystems and their sub-components, including recommendations for improving such knowledge base, considering the recommendations of the United States Commission on Ocean Policy and the priorities established under subsection (a) not later than 1 year after the date of enactment of this Act; and

(2) a biennial assessment not later than 2 years after the date of submission of the baseline report required under subsection (d)(1) and every 2 years thereafter that—

(A) integrates, evaluates, and interprets the findings of the program and discusses the scientific uncertainties associated with such findings; and

(B) analyzes current trends in marine and coastal ecosystems, both human-induced and natural, and projects major trends for the subsequent decade.

**SEC. 303. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION EDUCATION PROGRAM.**

(a) IN GENERAL.—

(1) The Administrator of the National Oceanic and Atmospheric Administration shall conduct, develop support, promote, and coordinate education activities that meet the defined program scope under section 203(b) and that enhance public awareness and understanding of the science, service, and stewardship missions of the National Oceanic and Atmospheric Administration. In planning the program, the Administrator shall consult with the Subcommittee and build upon the educational programs and activities of the National Sea Grant College Program, The National Marine Sanctuaries Program, the National Estuarine Research Reserve System, and programs relating to ocean exploration, undersea research, and oceans and human health.

(2) Authorized activities for the program shall include education of the general public, teachers, students at all levels, and ocean and coastal managers and stakeholders.

(3) In carrying out educational activities, the Administrator may enter into grants, contracts, cooperative agreements, resource sharing agreements or interagency financing with Federal, State and regional agencies, tribes, commercial organizations, educational institutions, non-profit organizations or other persons.

(b) GOALS.—The Administrator of the National Oceanic and Atmospheric Administration, in consultation with the appropriate program directors, shall ensure that educational activities and programs conducted pursuant to subsection (a) shall—

(1) integrate agency science into high-quality educational materials;

(2) improve access to National Oceanic and Atmospheric Administration educational resources;

(3) support educator professional development programs to improve understanding and use of agency sciences;

(4) promote participation in agency-related sciences and careers, particularly by members of underrepresented groups;

(5) leverage partnerships to enhance formal and informal environmental science education; and

(6) build capability within the agency for educational excellence.

(c) **EDUCATIONAL PARTNERSHIP PROGRAM.**—The Administrator of the National Oceanic and Atmospheric Administration shall establish an educational partnership with minority serving institutions to provide support for cooperative science centers, an environmental entrepreneurship program, a graduate sciences program and an undergraduate scholarship program.

(d) **NOAA OCEAN EDUCATION PLAN.**—The Administrator of the National Oceanic and Atmospheric Administration shall develop an ocean education plan setting forth ocean education goals and priorities for the agency, as well as programmatic actions to carry out such goals and priorities over the next 20 years. The plan may be prepared as part of the research plan required by section 301 or may be prepared separately and shall—

(1) set forth the Administration's goals, priorities, and programmatic activities for ocean education in 5-year phases;

(2) identify linkages between NOAA ocean education activities and NOAA programs and missions;

(3) consider the recommendations of ocean science and education experts, as well as those of professional education associations or organizations;

(4) be developed in consultation with programmatic offices, ocean science and education experts, and interested members of the public; and

(5) be revised or updated every 5-to-7 years.

**SEC. 304. AMENDMENT TO THE NATIONAL SEA GRANT COLLEGE PROGRAM ACT.**

Section 212(a) of the National Sea Grant College Program Act (33 U.S.C 1131(a)) is amended by adding at the end the following:

“(3) **MARINE AND AQUATIC SCIENCE EDUCATION.**—In addition to the amounts authorized for each fiscal year under paragraphs (1) and (2), there are authorized to be appropriated for marine and aquatic science education in each of fiscal years 2005 through 2010—

“(A) \$6,000,000 in increased funding for the educational activities of sea grant programs;

“(B) \$4,000,000 for competitive grants for projects and research that target national and regional marine and aquatic science literacy;

“(C) \$4,000,000 for competitive grants to support educational partnerships under the national Coastal and Ocean Education Program to be funded through the National Ocean Partners Program or other appropriate mechanism; and

“(D) \$3,000,000 in increased funding for enhanced outreach and communications activities of sea grant programs.

**TITLE IV—AUTHORIZATIONS**

**SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

(a) **PARTNERS PROGRAM PROJECTS AND ADMINISTRATION.**—Of the amounts authorized to be appropriated annually to the Department of the Navy, the National Science Foundation, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration for fiscal year 2005 through fiscal year 2010—

(1) up to \$25,000,000 from each agency may be made available for National Ocean Partners Program projects under section 202; and

(2) at least \$600,000 or 3 percent of the amount appropriated for the National Oceanographic Partners Program, whichever is greater, shall be available for operations of the partners program office established under section 202(d).

(b) **NATIONAL OCEAN AND COASTAL EDUCATION PROGRAM.**—Of the amounts authorized annually to the Department of the Navy, the National Science Foundation, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration for fiscal year 2005 through fiscal year 2010, up to \$25,000,000 from each agency may be made available for the National Ocean and Coastal Education Program under section 203.

(c) **SCHOLARSHIP PROGRAM.**—Of the amounts authorized annually to the Department of the Navy, the National Science Foundation, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration for fiscal year 2005 through fiscal year 2010, up to \$15,000,000 may be made available for National Ocean Science and Technology Scholarships under section 204.

(d) **NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.**—

(1) **MARINE ECOSYSTEM RESEARCH.**—For development and implementation of the research program under section 302, there are authorized to be appropriated to the National Oceanic and Atmospheric Administration \$50,000,000 for each of fiscal years 2005 through 2010.

(2) **OCEAN EDUCATION.**—In addition to the amounts authorized under subsection (a), (b), and (c) and under the National Sea Grant College Program Act, there are authorized to be appropriated to the Administrator of the National Oceanic and Atmospheric Administration—

(A) \$25,000,000 for each of fiscal years 2005 through 2010 for education activities under section 303(a); and

(B) \$20,000,000 for each of fiscal years 2005 through 2010 for education activities under section 303(c).

(e) **AVAILABILITY.**—Sums appropriated pursuant to this section shall remain available until expended.

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 404—DESIGNATING AUGUST 9, 2004, AS “SMOKEY BEAR’S 60TH ANNIVERSARY”**

Mr. SMITH (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 404

Whereas Smokey Bear's service to the United States for 60 years has protected the Nation's forests above and beyond the call of duty;

Whereas Smokey Bear has been dedicated to educating Americans of all ages and particularly America's youth, the future stewards of our forests, about the need for vigilance concerning forest health and wildfires;

Whereas Smokey Bear's message of vigilance can also be applied to the need (1) to remove unnatural accumulations of hazardous fuels from the public forests of the United States; (2) to clear defensible space around homes and escape routes in the wildland-urban interface; and (3) to suppress forest fires that threaten communities or valuable natural resources;

Whereas the Smokey Bear campaign is the longest running public service campaign in the history of the United States;

Whereas Smokey Bear was the first individual animal ever to be honored on a postage stamp;

Whereas the Forest Service of the Department of Agriculture is committed to increasing public information and awareness about wildfires and forest protection;

Whereas the Forest Service of the Department of Agriculture is devoted to changing the public's behavior concerning wildfires in an effort to maintain and protect the natural resources and wildlife of the United States; and

Whereas the Forest Service of the Department of Agriculture, the National Association of State Foresters, and the Advertising Council have provided extraordinary support and dedication to the purpose and efforts of Smokey Bear: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates August 9, 2004, as “Smokey Bear's 60th Anniversary”; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

**SENATE CONCURRENT RESOLUTION 124—DECLARING GENOCIDE IN DARFUR, SUDAN**

Mr. BROWNBACK (for Himself, Mr. CORZINE, Mrs. DOLE, Mr. LIEBERMAN, Mr. DEWINE, and Mr. FITZGERALD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 124

Whereas Article 1 of the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide states that “the contracting parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish”;

Whereas Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide declares that “in the present Convention, genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; and (e) forcibly transferring children of the group to another group”;

Whereas Article 3 of the Convention on the Prevention and Punishment of the Crime of Genocide affirms that the “following acts shall be punishable: (a) genocide; (b) conspiracy to commit genocide; (c) direct and public incitement to commit genocide; (d) attempt to committed genocide; and (e) complicity in genocide”;

Whereas in Darfur, Sudan, an estimated 30,000 innocent civilians have been brutally murdered, more than 130,000 people have been forced from their homes and have fled to neighboring Chad, and more than 1,000,000 people have been internally displaced;

Whereas Andrew Natsios, the Administrator of the United States Agency for International Development, has predicted that 300,000 civilians in Darfur will die within the year under “optimal conditions” in which humanitarian assistance is provided, and that as many as 1,000,000 civilians in Darfur are at risk; and

Whereas in March 2004 the United Nations Resident Humanitarian Coordinator stated:

"[T]he war in Darfur started off in a small way last year but it has progressively gotten worse. A predominant feature of this is that the brunt is being borne by civilians. This includes vulnerable women and children . . . The violence in Darfur appears to be particularly directed at a specific group based on their ethnic identity and appears to be systemized." Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) declares that the atrocities unfolding in Darfur, Sudan, are genocide;

(2) reminds the President and the international community of their international legal obligations, as affirmed in the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide;

(3) urges the President to call the atrocities being committed in Darfur, Sudan by their rightful name: "genocide";

(4) commends the leadership of the President in seeking a peaceful resolution to the conflict in Darfur, Sudan and in addressing the humanitarian crisis caused by that conflict, including the provision of assistance to meet immediate humanitarian needs in Darfur, Sudan and Eastern Chad;

(5) urges the President to seek a United Nations Security Council resolution under Chapter VII of the United Nations Charter that directs the Member States of the United Nations to impose targeted sanctions against those responsible for the atrocities committed in Darfur, Sudan, authorizes a multinational force to guarantee humanitarian access and security for foreign aid workers and internally displaced persons, urges a halt to violence committed by armed militias and by the armed forces of Sudan and the safe, secure, and the sustainable return of internally displaced persons and refugees to their homes, creates a Commission of Inquiry to investigate the unfolding genocide, recommends measures to create accountability in Darfur, Sudan, and calls for the establishment of a formal peace process for permanent resolution of grievances between Darfurians and the Government of Sudan;

(6) calls on the Administrator of the United States Agency for International Development to establish a Darfur Resettlement, Rehabilitation, and Reconstruction Fund to fund assistance for those driven off their land so that they may return and begin to rebuild their communities; and

(7) urges the President to provide political and financial support to the African Union to promote its effective intervention in Darfur, Sudan to achieve security, humanitarian assistance, and accountability.

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I announce for the information of the Senate and the public that S. 2622, a bill to provide for a land exchange to benefit the Pecos National Historical Park in New Mexico, has been added to the agenda for the hearing previously scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources, on Wednesday, July 21, at 2:30 p.m. in Room SD-366 of the Dirksen Senate Office Building.

For further information, please contact Frank Gladics at 202-224-2878 or Amy Millet at 202-224-8276.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 13, 2004, at 10 a.m. to conduct a hearing on "Examination of the Gramm-Leach-Bliley Act Five Years After Its Passage."

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

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, July 13, 2004, at 9:30 a.m. on Reauthorization of the Corporation for Public Broadcasting.

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

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, July 13, 2004, at 3 p.m. on the nomination of David Stone to be Assistant Secretary of Homeland Security and Albert Frink to be Assistant Secretary for Manufacturing and Services of the Department of Commerce.

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

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ALLARD. 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 Tuesday, July 13 at 10 a.m. to receive testimony regarding the role of nuclear power in national energy policy.

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

### COMMITTEE ON FOREIGN RELATIONS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 13, 2004 at 3 p.m. to hold a hearing on Human Trafficking.

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

### COMMITTEE ON THE JUDICIARY

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, July 13, 2004, at 10 a.m. on "Blakely v. Washington and the Future of the Federal Sentencing Guidelines" in the Dirksen Senate Office Building Room 226.

### Witness List

Panel I; Hon. Bill Mercer, U.S. Attorney, District of Montana, Helena, MT; Hon. John Steer, Vice Chair and Com-

missioner, U.S. Sentencing Commission, Washington, DC; Hon. William Sessions, Chief U.S. District Judge, District of Vermont, Burlington, VT and Vice Chair and Commissioner, U.S. Sentencing Commission, Washington, DC; Hon. Lawrence L. Piersol, Chief U.S. District Judge, District of South Dakota, Sioux Falls, SD; and Hon. Paul G. Cassell, U.S. District Court Judge, District of Utah, Salt Lake City, UT.

Panel II; Frank Bowman, Professor of Law, Indiana University Law School, Indianapolis, IN; Rachel Barkow, Assistant Professor of Law, New York University School of Law, New York, NY; Ronald Weich, Esq., Zuckerman, Spaeder LLP, Washington, DC; and Alan Vinegrad, Esq., Former U.S. Attorney, Covington & Burling, New York, NY.

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

### COMMITTEE ON THE JUDICIARY

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, July 13, 2004, at 2 p.m. on "An Examination of Section 211 of the Omnibus Appropriations Act of 1998" in the Dirksen Senate Office Building Room 226.

### Witness List

Nancie Marzulla, President, Defender of Property Rights, Washington, DC; William Reinsch, President, National Foreign Trade Council, Inc., Washington, DC; Ramon Arechabala, Miami, FL; Kenneth Germain, Attorney at Law, Adjunct Law Professor, University of Cincinnati, Cincinnati, OH; and Bruce Lehman, Former Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Washington, DC.

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

### SELECT COMMITTEE ON INTELLIGENCE

Mr. ALLARD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 13, 2004, at 2:30 p.m., to hold a closed hearing on intelligence matters.

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

### PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Tim Castelli and Carolina Gutierrez of my staff be granted the privilege of the floor during today's session.

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

Mr. CORNYN. Mr. President, I ask unanimous consent a member of my staff, Mary Alice Hamby, be granted the privilege of the floor during the duration of the debate.

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

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Amanda Beaumont and Katie Kimpel on my Judiciary Committee staff be granted floor

privileges during consideration of the federal marriage amendment.

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

Mr. INHOFE. Mr. President, I ask unanimous consent that Micah Harris be given floor privileges for the day.

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

Mr. DURBIN. Mr. President, I ask unanimous consent the privilege of the floor be granted to Jack Herrmann, a science fellow in my office.

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

#### UNANIMOUS CONSENT AGREEMENT—H.R. 1303

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate request the return from the House of Representatives the papers with respect to H.R. 1303, that the Senate action on that measure be vitiated, and that the bill be returned to the Committee on Governmental Affairs for appropriate action.

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

#### EXECUTIVE SESSION

##### NOMINATIONS DISCHARGED

Mr. ALLARD. Mr. President, in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations: Christine Todd Whitman, Kenneth Francis Hackett.

I further ask consent that the Senate proceed to their consideration, the nominations be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

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

The nominations considered and confirmed are as follows:

##### MILLENNIUM CHALLENGE CORPORATION

Christine Todd Whitman, of New Jersey, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of three years.

Kenneth Francis Hackett, of Maryland, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of three years.

##### CONFIRMATION OF KEN HACKETT

Mr. DASCHLE. Mr. President, several weeks ago the New York Times ran a story about what people all around the world do when they are starving. What they do, in effect, is to try to trick themselves into thinking that they do have food.

According to the World Food Program, there are no more mukhet bushes near the refugee camps in eastern Chad, where more than 200,000 Sudanese refugees have fled. Refugees have extracted what little nutritional value they can from those bushes by

eating the toxic berries that grow on them.

In Haitian slums, poor families eat dough made of butter, salt, water, and dirt.

In Malawi, roadside stands sell roasted mice, and in Mozambique the poor eat grasshoppers when they must, calling them "flying shrimp."

In Angola in the early 1990's, a man boiled leather from a family chair and served his family "lamb soup."

Women in Eritrea regularly strap flat stones to their stomachs to lessen hunger pangs, and, in a cruel turn of the fable of stone soup we all learned growing up, mothers in many countries boil water with stones, telling children the food is almost ready and hoping they will fall asleep waiting.

The New York Times goes on to argue—rightly—that the famines these people suffer through are not caused by a lack of food alone. They are caused by drought, government neglect, or war.

The opposite, of course, is also true. Governments that make good policy choices can ease suffering, even in the most brutal situations. That fact underscores the wisdom of the Millennium Challenge Account. The MCA, as it is commonly called, says clearly that governments who prove they are ready for reform and openness can count on the support of the people of the United States.

Today the Senate has confirmed the first two members of the board of directors who will oversee the MCA. We all know of Christie Todd Whitman and her experience. The other member whom we confirmed today is Ken Hackett, the president of Catholic Relief Services. I am proud to have nominated Ken for this important position.

Ken is uniquely qualified for this job for one reason. He has dedicated his life to fighting for the poorest of the poor—the families who, without Ken and Catholic Relief Services, would be forced to eat leather, poison berries, or dirt.

The Millennium Challenge Account is an innovative new tool in fostering global development and combating poverty. By demanding greater responsibility from recipient nations, we can foster reform and growth.

At the same time, however, the vast majority of the world's poor will remain prisoners to their governments' bad policies and corruption. We cannot redouble our efforts under the Millennium Challenge Account, only to forget those who remain most in need, those whose only solace is a stone tied to their stomach. The MCA will be one tool—an innovative, new tool—in our fight against poverty. But it is not the only tool.

That is why I nominated Ken Hackett for this important board. Ken Hackett will be a strong and clear voice for the poorest of the poor—a voice on this board and within the U.S. Government, much the way he has been at Catholic Relief Services for the last several decades.

I thank my colleagues in supporting Ken's nomination for this important board. Voting for him is a vote for hope for the world's poor. It is a vote of confidence for the remarkable work of Catholic Relief Services. And it is a vote for retaining America's leadership to end suffering.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

#### ORDERS FOR WEDNESDAY, JULY 14, 2004

Mr. ALLARD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, July 14. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 30 minutes, with the first 15 minutes under the control of the majority leader or his designee and the final 15 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate resume consideration of the motion to proceed to the consideration of S.J. Res. 40, with the time until 11:30 a.m. equally divided between the chairman and ranking member or their designees; provided that at 11:30 a.m. the time until 12 noon be allocated in the following order: Senator LEAHY, 10 minutes; Senator HATCH, 10 minutes; the Democratic leader, 5 minutes; the majority leader for the final 5 minutes.

I further ask consent that at 12 noon the Senate proceed to the cloture vote as provided under the previous order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### PROGRAM

Mr. ALLARD. Mr. President, tomorrow, following morning business, the Senate will resume debate on the motion to proceed to the marriage amendment. At 12 noon, the Senate will vote on the motion to invoke cloture on the motion to proceed, and that will be the first vote of the day.

In addition to the marriage amendment, there are other important issues that the Senate needs to address this week. The majority leader has announced his desire to turn to the Australia Free Trade Agreement this week. In addition, the Senate needs to appoint conferees on the FSC/ETI or JOBS legislation. Therefore, Senators should expect additional votes during tomorrow's session.

ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

Mr. ALLARD. 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 10:14 p.m., adjourned until Wednesday, July 14, 2004, at 9:30 a.m.

---

CONFIRMATIONS

Executive nominations confirmed by the Senate July 13, 2004:

MILLENNIUM CHALLENGE CORPORATION

KENNETH FRANCIS HACKETT, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE MILLENNIUM CHALLENGE CORPORATION FOR A TERM OF THREE YEARS.

CHRISTINE TODD WHITMAN, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE MILLENNIUM CHALLENGE CORPORATION FOR A TERM OF THREE YEARS.

# Daily Digest

## HIGHLIGHTS

The House passed H.R. 4766, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for FY05.

## Senate

### Chamber Action

*Routine Proceedings, pages S7943–S8053*

**Measures Introduced:** Twelve bills and two resolutions were introduced, as follows: S. 2639–2650, S. Res. 404, and S. Con. Res. 124. **Pages S8029–30**

#### Measures Reported:

S. 155, to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation, with an amendment. (S. Rept. No. 108–302)

S. 1467, to establish the Rio Grande Outstanding Natural Area in the State of Colorado, with an amendment in the nature of a substitute. (S. Rept. No. 108–303)

S. 1521, to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community, with amendments. (S. Rept. No. 108–304)

H.R. 1658, to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, with an amendment. (S. Rept. No. 108–305) **Page S8029**

**Constitutional Amendment on Marriage:** Senate continued consideration of the motion to proceed to consideration of S.J. Res. 40, proposing an amendment to the Constitution of the United States relating to marriage. **Pages S7952–62, S7962–82, S7987–S8021**

A unanimous-consent agreement was reached providing for further consideration of the motion to proceed to consideration of the joint resolution at approximately 10 a.m., on Wednesday, July 14, 2004; that the time until 11:30 a.m. be equally di-

vided, and the time between 11:30 a.m., and 12 noon, be divided among certain Senators; and that at 12 noon, Senate vote on the motion to invoke cloture on the motion to proceed to consideration of the joint resolution. **Page S8052**

**E–Government Act Amendment—Agreement:** A unanimous-consent agreement was reached providing that the Senate request the return from the House of Representatives the papers with respect to H.R. 1303, to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference, and that the Senate action of July 9, 2004 on passage of the measure be vitiated, and the bill returned to the Committee on Governmental Affairs for appropriate action. **Page S8052**

**Nominations Confirmed:** Senate confirmed the following nominations:

Christine Todd Whitman, of New Jersey, to be a Member of the Board of Directors of the Millennium Challenge Corporation (prior to this action, Committee on Foreign Relations was discharged from further consideration); and

Kenneth Francis Hackett, of Maryland, to be a Member of the Board of Directors of the Millennium Challenge Corporation (prior to this action, Committee on Foreign Relations was discharged from further consideration). **Page S8053**

**Messages From the House:** **Page S8027**

**Measures Referred:** **Page S8027**

**Executive Communications:** **Pages S8027–29**

**Additional Cosponsors:** **Pages S8030–31**

**Statements on Introduced Bills/Resolutions:** **Pages S8031–51**

**Additional Statements:** **Pages S8025–27**

**Notices of Hearings/Meetings:** **Page S8051**

**Authority for Committees to Meet:** **Page S8051**

**Privilege of the Floor:** **Pages S8051–52**

**Adjournment:** Senate convened at 9:45 a.m., and adjourned at 10:14 p.m., until 9:30 a.m., on Wednesday, July 14, 2004. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S8052.)

**Committee Meetings**

(Committees not listed did not meet)

**GRAMM-LEACH-BLILEY ACT**

*Committee on Banking, Housing, and Urban Affairs:* Committee concluded a hearing to examine the Gramm-Leach-Bliley Act (P.L. 106–102), to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, after receiving testimony from Harry P. Doherty, Independence Community Bank Corporation, Brooklyn, New York, on behalf of America's Community Bankers; Terry Jorde, CountryBank USA, Cando, North Dakota, on behalf of the Independent Community Bankers of America; Ronnie Turbertini, SouthGroup Insurance and Financial Services, Jackson, Mississippi, on behalf of the Independent Insurance Agents and Brokers of America, Inc.; and Travis B. Plunkett, Consumer Federation of America, Steve Bartlett, Financial Services Roundtable, James D. McLaughlin, American Bankers Association, John Taylor, National Community Reinvestment Coalition, and J. Steven Judge, Securities Industry Association, all of Washington, D.C.

**CORPORATION FOR PUBLIC BROADCASTING**

*Committee on Commerce, Science, and Transportation:* Committee concluded a hearing to examine the proposed reauthorization of the Corporation for Public Broadcasting, after receiving testimony from Kathleen A. Cox, President and CEO, Corporation for Public Broadcasting; Carl Matthusen, KJZZ–FM, KBAQ–FM, Sun Sounds Radio Reading Services, Tempe, Arizona; Ken Burns, Florentine Films, Walpole, New Hampshire, on behalf of PBS; Loris Ann Vincente-Taylor, KUYI 88.1 FM, Keams Canyon, Arizona, on behalf of the Hopi Foundation; and Peter A. Frid, New Hampshire Public Television, University of New Hampshire, Durham, on behalf of the Association of Public Television Stations.

**NOMINATIONS**

*Committee on Commerce, Science, and Transportation:* Committee concluded a hearing to examine the nominations of David M. Stone, of Virginia, to be an Assistant Secretary of Homeland Security, Trans-

portation Security Administration, and Albert A. Frink, Jr., of California, to be Assistant Secretary of Commerce for Manufacturing and Services, after each nominee testified and answered questions in their own behalf.

**NUCLEAR POWER**

*Committee on Energy and Natural Resources:* Committee concluded an oversight hearing to examine the role of nuclear power in national energy policy, focusing on the high-level nuclear waste repository at the Yucca Mountain, Nevada site, the Advanced Fuel Cycle Initiative (AFCI), the Nuclear Energy Research Advisory Committee (NERAC), and enhancing nuclear technology education, after receiving testimony from Kyle E. McSarrow, Deputy Secretary of Energy.

**HUMAN TRAFFICKING**

*Committee on Foreign Relations:* Subcommittee on East Asian and Pacific Affairs concluded a hearing to examine human trafficking issues, focusing on mail order bride abuses, including exploitation and physical abuse, forced motherhood, threats of deportation, marketing of extremely vulnerable populations, underage children on marriage agency websites, and informational, economic, cultural, and legal vulnerability, after receiving testimony from Senator Cantwell; John R. Miller, Director, Office to Monitor and Combat Trafficking in Persons, Department of State; Michele A. Clark, Johns Hopkins University School of International Studies Foreign Policy Institute, and Suzanne Jackson, George Washington University Law School, both of Washington, D.C.; and Donna M. Hughes, University of Rhode Island Women's Studies Program, Kingston.

**OLYMPIC GAMES SECURITY**

*Committee on Foreign Relations:* Committee met in closed session to receive a briefing on security preparations for the 2004 Olympic Games from Thomas J. Miller, U.S. Ambassador to Greece.

**FEDERAL SENTENCING REFORM**

*Committee on the Judiciary:* Committee concluded a hearing to examine the impact of the U.S. Supreme Court's decision in *Blakely v. Washington* on the current and future operation of the federal sentencing guidelines, focusing on concerns regarding the validity of the federal guideline system, after receiving testimony from William W. Mercer, United States Attorney for the District of Montana, Helena, Department of Justice; John R. Steer, and William K. Sessions, III, Chief United States District Judge for the District of Vermont, both a Vice Chair and

Commissioner, United States Sentencing Commission; Lawrence L. Piersol, Chief United States District Judge for the District of South Dakota, Sioux Falls, on behalf of the Federal Judges Association; Paul G. Cassell, United States District Judge for the District of Utah, Salt Lake City; Frank O. Bowman, III, Indiana University School of Law, Indianapolis; Rachel E. Barkow, New York University School of Law, and Alan Vinegrad, Covington and Burling, both of New York, New York; and Ronald Weich, Zuckerman Spaeder LLP, Washington, D.C.

### PROPERTY RIGHTS

*Committee on the Judiciary:* Committee concluded a hearing to examine section 211 of the Department of Commerce Appropriations Act, of 1999, as included in the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Public Law 105-277), focusing on intellectual property rights relating to Cuba, after receiving testimony from Nancie G. Marzulla, Defenders of Property Rights, William A. Reinsch, National Foreign Trade Council, Inc., and Bruce A. Lehman, former Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, all of Washington, D.C.;

Kenneth B. Germain, University of Cincinnati College of Law, Cincinnati, Ohio; and Ramon Arechabala, Miami, Florida.

### INTELLIGENCE

*Select Committee on Intelligence:* Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to call.

### STEROID ABUSE

*United States Senate Caucus on International Narcotics Control:* Caucus concluded a hearing to examine the abuse of anabolic steroids and their precursors by adolescent amateur athletes, after receiving testimony from Joseph T. Rannazzisi, Deputy Director, Office of Diversion Control, Drug Enforcement Administration, Department of Justice; Terry Madden, United States Anti-Doping Agency, Colorado Springs, Colorado; William C. Martin, University of Michigan, Ann Arbor; Don H. Catlin, University of California at Los Angeles Olympic Analytical Laboratory; Curtis A. Wenzlaff, Flint, Michigan; Don Hooten, Plano, Texas; and an anonymous witness.

---

## House of Representatives

### Chamber Action

**Measures Introduced:** 10 public bills, H.R. 4819-4828; and 2 resolutions, H. Res. 713-714 were introduced. **Pages H5653-54**

**Additional Cosponsors:** **Pages H5654-55**

**Reports Filed:** Reports were filed today as follows:

H.R. 4418, to authorize appropriations for fiscal years 2005 and 2006 for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, for the Office of the United States Trade Representative, for the United States International Trade Commission, amended (H. Rept. 108-598, Pt. 1);

H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005 (H. Rept. 108-599);

H.R. 3632, to prevent and punish counterfeiting of copyrighted copies and phonorecords, amended (H. Rept. 108-600);

S. 2363, to revise and extend the Boys and Girls Clubs of America (H. Rept. 108-601); and

H. Res. 712, providing for consideration of H.R. 4759, to implement the United States-Australia Free Trade Agreement (H. Rept. 108-602). **Page H5653**

**Speaker Pro Tempore:** Read a letter from the Speaker wherein he appointed Representative Bradley to act as Speaker Pro Tempore for today. **Page H5539**

**Recess:** The House recessed at 9:33 a.m. and reconvened at 10 a.m. **Page H5542**

**Chaplain:** The prayer was offered today by Rev. Dr. Joseph W. Collins, Pastor, Mount Carmel United Methodist Church in Winston-Salem, North Carolina. **Page H5543**

**Discharge Petition:** Representative Frost moved to discharge the Committee on Rules from the consideration of H. Res. 696, providing for consideration of H.R. 3767, to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare Program (Discharge Petition no. 9). **Pages H5541-42**

**Department of Defense Appropriations Act for FY 2005—Motion to go to Conference:** The House disagreed to the Senate amendments to H.R. 4613, making appropriations for the Department of

Defense for the fiscal year ending September 30, 2005, and agreed to a conference. **Pages H5546–52**

Agreed to the Jackson (IL) motion to instruct conferees on the bill by a voice vote. **Page H5552**

Appointed as conferees: Representatives Lewis (CA), Young (FL), Hobson, Bonilla, Nethercutt, Cunningham, Frelinghuysen, Tiahrt, Wicker, Murtha, Dicks, Sabo, Visclosky, Moran (VA), and Obey. **Page H5552**

**Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act for FY 2005:** The House passed H.R. 4766, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, by a yea and nay vote of 389 yeas to 31 nays, Roll No. 370. The bill was also debated on Monday, July 12. **Pages H5552–81, H5581–5615**

Agreed to limit the number of and time limit for debate on further amendments to the bill. **Page H5573**

Agreed to:

Hyde amendment (printed in H. Rept 108–591, modified by unanimous consent) that changes the title of the “John Ogonowski Farmer-to-Farmer Program” to the “Doug Bereuter and John Ogonowski Farmer-to-Farmer Program”; **Pages H5552–54**

Bonilla amendment that increases funding for the Farm Service Agency, the Natural Resources Conservation Service, and Rural Development; **Pages H5554–59**

Kaptur amendment (no. 3 printed in the Congressional Record of July 9) that increases the funding for direct and guaranteed renewable energy loans and grants; **Pages H5560–62**

Blumenauer amendment (no. 13 printed in the Congressional Record of July 12) that reduces funding for the Office of the Inspector General, and increases it by the same amount, resulting in no change in funding; (agreed to limit time for debate on the amendment); **Pages H5567–73**

Hooley en bloc amendment that increases funding for the Animal and Plant Health Inspection Service (by a recorded vote of 260 yeas to 160 noes, Roll No. 363); **Pages H5562–64, H5579–80**

Weiner amendment that increases funding for the Animal and Plant Health Inspection Services (by a recorded vote of 223 yeas to 197 noes, Roll No. 364); **Pages H5564–67, H5580**

Lucas amendment (no. 5 printed in the Congressional Record of July 9) that prohibits the use of funds for any of the Environmental Quality Incentives, Wildlife Habitat Incentive, Grassland Reserve or Farmland Protection programs from being used for technical assistance under the Conservation Reserve or Wetland Reserve programs; **Pages H5583–85**

Sanders amendment that increases funding for the Rural Community Advancement Program; **Page H5589**

Flake amendment that prohibits the use of funds to pay the salaries and expenses of employees of the Department of Agriculture who make payments from any appropriated funds to tobacco quota holders or producers of quota tobacco pursuant to any law enacted after July 1, 2004; **Pages H5589–95**

Kaptur amendment (no. 10 printed in the Congressional Record of July 12) that prohibits the use of funds to provide credits or credit guarantees for agricultural commodities provided for use in Iraq in violation of provisions of the Agricultural Trade Act of 1978; **Pages H5595–98**

Hinchey amendment that increases funding for the Center for Drug Evaluation and Research; **Pages H5598–99**

Kaptur amendment that prohibits the use of funds to pay the federal share of the administrative costs of any state’s operation of the food stamp program that are performed outside the U.S.; **Page H5599**

Maloney amendment (no. 11 printed in the Congressional Record of July 12) that prohibits the Food and Drug Administration from using funds in the bill to restrict the prescription use of any contraceptive that is determined to be safe and effective; and **Pages H5602–06**

Obey amendment that reinstates section 717 of the bill regarding the acquisition of new information technology systems by the Department of Agriculture. **Page H5606**

Rejected:

Baca amendment that sought to increase funding for the Office of the Assistant Secretary for Civil Rights (by a recorded vote of 205 yeas to 209 noes, Roll No. 366); **Page H5608**

Tancredo amendment that sought to prohibit the use of funds for the Food Stamp Program in contravention of the Immigration and Nationality Act (by a recorded vote of 156 yeas to 262 noes, Roll No. 367); **Pages H5585–87, H5608–09**

Chabot amendment (no. 7 printed in the Congressional Record of July 12) that sought to prohibit the use of funds from being used to carry out activities in the Market Access Program (by a recorded vote of 72 yeas to 347 noes, Roll No. 368); and **Pages H5587–89, H5609–10**

Kaptur amendment that sought to increase funding for the Farmers Market Promotion Program (by a recorded vote of 206 yeas to 213 noes, Roll No. 369). **Pages H5600–02, H5610**

Withdrawn:

Brown of Ohio amendment, that was offered and subsequently withdrawn that sought to prohibit the use of funds for school lunch or breakfast programs

to purchase chickens or chicken products from companies that do not have a stated policy that such companies do not use fluoroquinolone in their chickens. **Pages H5582–83**

Point of Order sustained against:

Baca amendment (no. 9 printed in the Congressional Record of July 12) that would have increased funding for the Office of the Assistant Secretary of Civil Rights, for activities under the Cooperative State Research, Education, and Extension Service; **Pages H5559–60**

Weiner amendment that would have increased funding for the Animal and Plant Health Inspection Service; **Page H5567**

Section 717 regarding the acquisition of new information technology systems by the Department of Agriculture; **Pages H5578–79**

Section 751 regarding unobligated balances in the Local Television Loan Guarantee Program; **Page H5579**

Lucas amendment (no. 4 printed in the Congressional Record of July 9) that would have added language to the bill's provisions that changes the Food Security Act of 1985 to prohibit the use of funds provided for Commodity Credit Corporation, starting in FY05 and for each fiscal year thereafter, for technical assistance for the Farmland Protection, Grassland Reserve, Environmental Quality Incentives, and Wildlife Habitat Incentives programs; and **Page H5582**

Tiaht amendment (no. 12 printed in the Congressional Record of July 12) that would have prohibited the use of funds for official travel of Agriculture Department employees in Washington DC, until the Agriculture Secretary implements a voluntary program for beef slaughtering establishments to test for bovine spongiform encephalopathy. **Page H5602**

H. Res. 710, the rule providing for consideration of the bill was agreed to on Monday, July 12.

**Department of Defense Appropriations Act for FY05—Conference Committee:** Agreed to close portions of the conference to the public when classified information is discussed, by a yea and nay vote of 411 yeas to 6 nays, Roll No. 365. **Page H5581**

**Project BioShield Act of 2003—Order of Business:** Agreed that it be in order at any time without intervention of any point of order to consider S. 15, to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining

the Food and Drug Administration approval process of countermeasures; that the bill be considered as read for amendment; and that the previous question be considered as ordered on the bill to final passage without intervening motion except (1) 90 minutes of debate equally divided and controlled, and (2) one motion to recommit. **Page H5581**

**Amendments:** Amendments ordered printed pursuant to the rule appear on pages H5655–56.

**Quorum Calls—Votes:** Two yea and nay votes and six recorded votes developed during the proceedings of today and appear on pages H5579–80, H5580, H5581, H5608, H5608–09, H5609–10, H5610, H5614–15. There were no quorum calls.

**Adjournment:** The House met at 9 a.m. and adjourned at 11:33 p.m.

## Committee Meetings

### COLLEGE ACCESS AND OPPORTUNITY ACT

*Committee on Education and the Workforce:* Held a hearing on H.R. 4283, College Access and Opportunity Act of 2004, focusing on Graduation Rates and Student Outcomes. Testimony was heard from public witnesses.

### CONSOLIDATE OFFICES OF COUNTER INTELLIGENCE AT NNSA AND DOE

*Committee on Energy and Commerce:* Subcommittee on Energy and Air Quality held a hearing entitled "A Hearing to Review Proposals to Consolidate the Offices of Counter Intelligence at NNSA and DOE." Testimony was heard from the following officials of the Department of Energy: Linton F. Brooks, Administrator, National Nuclear Security Administration; and Steve Dillard, Director, Office of Counterintelligence; and a public witness.

### IMPLEMENT INTERNATIONAL CONVENTIONS

*Committee on Energy and Commerce:* Subcommittee on Environment and Hazardous Materials, hearing entitled "POPs, Pic, and LRTAP: the Role of the United States and Draft Legislation to Implement These International Conventions." Testimony was heard from Claudia McMurray, Deputy Assistant Secretary, Environment, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State; Susan B. Hazen, Principal Deputy Assistant Administrator, Office of Prevention, Pesticides, and Toxic Substances, EPA; and public witnesses.

**SAMARITAN INITIATIVE ACT**

*Committee on Financial Services:* Subcommittee on Housing and Community Opportunity held a hearing on H.R. 4057, Samaritan Initiative Act of 2004. Testimony was heard from public witnesses.

**REVIEW—OFFICE OF FEDERAL HOUSING ENTERPRISE AND FEDERAL HOUSING FINANCE BOARD**

*Committee on Financial Services:* Subcommittee on Oversight and Investigations and the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a joint hearing entitled “A Review of the Office of Federal Housing Enterprise Oversight and Federal Housing Finance Board.” Testimony was heard from the following officials of the Department of Housing and Urban Development: Armando Falcon, Jr., Director, Office of Federal Housing Enterprise Oversight; and Alicia R. Castaneda, Chairman, Federal Housing Finance Board.

**FEDERAL HIRING PROCESS—SHORTENING THE LONG AND WINDING ROAD**

*Committee on Government Reform:* Subcommittee on Civil Service and Agency Organization concluded hearings entitled “The Federal Hiring Process II: Shortening the Long and Winding Road.” Testimony was heard from Dan Blair, Deputy Director, OPM; David Chu, Under Secretary, Personnel and Readiness, Department of Defense; Ed Sontag, Assistant Secretary, Administration and Management, Chief Human Capital Officer, Department of Health and Human Services; Claudia Cross, Chief Human Capital Officer, Director, Office of Human Resources Management, Department of Energy; and J. Christopher Mihm, Director, Strategic Issues, GAO.

**VISA REVOCATIONS**

*Committee on Government Reform:* Subcommittee on National Security, Emerging Threats and International Relations continued hearings entitled “Visa Revocations II: Still Porous, Slow to Fix.” Testimony was heard from Jess T. Ford, International Affairs and Trade Division, GAO; Tony Edson, Managing Director, Office of Visa Services, Department of State; the following officials of the Department of Homeland Security: Robert M. Jacksta, Executive Director, Border Security and Facilitation, Bureau of Customs and Border Protection; and Robert A. Schoch, Deputy Assistant Director, National Security Investigations, Bureau of Immigration and Customs Enforcement; and Donna A. Bucella, Director, Terrorist Screening Center, FBI, Department of Justice.

**INFORMATION SHARING—LINKING LAW ENFORCEMENT AND HOMELAND SECURITY WITH FEDERAL, STATE AND LOCAL GOVERNMENTS**

*Committee on Government Reform:* Subcommittee on Technology, Information Policy, Information Policy, Intergovernmental Relations and the Census held an oversight hearing entitled “Facilitating an Enhanced Information Sharing Network that Links Law Enforcement and Homeland Security for Federal, State and Local Governments.” Testimony was heard from LTG Patrick Hughes, USA, Assistant Secretary, Information Analysis, Department of Homeland Security; Russell Travers, Deputy Director, and Associate Director, Defense Issues, Terrorist Threat Integration Center; Willie Hulon, Deputy Assistant Director, Counterterrorism Division FBI, Department of Justice; Gerald Lynch, Executive Director, Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network; Mark Zadra, Chief of Investigations, Department of Law Enforcement, State of Florida; and Suzanne Peck, Chief Technology Officer, District of Columbia.

**OVERSIGHT—GAMING**

*Committee on Resources:* Held an oversight hearing on gaming on off-reservation, restored and newly-acquired lands. Testimony was heard from Representative McCrery; Aurene Martin, Principal Deputy Assistant Secretary, Indian Affairs, Department of the Interior; and public witnesses.

**OVERSIGHT—STATUS OF OCEAN OBSERVING SYSTEMS IN U.S.**

*Committee on Resources:* Subcommittee on Fisheries Conservation, Wildlife and Oceans held an oversight hearing on the Status of Ocean Observing Systems in the United States. Testimony was heard from Rick Spinrad, Director, National Ocean Service, NOAA, Department of Commerce; Margaret S. Leinen, Assistant Director, Geosciences, NSF; Robert Winokur, Technical Director, Oceanographer of the Navy, Department of the Navy; and public witnesses.

**FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS**

*Committee on Rules:* Heard testimony from Representatives Kolbe, Lowey, and Lantos, but action was deferred on H.R. 4818, Foreign Operations, Export Financing and Related Programs Appropriations for Fiscal Year 2005.

## U.S.-AUSTRALIA FREE TRADE AGREEMENT IMPLEMENTATION ACT

*Committee on Rules:* Granted by voice vote, a closed rule on H.R. 4759, United States-Australia Free Trade Agreement Implementation Act, providing for two hours of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill. The rule provides that pursuant to section 151(f)(2) of the Trade Act of 1974, the previous question shall be considered as ordered on the bill to final passage without intervening motion. Section 2 of the resolution provides that during consideration of the bill, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker. Testimony was heard from Representative Crane.

## OVERSIGHT—GSA'S FISCAL YEAR CAPITAL INVESTMENT AND LEASING PROGRAM

*Committee on Transportation and Infrastructure:* Subcommittee on Economic Development, Public Buildings and Emergency Management held an oversight hearing on GSA's Fiscal Year 2005 Capital Investment and Leasing Program. Testimony was heard from F. Joseph Moravec, Commissioner, Public Buildings Service, GSA; and Jane R. Roth, Judge, U.S. Court of Appeals, Third Circuit and Chairman, Committee on Security and Facilities, Judicial Conference.

## EXAMINE CHILD WELFARE REFORM PROPOSALS

*Committee on Ways and Means:* Subcommittee on Human Resources held a hearing to Examine Child Welfare Reform Proposals. Testimony was heard from public witnesses.

---

## COMMITTEE MEETINGS FOR WEDNESDAY, JULY 14, 2004

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on Commerce, Science, and Transportation:* to hold hearings to examine home products fire safety issues, 9:30 a.m., SR-253.

Subcommittee on Science, Technology, and Space, to hold hearings to examine adult stem cell research issues, 2:30 p.m., SR-253.

*Committee on Energy and Natural Resources:* business meeting to consider pending calendar business, 11:30 a.m., SD-366.

Subcommittee on Public Lands and Forests, to hold hearings to examine S. 2317, to limit the royalty on soda

ash; S. 2353, to reauthorize and amend the National Geologic Mapping Act of 1992; H.R. 1189, to increase the waiver requirement for certain local matching requirements for grants provided to American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands; and H.R. 2010, to protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, 2:30 p.m., SD-366.

*Committee on Finance:* business meeting to consider S. 2610, to implement the United States-Australia Free Trade Agreement, and proposed legislation implementing the U.S.-Morocco Free Trade Agreement, 10 a.m., SD-215.

*Committee on Foreign Relations:* to hold hearings to examine balancing reform and counterterrorism in Pakistan, 9:30 a.m., SD-419.

Full Committee, to hold hearings to examine U.S. policy toward Southeast Europe, focusing on the Balkans, 2:30 p.m., SD-419.

*Committee on Indian Affairs:* business meeting to consider pending calendar business; to be followed by an oversight hearing on the implementation of the American Indian Religious Freedom Act of 1978, 10 a.m., SR-418.

*Committee on the Judiciary:* to hold hearings to examine the implications of drug importation, 10 a.m., SH-216.

*Committee on Rules and Administration:* to hold an oversight hearing to examine the Federal Election Commission, 9:30 a.m., SR-301.

### House

*Committee on Appropriations,* to mark up the following appropriations for fiscal year 2005: Labor, Health and Human Services, Education and Related Agencies; and District of Columbia, 10 a.m., 2359 Rayburn.

*Committee on Education and the Workforce,* Subcommittee on Education Reform, to mark up H.R. 4496, Vocational and Technical Education for the Future Act, 10:30 a.m., 2175 Rayburn.

*Committee on Energy and Commerce,* Subcommittee on Commerce, Trade and Consumer Protection, hearing entitled "Radio Frequency Identification (REID) Technology: What the Future Holds for Commerce, Security, and the Consumer," 1:30 a.m., 2322 Rayburn.

Subcommittee on Telecommunications and the Internet, hearing entitled "Competition and Consumer Choice in the MVPD Marketplace—Including an Examination of Proposals to Expand Consumer Choice, Such as A La Carte and Themed-Tiered Offerings," 10 a.m., 2123 Rayburn.

*Committee on Government Reform,* and the Committee on Agriculture, joint hearing entitled "A Review of USDA's Expanded BSE Cattle Surveillance Program," 10 a.m., 2154 Rayburn.

Subcommittee on Government Efficiency and Financial Management, hearing entitled "Improving IG Functionality and Independence—A Review of Legislative Ideas," 2 p.m., 2247 Rayburn.

Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census, hearing entitled "Health Informatics: What is the Prescription for

Success in Intergovernmental Information Sharing and Emergency Response?" 2 p.m., 2154 Rayburn.

*Committee on International Relations*, Subcommittee on Asia and the Pacific, hearing on Islam in Asia, 1:30 p.m., 2172 Rayburn.

*Committee on the Judiciary*, to mark up H.R. 3313, Marriage Protection Act of 2003, 10:30 a.m., 2141 Rayburn.

*Committee on Resources*, to mark up the following measures: H. Res. 431, Honoring the achievements of Siegfried and Roy, recognizing the impact of their efforts on the conservation of endangered species both domestically and worldwide, and wishing Roy Horn a full and speedy recovery; H.R. 1630, Petrified Forest National Park Expansion Act of 2003; H.R. 2129, Taunton, Massachusetts Special Resources Study Act; H.R. 2400, To amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; H.R. 2457, Castillo De San Marcos National Monument Preservation and Education Act; H.R. 2960, To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Brownsville Public Utility Board water recycling and desalinization project; H.R. 3056, To clarify the boundaries of the John H. Chafee Coast Barrier Resources System Cedar Keys Unit P25 on Otherwise Protected Area P25P; H.R. 3257, Western Reserve Heritage Area Study Act; H.R. 3334, Riverside-Corona Feeder Authorization Act; H.R. 3427, Craig Recreation Land Purchase Act; H.R. 3479, Brown Tree Snake Control and Eradication Act of 2003; H.R. 3589, To create the Office of Chief Financial Officer of the Government of the Virgin Islands; H.R. 3597, To authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on the Alder Creek water storage and conservation project in El Dorado County, California; H.R. 3954, Rancho El Cajon Boundary Reconciliation Act; H.R. 4010, National Geologic Mapping Reauthorization Act of 2004; H.R. 4027, To authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center; H.R. 4045, To authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River; H.R. 4170, Department of the Interior Volunteer Recruitment Act of 2004; H.R. 4459, Llagas Reclamation Groundwater Remediation Initiative; H.R. 4481, Wilson's Creek National

Battlefield Boundary Adjustment Act of 2004; H.R. 4492, To amend the Omnibus Parks and Public Lands Management Act of 1966 to extend the authorization for certain national heritage areas; H.R. 4494, Grey Towers National Historic Site Act of 2004; H.R. 4508, To amend the National Parks and Recreation Act of 1978 to require the Secretary to permit continued use and occupancy of certain privately owned cabins in the Mineral King Valley in the Sequoia National Park; H.R. 4606, Southern California Groundwater Remediation Act; H.R. 4617, To amend the Small Tracts Act to facilitate the exchange of small tracts of land; H.R. 4625, Soda Ash Royalty Reduction Act of 2004; S. 943, To authorize the Secretary of the Interior to enter into 1 or more contracts with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming; S. 1003, To clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River; S. 1537, To direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery; H.R. 1576, Harpers Ferry National Historical Park Boundary Revision Act of 2003; and S. 1721, American Indian Probate Reform Act of 2003, 10 a.m., 1324 Longworth.

*Committee on Small Business*, hearing on Trade Fairness: How We Can Make Our Trade Laws Work for America's Small Businesses, 2 p.m., 2360 Rayburn.

*Committee on Transportation and Infrastructure*, Subcommittee on Aviation, oversight hearing on In-Line Explosive Detection Systems: Financing and Deployment, 10 a.m., 2167 Rayburn.

*Committee on Ways and Means*, to mark up the United States-Morocco Free Trade Agreement Implementation Act, 5 p.m., 1100 Longworth.

*Permanent Select Committee on Intelligence*, executive, hearing on The Critical Need for Interrogation in the Global War on Terrorism, 9 a.m., H-405 Capitol.

### Joint Meetings

*Conference*: meeting of conferees on H.R. 2443, to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, 3:15 p.m., 2167 RHOB.

*Conference*: closed meeting of conferees on H.R. 4613, making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, 6:30 p.m., HC-5, Capitol.

*Next Meeting of the SENATE*

9:30 a.m., Wednesday, July 14

## Senate Chamber

**Program for Wednesday:** After the transaction of any morning business (not to extend beyond 30 minutes), Senate will continue consideration of the motion to proceed to consideration of S.J. Res. 40, Constitutional Amendment on Marriage, with a vote on the motion to invoke cloture on the motion to proceed to consideration of the S.J. Res. 40 to occur at 12 noon.

*Next Meeting of the HOUSE OF REPRESENTATIVES*

10 a.m., Wednesday, July 14

## House Chamber

**Program for Wednesday:** Consideration of Suspensions:

- (1) H.R. 3463—SUTA Dumping Prevention Act of 2003;
- (2) H. Res. 705—Urging the President to resolve the disparate treatment of direct and indirect taxes presently provided by the World Trade Organization;
- (3) H.R. 4418—Customs Border Security Act of 2004;
- (4) H. Res. 576—Urging the Government of the People's Republic of China to improve its protection of intellectual property rights;
- (5) H.R. 1587—Viet Nam Human Rights Act of 2003;

(6) H. Con. Res. 422—Concerning the importance of the distribution of food in schools to hungry or malnourished children around the world;

(7) H. Res. 615—Expressing the sense of the House of Representatives in support of full membership of Israel in the Western European and Others Group (WEOG) at the United Nations;

(8) H. Con. Res. 462—Reaffirming unwavering commitment to the Taiwan Relations Act;

(9) H. Res. 688—Commending the Government of Portugal and the Portuguese people for their long-standing friendship, stalwart leadership, and unwavering support of the United States in the effort to combat international terrorism;

(10) S. 2264—Northern Uganda Crisis Response Act;

(11) H.R. 1914—Jamestown 400th Anniversary Commemorative Coin Act of 2003;

(12) H.R. 3277—Marine Corps 230th Anniversary Commemorative Coin Act;

(13) H.R. 2768—John Marshall Commemorative Coin Act;

(14) H.R. 3884—Hipolito F. Garcia Federal Building and United States Courthouse Building Designation Act;

(15) H.R. 4056—Commercial Aviation MANPADS Defense Act of 2004; and

(16) H.R. 4012—To amend the District of Columbia College Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act.

Consideration of S. 15, Project BioShield Act of 2004 (unanimous consent agreement).

Consideration of H.R. 4759, United States-Australia Free Trade Implementation Act (subject to a rule).



# Congressional Record

printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed one time. ¶Public access to the *Congressional Record* is available online through *GPO Access*, a service of the Government Printing Office, free of charge to the user. The online database is updated each day the *Congressional Record* is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available through *GPO Access* at [www.gpo.gov/gpoaccess](http://www.gpo.gov/gpoaccess). Customers can also access this information with WAIS client software, via telnet at [swais.access.gpo.gov](http://swais.access.gpo.gov), or dial-in using communications software and a modem at 202-512-1661. Questions or comments regarding this database or *GPO Access* can be directed to the *GPO Access* User Support Team at: E-Mail: [gpoaccess@gpo.gov](mailto:gpoaccess@gpo.gov); Phone 1-888-293-6498 (toll-free), 202-512-1530 (D.C. area); Fax: 202-512-1262. The Team's hours of availability are Monday through Friday, 7:00 a.m. to 5:30 p.m., Eastern Standard Time, except Federal holidays. ¶The *Congressional Record* paper and 24x microfiche edition will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, \$252.00 for six months, \$503.00 per year, or purchased as follows: less than 200 pages, \$10.50; between 200 and 400 pages, \$21.00; greater than 400 pages, \$31.50, payable in advance; microfiche edition, \$146.00 per year, or purchased for \$3.00 per issue payable in advance. The semimonthly *Congressional Record Index* may be purchased for the same per issue prices. To place an order for any of these products, visit the U.S. Government Online Bookstore at: [bookstore.gpo.gov](http://bookstore.gpo.gov). Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, or phone orders to 866-512-1800 (toll free), 202-512-1800 (D.C. area), or fax to 202-512-2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, American Express, or GPO Deposit Account. ¶Following each session of Congress, the daily *Congressional Record* is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the *Congressional Record*.

**POSTMASTER:** Send address changes to the Superintendent of Documents, *Congressional Record*, U.S. Government Printing Office, Washington, D.C. 20402, along with the entire mailing label from the last issue received.