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House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
July 20, 2004.

I hereby appoint the Honorable ROB BISHOP 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 7, 2003, 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 Illinois (Mr. EMANUEL) for 5 minutes.

MIDDLE CLASS SQUEEZE

Mr. EMANUEL. Mr. Speaker, the lead story in today's Wall Street Journal, ''So Far, Economic Recovery Tilts to Highest Income Americans,'' provides further evidence of a two-track economy and an economic squeeze on middle class families.

While there has been a profits boom for corporations and a 16 percent increase in pay on Wall Street, there is a growing wage and benefits recession for the middle class of America. To those who say redistribution of wealth is wrong, I agree, whether it is to the top 1 percent or to the bottom 25 percent.

For America's workers, a new study by the Economic Policy Institute reports that weekly earnings have fallen for 6 of the last 7 months. When the recovery began in November of 2001, hourly wages were actually higher than what those same jobs pay today.

Evidence of this two-track economy is evident throughout the country. As the article points out, while corporate profits have risen around 87 percent and sales at BMW and Nieman Marcus are booming, sales at Wal-Mart and Target are flat.

But don't take my word for it, Today's Wall Street Journal quotes J.P. Morgan Chase and the former Federal Reserve economist Dean Maki: ''To date, the recovery's primary beneficiaries have been the upper income. Two of the main factors supporting spending over the past year, tax cuts and increases in stock wealth, have sharply benefited upper income households relative to others.''

David Rosenberg, chief economist at Merrill Lynch, ''The income from the recovery has been locked up in the corporate sector. We have had a redistribution of income to the corporate sector.''

So if you sit in the board room, you are doing just right. For the rest of us, it is an economic squeeze.

With working families' household incomes down nearly $1,500 over the last 2 years, people are working harder just to stay in the same place. And for the middle class, this has become a step master economy. All the while, the expense side of the ledger shows:

According to the Kaiser Foundation, that health care costs for a family of four have gone up from $6,500 to $9,000, a 49 percent increase from 2000 to 2003. And as health care costs have risen, corporations have shifted the burden to employees.

Millions of middle class families now carry, on average, the average American middle class family, $9,000 in credit card debt and $17,000 in overall household debt. The squeeze has resulted in 33 percent more bankruptcies for households.

One hundred eighty billion dollars has been evaporated from 401(k)s and retirement security for middle class families. College tuition costs have gone up 26 percent in the last 2 years.

With a record like this, only this admission could wave the banner ''mission accomplished'' above the economy.

The concentration of wealth and the two-track economy can be traced right back to President Bush's tax cuts. A study cited by The New York Times found that Americans are being taxed more than twice as heavy on earnings from work as they are on investment income, even though more than half of all investment goes to the wealthiest 5 percent of taxpayers.

The shifting of the tax burden from wealth to work is the essence of class warfare. And as Warren Buffet, the legendary investor said, ''If class warfare is being waged in America, my class is clearly winning.''

In the 1990s, we ended welfare as we know it because it was a failed system. Now this administration is bent on ending the middle class as we know it. This administration has two books, two sets of values, two sets of priorities, and a single economic strategy that divides this country along income.

If you want to live in a country without class divisions, we cannot deny the middle class families the same dreams of affordable health care, higher education, and a retirement that is secure. We have to give that dream to every American, not just to the wealthiest Americans.

Renowned Supreme Court Justice Louis Brandeis once said, ''We can either have a democracy in this country

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or we can have a great concentration of wealth in a few hands, but we cannot have both.''

Today's economic policies have shifted this great economy and the benefits of this great country and this economy to the wealthiest 1 percent, as today's Wall Street Journal notes. When I look at this and think about what has happened to the middle class family, with increasing health care costs, college costs, retirement that is less secure, and jobs that pay less than they did just 3 years ago, I'm reminded, especially as I look at communities across this country, with police officers and police departments and fire departments that are under stress, schools that are closing, teachers that are being laid off, and libraries that are cutting hours, I'm reminded of when George Bush declared in 2000 that he was opposed to nation-building. Who knew it was America he was talking about.

Mr. Speaker, we have to return this economy and this country back to the people who built it and to the families and respect their values. The middle class and their values and their economic interests are under assault. It is time we turned this country around and focused our policies on the middle class and their families.

TAX SIMPLIFICATION AND REFORM WEEK

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

Mr. DELAY. Mr. Speaker, the rhetoric of class warfare has never worked, and it certainly is not going to work today, particularly when we see opportunities proceeding for Americans all over this country.

So rather than sit back and enjoy the historic success of the 2001 and 2003 tax measures this Republican majority has passed into law, which have accounted for opportunities, certainly for more than 1.3 million new jobs already this year, we have developed legislative proposals to address longstanding impediments to prosperity in this Nation.

Rather than simply looking for new taxes to reduce, we looked around for other friction heaped upon the free market by this government, and we came up with an eight-part strategy to increase the competitiveness of our economy for years to come: The 21st Century Careers Initiative.

We began to look at ways to make the health care system even more flexible and responsive to the needs of American consumers. We began the process of reforming the way that the Federal Government regulates small businesses in this country. We began a rethinking of the role of the government in lifelong learning programs, so that Americans never stop increasing their skills and their earning power. And this week we began what we hope will be a long debate about the future of taxation in the United States.

While tax relief has been part of the Republican agenda for decades, the time has come for us to not simply lower taxes but to reform the way people are taxed in the first place. And so we come to the Tax Simplification and Reform Week on the House floor.

We will begin with consideration of two bills that begin to fix our Tax Code so that it will make more sense for Americans. One will increase the income limit to qualify for filing the form 1040–EZ income tax return for the first time in more than 20 years. The other will create the first-ever short-form tax return specifically for seniors.

Now, the debate about tax reform and simplification, like the other components of the career initiative, is not designed to score partisan points, but, instead, to move our economy past the artificial shackles of over taxation, over regulation, and over litigation, which keep the American people from enjoying the full benefits of their economic competitiveness.

This week, Mr. Speaker, we will take another step closer to a friction-free environment that our economy demands and our people deserve.

LAGGING WAGES

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, this weekend, we had more proof that middle- and low-income workers are still feeling the economic squeeze when it comes to making ends meet. Last Friday, the Bureau of Labor Statistics reported that hourly earnings of production workers, non-management workers ranging from nurses and teachers to assembly-line workers, fell 1.1 percent last month. That is the steepest decline since the recession of 1991, and makes up the lowest level of weekly pay since October 2001.

While weekly pay is at its lowest levels in over a decade, middle- and lower-income workers are feeling the squeeze thanks to ever-increasing education, health care, and gas prices that are rising at rates much higher than the stagnant incomes.

Let us consider a middle-class nurse in my State of New Jersey whose income fell 1.1 percent last month. How can this nurse afford the average $2,700 increase in health care premiums that New Jersey families face this year? How can this nurse and her family afford the $1,600 increase in college tuition costs? How can this nurse afford the more than $2,000 increase in child care costs? These increases would be difficult to keep up with if the nurse was actually receiving cost of living raises, however, it is impossible to meet with rising costs when you are actually seeing a cut in pay.

There is no doubt it is becoming more and more difficult for these middle-class families to make ends meet. You would think this disappointing news would concern President Bush. After all, he already has the dubious distinction as the only President since Herbert Hoover to lose jobs on his watch—1.8 million private sector jobs have been lost over the last 3 years thanks to the economic neglect of President Bush and Republicans here in Congress.

Instead of showing any concern, the President has said that our economy does not need boom or bust type growth. The President ought to tell that to the millions of families around America that are struggling to make ends meet.

The economic record of President Bush and the Republican House of Representatives has been an utter failure, and the President's statement that an economic boom is not needed today shows he is clearly out of touch by the economic realities middle-class Americans presently face.

You do not have to take my word for it, Mr. Speaker, two members of the President's own party have voiced concern about the economy and the President's inability over the last 3 years to ease the economic concerns of both the unemployed and the middle class. Last week, Senator VOINOVICH from Ohio signaled his frustration with the Bush administration when he stated, and I want you to keep in mind this is a Republican Senator from Ohio I am quoting, ''Despite these overwhelming problems facing our Nation's manufacturers, I must say I have yet to see any significant action on behalf of the Bush administration to respond.''

Now, that is a member of the President's own party admitting that the administration has not properly responded to the economic hardships many Americans now face. And, last week, another Republican Senator said the President's economists gave him bad advice on the impact his tax cuts would have on the economy.

I am quoting Charles Grassley, the Republican chairman of the Senate committee that writes all the tax laws. He said, ''U.S. President Bush should have been more skeptical about economic predictions regarding jobs created by tax cuts totaling $1.7 trillion over 10 years.'' Grassley continues: ''His economists screwed up and Bush was not right in not questioning his economists.''

Now, again, that is a Republican Senator admitting that the tax cuts President Bush and Congressional Republicans have been touting as the answer to our Nation's economic problems will not actually create jobs or help middle-class families.

It is nice that some within the Republican Party are finally realizing that their tax cuts for the wealthiest have not trickled down to the middle class. Maybe these statements from Republican senators will serve as a

wake-up call not only to President Bush but also to Republican leaders in Congress that our Nation needs a real economic stimulus plan.

You cannot actually fix a problem until you admit a problem. And, unfortunately, President Bush is still in denial that the economy needs fixing.

CLINTON NATIONAL SECURITY ADVISER UNDER INVESTIGATION

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

Mr. HAYWORTH. Mr. Speaker, in front of the grand edifice known as our National Archives, where this Nation's records and a good bit of its written history is kept, are these words: ''What is past is prologue.'' And yet today, in the wake of last night's wire service and subsequent press reports, perhaps that should be amended to read, ''What is past is purloined'' or ''What is secret is stolen.''

Mr. Speaker, press accounts today indicate that former National Security Adviser Sandy Berger is the focus of a criminal investigation dealing with the theft of classified documents in the care of our National Archives. It seems that former National Security Adviser Berger, at the direction of former President Clinton, was sent to the National Archives to review documents that might be germane to the mission of the bipartisan 9/11 Commission examining the events of 9/11 and the security situation and intelligence situation which our country confronts.

Mr. Speaker, according to press accounts, former National Security Adviser Berger took copies of some documents. By some accounts he stuffed them into his pants, into his pants pockets, and he left the National Archives with secret material.

Now, Mr. Speaker, in a rather pathetic effort at defense, Mr. Berger's attorney said that his client's actions were inadvertent. I thank my colleague from Kansas for handing me the unabridged dictionary of the English language from which I will read today: ''Inadvertent: Unintentional, not attentive, heedless of, pertaining to, or characterized by a lack of attention.'' Inadvertent.

That is curious. The former National Security Adviser inadvertently putting classified documents into his pockets; inadvertently leaving the archives with classified material? Oh yes, his legal counsel went on to say that our former National Security Adviser was sloppy. Sloppy? Inadvertent? No, Mr. Speaker, there was a purpose to what Mr. Berger did. What was Mr. Berger, Mr. Speaker, trying to keep from the American people and from the 9/11 Commission?

It seems to me, Mr. Speaker, before any report is released, we should find out exactly what documents were taken and exactly what those documents indicated. This is not an inadvertent act. This is not an act of sloppiness. It is an act that is criminal, and it carries with it not only consequences for Mr. Berger, I daresay it carries with it, sadly, perhaps even deadly consequences for the United States.

It is not sloppiness that led to a lack of security. It is not an inadvertent act. There are purposes behind those who would attempt to shield the truth, and those purposes need to be determined and the American people need to be aware of what action was taken or what action was not taken by those who served in positions of trust, by those who purport to uphold the Constitution of the United States.

And, even at this time of year, where inevitably the call from the left will be that this is some effort to politicize what has transpired, Mr. Speaker, this is too important for politics. This is national survival.

No, what is past is prologue. And, Mr. Speaker, I pray it is not prologue to yet another attack.

ECONOMIC GOOD NEWS

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

Mr. TIAHRT. Mr. Speaker, we have heard a lot about how bad the economy is, but I want to tell my colleagues that there is a lot of good news out there about the economy. Since last August, we have created 1.5 million jobs. There are more new housing starts than ever before in the history of our Nation. More minorities are owning homes than ever before in the history of our Nation. More people today in America are working than ever before in the history of our Nation. The economy is strong. In fact, wages are at their highest point higher than ever before in the history of our Nation.

We have heard a lot of gloom and doom about how the President is not paying attention to the economy. Well, he has had a lot to overcome. In fact, in 1999, we had the tech bubble burst. The NASDAQ dropped by more than half its value. November 2000 the recession technically started, both before President Bush was sworn into office. Those were tremendous impacts on our economy. We had to overcome that. Then, on September 11, 2001, a fact many Democrats forget, our economy was dealt a severe blow. In fact, we lost hundreds of thousands of jobs across the Nation. In Wichita, Kansas, alone we lost 13,000 aerospace jobs following September 11, 2001.

But, Mr. Speaker, we have passed tax relief and it has strengthened our economy, but we can do much better than that. In fact, when we look at the barriers to bringing jobs into America, we see that it is not about wages, that it is not about overhead, it is not about something that CEOs or employees or small business owners can control. Most of the barriers to bringing jobs into America were created right here on the floor of the House of Representatives over the last generation.

It started back in the 1960s, when we started piling regulation and more taxes on businesses and individuals. We started burying into the cost of building products regulations, trade policies, taxation, and medical costs. So now we have come up with a plan, the Republicans have come up with a plan to deal with these issues and help change the environment so we can bring jobs into America. In fact, we have been dealing with this for about 7 weeks.

We have broken the barriers into eight categories. Six of these categories we have confronted right here on the floor of the House, and we have passed 25 pieces of legislation. We started out with health care security. We passed legislation to help lower health care costs. Then we moved to bureaucratic red tape termination, and we passed legislation that would help cut the red tape in America and lower the cost of doing business. We then went on to lifelong learning, to prepare the workforce for the jobs we will be bringing back into America.

We then dealt with energy self-sufficiency and security. We should not be paying $2 a gallon for gasoline when we have billions of barrels of oil on reserve, and when we have a bad economic policy where we cannot build a refinery even if we could get more oil in; or we cannot distribute it properly or bring down the cost of natural gas. So we addressed that bill during the energy self-sufficiency week with the energy bill.

We then moved on to spurring innovation through research and development so that we can continue the innovation that has been the real strength of this country over the years.

And last week we dealt with trade fairness and opportunity. We passed another free trade agreement with Australia. This week we are going to pass one with Morocco. And these are bringing down the barriers that keep us from bringing jobs into America.

So this week we are dealing with tax relief and simplification, a very important issue because our tax system buries cost into our products. U.S. corporate tax rates are the second highest in the industrialized world, after Japan. America's corporate tax rate is higher than even socialist welfare States, like France and Sweden. Our competitors, such as Germany and Russia, see the value in lowering their corporate tax burdens, and that is just what they are doing.

One study estimated that a 40 percent marginal corporate tax rate, including Federal and State taxes, has the effect of raising the cost of U.S. labor by $1.43 an hour. So our employers are taking on these costs that they have no control over, but Congress does, and it is time we pass legislation

that will help lower this burden, especially in the area of taxes.

This week, we are going to amend the IRS code in order to simplify taxes for business. Then we are going to simplify taxes for certain individuals so they can use the 1040–EZ form. We will use the Tax Relief Simplification and Equity Act on the floor as the method of bringing down the cost of business here in America.

Republicans have a solution for the problems. It is not Benedict Arnold CEOs, it is not raising taxes on businesses or the top 1 percent in America, it is lowering taxes so that we can bring jobs back into America. That is what we need to be doing today. This is the debate we should be having, and it will be here on the floor this week.

LISTEN TO THE WOMEN OF IRAQ

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized during morning hour debates for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, in late October, I had the opportunity to be in Iraq as part of a bipartisan female congressional delegation, and to visit there with our military men and women. Also, while I was there, I had the opportunity to visit and meet some of the Iraqi women who are taking a very strong and very decisive stand for freedom in that country.

Since returning from that trip, I have participated in the Iraqi Congressional Caucus for Women's Issues, and I would commend my colleague, the gentlewoman from Washington (Ms. DUNN), for her incredible work on pulling that caucus together and for her efforts in continuing to work with and supporting the Iraqi women.

We had the opportunity last week to have some of those Iraqi women here. A group of Iraqi women were here to look at how we participate in freedom, how we learn to run for office, and how we learn to take a leadership role. They had a fantastic story to tell, and it is a story that we should be listening to. We should be participating with them in celebrating the successes that they are having and the achievements that they are making over in Iraq.

Mr. Speaker, I find it really quite amazing that much of the liberal media chooses not to communicate the story of the great successes that are taking place there in Iraq. At a policy committee last Thursday morning, we had many of these women with us and we listened to them, and it was a wonderful opportunity for our Members to ask questions of these Iraqi women. Many of them did, and the responses were phenomenal. I wish each and every Member could have heard some of these responses.

One of our colleague's asked, what do you say, what do you say when Members and constituents will say, well, I do not think we should have gone into Iraq. What do you say? How do you reply? And the responses from those very brave and courageous Iraqi women ranged from, well, you waited too long; to, if you leave, 25 million Iraqis will be subjected to torture; to, a mother who told us about trying to take a telephone call from her son when his tongue had been cut out by Saddam's regime; and the affliction that is felt when 48 of your relatives are killed; and the sorrow you feel when a million of your fellow countrymen are missing.

These are all stories that we need to hear, and then celebrate and support the success that these women have as they are accepting the responsibility of freedom.

Mr. Speaker, I had this article forwarded to me yesterday by General David Patrias and his wonderful wife Holly. They have just left the command at Fort Campbell, Kentucky. General Patrias commanded the 101st and is now back over in Iraq. This is something that probably we are never going to see on the front page of many of our Nation's major newspapers, and certainly on many of the networks we are not going to hear this story. It comes from a military training post in Jordan, and it is a story about not the first but the second group of Iraqi women to complete military training.

This is about 39 women who have graduated from the military training camp here in Jordan on July 8. And, listen to this, all, all, each and every one of them, all, with the hope of making a differences for their country, and none thinking about that they are making history.

And look at this, the reason they are doing this. These women are committed to freedom. They know that the terrorists are now using women more often in attacks. So these women are coming forward. One of them says, ''From when I was young, I dreamed of being in the military.'' Dreamed of fighting for her country; dreamed of fighting for freedom. ''I have some fears, but we have to control them. I'm optimistic about the future.''

They have such a hope for what can happen in their country, and they want to be a part of it. They want to support freedom. Then this quote I really love. ''Everything starts from scratch.''

They realize it is going to be a long time in coming, but they continue their commitment.

RECESS

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

Accordingly (at 9 o'clock and 30 minutes a.m.), the House stood in recess until 10 a.m.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

With Your prophet Ezekiel to guide us, You ask us to be honest with ourselves and one another while looking always to You, Eternal Wisdom, for lasting vision.

With strident tone and disturbing discord, Your prophetic words rap the beat of every human heart. ''Son of man, when a land sins against me by breaking faith, I stretch out my hand against it and break its staff of bread. I let famine loose upon it and cut off from it both man and beast.''

Yet You, O Lord, bring the same prophet to the banks of a mighty river and ask him to remember the vision. ''Have you seen this son of man?''

''Along the banks of the river I saw trees on both sides, and every sort of living creature that can multiply and live. Fruit trees of every kind were growing; and their leaves do not fade nor their fruit fall. Every month they bear fruit for they are watered by You, O Lord. Their fruit shall serve for food and their leaves for medicine.''

Leave not our land as lonely dust, O Lord, so we can plant nothing and build only on sand. Rather nourish us with Your hidden spring of life now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. 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 pro tempore. Will the gentlewoman from California (Ms. WATSON) come forward and lead the House in the Pledge of Allegiance.

Ms. WATSON led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

> H.R. 1572. An act to designate the United States courthouse located at 100 North Palafox Street in Pensacola, Florida, as the ''Winston E. Arnow United States Courthouse.''
>
> 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.''

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

S. 2277. An act to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

S. 2385. An act to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the ''Santiago E. Campos United States Courthouse''.

S. 2398. An act to designate the Federal building located at 324 Twenty-Fifth Street in Ogden, Utah, as the James V. Hansen Federal Building.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 10 requests for 1-minute speeches.

CELEBRATING SOUTH CAROLINA'S LOW COUNTRY

(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, since 1956, residents of South Carolina's low country have gathered around the Henry C. Chambers Waterfront Park in Beaufort for a Southern celebration. This year's 49th Annual Beaufort Water Festival will attract people from all over the world to come and enjoy sailboat races, sport tournaments, arts, crafts, music and other events which display the best of South Carolina's culture.

Beaufort is South Carolina's second oldest city, is a picturesque port town with a rich history. Its beautiful views of waterways bordered by oak trees with Spanish moss and pre-Revolutionary homes have been featured in countless motion pictures and have made Beaufort a world-class vacation destination.

I look forward to joining Beaufortonians this weekend in the Water Festival Parade, which moves along historic Bay Street.

I ask all of my colleagues to join me in thanking this year's commodore, Marvin Morrison, and his team of coordinators for their efforts in making the 49th Beaufort Water Festival a great success.

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

TAX CUTS SHORTCHANGE COPS PROGRAM

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

Ms. WATSON. Mr. Speaker, we are now almost 3 months past the deadline for Congress to pass a Federal budget. At this point, it is likely that Congress will not pass one at all. The cause of this breakdown is the ongoing misguided policies of the administration which have put irresponsible tax cuts ahead of the programs that Americans rely on to move our country forward.

One such program is COPS, or Community Oriented Policing Services. Since its inception, COPS has put more than 140,000 police officers on the streets. In Los Angeles, my hometown, that meant 240 new officers last year alone. But despite all of the talk about supporting local police, Republicans are starving the COPS program of funds. Because of their marriage to big tax cuts, Republicans have proposed cutting this vital program by over $100 million. That means about half as many new police on the streets next year.

RETIREE HEALTH BENEFITS

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

Mr. BURGESS. Mr. Speaker, I would just remind the gentlewoman from California (Ms. WATSON) that this body passed its budget in March of this year. We are waiting for across the rotunda as usual.

Mr. Speaker, I want to talk about the Medicare Modernization Act which we passed last year. I wanted to discuss the fact that employers have been dropping health care benefits for retirees for 2 decades. This is prior to our passing the Medicare bill. A Kaiser Foundation survey notes that the percentage of all large firms offering retiree health benefits has declined from 66 percent in 1988 to 34 percent in 2002.

Rather than worsening the situation, the Medicare Modernization Act works to stop the trend of employers dropping retiree coverage. We achieve this goal by providing incentives to employers to continue offering health care to their retired employees. Employers offering retirees coverage that at least equals the Medicare benefit will receive a tax-free direct subsidy.

The Congressional Budget Office has predicted that substantially fewer employers will drop or reduce coverage under the Medicare conference report.

KERRY-EDWARDS OFFER UPLIFTING MESSAGE

(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 praise the middle-class values and positive vision for our country that JOHN KERRY and JOHN EDWARDS are offering America.

Yesterday, Senator EDWARDS brought the ticket's Front Porch Tour to the Triangle region of North Carolina. My North Carolina neighbors are excited about the uplifting message that the Senator presents for a better tomorrow. The Kerry-Edwards ticket offers real hope to make America stronger at home and respected throughout the world.

Unfortunately, Republicans in Washington are so afraid of running on their record, they have launched a ferocious negative attack on JOHN EDWARDS. Just yesterday, Roll Call ran an article quoting a Republican leader saying, ''It is now critical to brand JOHN EDWARDS.'' After 4 years of running this country into the ground, the Republican regime has nothing to offer but attack politics.

Democrats offer a better alternative. Senator JOHN KERRY plans to fully fund the No Child Left Behind Act that the Republican leadership has shortchanged by $27 billion. Senator KERRY also supports school construction legislation to build new schools and get children out of trailers. As the first member of his family to go to college, JOHN EDWARDS will work to make sure that families have opportunities for higher education.

CHARLEE PROGRAM MAKES VALUABLE CONTRIBUTIONS

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

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize Marilyn March, Mary Cagle, and the entire staff of the CHARLEE Program for their valuable contribution to the abused and neglected children in my hometown of Miami, Florida.

CHARLEE stands for Children Have All Rights, Legal, Educational and Emotional. It was established in 1983 through the efforts of the Junior League of Miami, the National Council of Jewish Women, and the Episcopal Diocese of southeast Florida.

It has an extensive history of providing critical services such as foster care and treatment services for Miami-Dade counties' neediest children.

As a mother of two teenage daughters, I realize the profound impact that a positive relationship with one's primary caregiver can have on the development of our most precious resource, our young people.

Mr. Speaker, I am proud of the work CHARLEE does, and I wish all of CHARLEE'S volunteers much future success in helping our precious children.

NATIONAL DEBT RISES

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

Mr. ALEXANDER. Mr. Speaker, it has been 1,167 days since President Bush and the Republican Party embarked on their economic plan for our country. During that time, the national debt has increased by $1,663,467,070,131.85.

According to the Web site for the Bureau of Public Debt at the Treasury Department, yesterday the Nation's outstanding privately held debt was $4,228,533,122,486.63.

Foreign holdings of U.S. privately held debt now total $1.75 trillion. This

is an increase of $740 billion since January of 2001 and is 41 percent of all privately held debt.

DRUG DISCOUNT CARDS

(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, one of the aspects of the Medicare bill is the market-based provisions contained in the discount drug card program. These cards provide immediate help to seniors who need prescription drugs.

By bringing transparency and accountability to Medicare, the cards will help 7.3 million people with Medicare save between $1.4 billion and $1.8 billion altogether in discounts on their prescription. An additional feature is the $600 credit that helps low-income cardholders buy medicine.

Individuals who make less than $12,569 per year and couples who make less than $16,862 are eligible for the credit. That means the first $600 in drug costs incurred by the recipients will be covered by the Federal credits.

More than 83,000 Pennsylvania low-income seniors will benefit from the plan. There are some 40-plus cards available. Seniors can call 1–800–MEDICARE to figure out which card is best for them.

REPUBLICAN TAX REFORM HURTS SOCIAL PROGRAMS

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

Ms. SOLIS. Mr. Speaker, I rise today because I am deeply concerned that the Republican tax scheme is ignoring the real needs of American families. Day in and day out, we hear that the Republican majority wants to boost our economy by helping our working families, but the economic stimulus Republicans were supposed to deliver has not trickled down.

The median household income has declined by 3.3 percent, and there are over 3 million Americans living in poverty, and many of those are children. In addition, the average American worker is making less today than he did a year ago. Under this administration, our Nation and our budget does not have the resources to invest in making health care affordable, providing a sustainable Social Security plan for seniors, and ensuring that our environment is clean and safe for all of our families and our children.

Let us start listening to the real people, the working-class people who pay their taxes, who really deserve better treatment by this administration. Fundamental resources need to be restored to our families.

FOUNDING OF VALMONT IRRIGATION

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

Mr. TERRY. Mr. Speaker, 50 years ago a visionary named Robert B. Daugherty introduced the world to an extraordinary product, one that would fundamentally change how the world grows its food. Mr. Daugherty went on to found Valmont Industries, maker of the center irrigation pivot. This technology has revolutionized agricultural productivity while helping to protect our vital water resources.

Today, Valmont is the world's leader in mechanized irrigation. I am proud that this company and its primary manufacturing facilities are located in Valley, Nebraska, within the Second Congressional District. But Valmont's contributions to agriculture go far beyond Nebraska's borders.

Mr. Speaker, I commend Mogens Bay, the chairman and CEO for Valmont; as well as Terry McClain, senior vice president; and CFO, Bob Meaney, senior vice president; and Tom Spears, president of the irrigation division, for their dedication and leadership of a global corporate company. And, of course, I offer my best wishes and heartiest congratulations to the man who started it all, Bob Daugherty.

□ 1015

DISTRICT OF COLUMBIA APPROPRIATIONS

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

Mr. PENCE. Mr. Speaker, I rise this morning in support of the fiscal year 2005 District of Columbia Appropriations Act and most especially the responsible educational choice scholarship provisions that were added in just last year's bill, provisions that reflect the support and leadership of Mayor Anthony Williams of the District of Columbia.

It was decades ago that a southern governor stood in the doorway of a public school and said to young African American children, because of their race, they may not come in. For years the education establishment stood in the schoolhouse door and said to the grandchildren of many of those Americans that, in the interest of preserving the establishment, they may not come out.

That wall, that barrier, started to crack in recent years in Wisconsin and in Ohio and last year here on the floor of the Congress when millions of dollars were made available for thousands of children in inner city schools that have been failing for decades here in the District of Columbia.

We have the opportunity today to renew the second year of the District of Columbia opportunity scholarships. I am confident we will. I rise to praise the leadership of the Committee on Appropriations and District of Columbia Mayor Anthony Williams for taking such a strong stand for educational opportunity for all the children of the District of Columbia.

THE U.S. ECONOMY

(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, if the U.S. economy is a racehorse, this administration has led the thoroughbred into a pool of wet concrete, and it is starting to set. The speed is slower and every stride is harder to take.

The U.S. economy is not some anonymous subject. It is millions of American people. What is the health of the U.S. economy? Take the pulse of the people to find out. Over 8 million Americans are without jobs. Over 43 million Americans are without health insurance. For those Americans who are working, wages are not even keeping up, much less moving ahead. The President has lost almost 2 million jobs during his watch, a feat not seen since the Depression. The drag Republicans have placed on the economy with massive budget deficits will be felt and paid for by future generations.

The American economy is a thoroughbred. It has not lost its heart but its stride is shorter and its breathing is more labored. America does not lack for heart or for innovation. America lacks leadership. It is a shortcoming we will remedy in 105 days.

RESURRECTING THE VISION OF A SPACEFARING PEOPLE

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

Mr. FEENEY. Mr. Speaker, this is a great occasion because 35 years ago a mesmerized world watched as Americans landed on the Moon. Behind me stands a moon rock that was brought back by our Apollo astronauts, and next to me is a picture of a man standing on the Moon. Thousands viewed Apollo as their calling. They assembled and launched the Saturn V from Kennedy Space Center. They overcame the tragedy of Apollo 1 and guided Apollo 11 through harrowing moments. Many of today's science and engineering leaders throughout our country were inspired as children by this adventure.

We will be able to surpass our current discoveries. The space vision that the President has laid out will take us beyond imagination. Recently Americans watched in awe at pictures coming from the Mars rovers. Soon thousands will come to Florida's space coast to watch the Shuttle return to space.

We are a restless, inquisitive, pioneering people. We yearn to go. We yearn to explore. We are Americans.

Mr. Speaker, I rise to commemorate this great 35th anniversary of Apollo 11.

DO-NOTHING CONGRESS

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

Mr. PALLONE. Mr. Speaker, I would like to ask my Republican friends what they have accomplished here in the House this year. We have been here almost 8 months, and we have yet to pass any meaningful legislation into law.

Republicans will list off countless bills that they have passed here in the House. Some of them are actually recycled from last year. We do not actually have to vote on them again, but because Republicans do not have any new ideas, they have to bring up old bills that have already been passed but have yet to be signed into law.

House Republicans will blame the other Chamber. They will say they have passed all sorts of legislation but because the other Chamber does not see things their way, they cannot come to a suitable compromise. House Republicans can pass all sorts of legislation, but unless it becomes law it is meaningless.

Let me remind my Republican colleagues that they control the White House, the Senate and this House. Yet Congress is being forced to work without a budget because Republicans could not come to an agreement amongst themselves.

At the end of this week, Congress adjourns for 6 weeks. Yet congressional Republicans cannot point to one congressional achievement. Talk about a do-nothing Congress.

MEDICARE PRESCRIPTION DRUGS

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

Mr. WHITFIELD. Mr. Speaker, one uplifting message for the American people is the legislation that this House passed relating to the prescription drug benefit under Medicare.

This weekend I hosted three meetings in my district. Vicki Mayes came to one of those meetings. This was what she said. When she used her Medicare-approved drug discount card for the first time a week and a half ago, she was shocked. Drugs that normally cost her $50 cost her only $2.90. On Thursday when she went to the pharmacy for two more refills, drugs that would normally cost her $54 cost her $16.90.

All of us can be proud of this new prescription drug benefit passed by this Congress. As President Bush said, it was the most important expansion of Medicare that we have had since the inception of the Medicare program.

MEDICARE PRESCRIPTION DRUGS

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

Mr. BEAUPREZ. Mr. Speaker, as my colleague, the previous speaker, just mentioned, today America's seniors are receiving significant discounts on their prescription medications for the first time in the history of Medicare. Discounts range from approximately 20 percent for brand-name drugs to as much as 60 percent on mail order prescriptions. These savings can be seen all across the country.

My own parents, for example, back home in Colorado can save a combined $1,300 a year on their prescription medications. The money they are saving goes a long way toward helping them with their retirement savings or, more, to be generous with their grandchildren and great-grandchildren.

I am told that certain low-income seniors are realizing even greater savings from this program. Qualifying Medicare beneficiaries can save as much as 86 percent, as we just heard, on what they currently pay for prescription drugs. Millions of seniors are already enjoying these significant savings from their Medicare prescription drug cards.

I commend the Members of this House and the President for passing this legacy legislation.

PROVIDING FOR CONSIDERATION OF H.R. 3574, STOCK OPTION ACCOUNTING REFORM ACT

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 725 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 725

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3574) to require the mandatory expensing of stock options granted to executive officers, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such 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 as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

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

Mr. Speaker, the resolution before us is a well-balanced, structured rule that makes in order a manager's amendment and three amendments offered by members of the minority, including a minority amendment in the nature of a substitute. It provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services.

The rule waives all points of order against consideration of the bill and provides that the amendment in the nature of a substitute recommended by the Committee on Financial Services, now printed in the bill, shall be considered as an original bill for the purpose of amendment, and shall be considered as read.

It makes in order only those amendments printed in the Committee on Rules report accompanying the resolution, and provides that the amendments printed in the report may be considered only in the order printed in the report, and may only be offered by a Member designated in the report. They shall be considered as read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, not be subject to amendment, and not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Finally, the rules waive all points of order against the amendments printed in the report, and provides one motion to recommit with or without instructions.

Mr. Speaker, I rise today in strong support of the rule for H.R. 3574 as well as the underlying legislation. This bill offered by my good friend from Louisiana (Mr. BAKER) is carefully constructed legislation that will help the United States to retain its global dominance in the biotechnology and high-technology sectors while creating new jobs, fostering innovation and enhancing productivity. It will also empower rank-and-file employees to share in the

benefits of their hard work by allowing them to earn an equity stake in the companies where they work every day to create new products and technologies keeping America one step ahead of the rest of the world in technological advances and competitiveness.

H.R. 3574 achieves this worthy goal by bringing some common sense and discipline back to the debate over stock options expensing. First, it requires the immediate expensing of the stock options granted to the CEO and the next four most highly compensated executives of a company, consistent with information that must be filed with the SEC.

Second, it requires that options granted to the five top senior executives be valued in such a way that mitigates some of the most severe problems with FASB's expected valuation models which are based on valuation models for a type of option that differs fundamentally from stock options by virtue of being freely traded on open exchanges.

Third, it exempts certain small businesses from what we call the top five rule expensing requirement and delays option expensing for small business issuers until 3 years after an initial public offering has taken place, allowing a small business' stock to settle down from the initial volatility of the initial public offering.

Fourth, it prohibits the SEC from recognizing any stock option expensing accounting standard until the standard recognizes the true expense of the stock option on a company's financial statement when the option is exercised, expires or is forfeited, and a comprehensive economic impact study has been completed by the Secretary of Commerce and the Secretary of Labor.

□ 1030

Finally, this legislation improves corporate governance and transparency by requiring the SEC to issue a rule mandating that public companies include more detailed information on stock option and stock purchase plans in their public periodic reports, such as plain-English descriptions that describe the effect that stock options will have on earnings per share and the number of outstanding stock options.

Throughout the 108th Congress, the Republican majority in this House has championed and advanced a legislative program full of efforts to improve economic growth, corporate governance, and transparency on behalf of investors across the United States. Unfortunately, the Financial Accounting Standards Board's recent recommendation to mandate the expensing of stock option runs contrary to this pro-investor agenda. It represents a step in the wrong direction by providing investors with less accurate information about public-traded companies which will lead investors to a distorted picture of a company's financial performance. Even worse, the mandatory expensing proposal threatens to destroy broad-based plans and the productivity, innovation, and economic growth they currently generate.

I do not believe that Congress should replace FASB or become suddenly interested in micromanaging accounting standards; however, the proposal to expense all stock options does not simply have an academic outcome. It would have a negative real-world policy impact by destroying the American partnership culture of distributing stock options to our entire workforce. I believe that allowing such a proposal to go forward will choke off job growth, innovation, and entrepreneurship that broad-based ownership generates; and Congress does have a very real and immediate response to prevent this from happening.

The research behind the economic benefits of stock options support this view. As two Rutgers researchers recently concluded " . . . using broad-based options to create a partnership model of the corporation will, over the long run, help to make most companies more competitive and create more wealth for shareholders."

Research also shows that companies with stock-based option plans receive a one-time, but permanent, boost to their productivity of about 4 percent compared to what productivity would have been without entrepreneurship and employee ownership. More importantly, total shareholder returns go up by an average of about 2 percent. This kind of growth is vital to improving our economy and creating jobs; and I believe this kind of incentive should be nurtured, not eliminated.

Data on stock ownership also shows that the 100 largest high-tech firms that focus on the Internet, average employees hold approximately 19 percent of their company's stock, 17 percent accumulated through stock options. Top executives hold only 14 percent, demonstrating that stock options have empowered rank-and-file employees and low-level managers to acquire a stake in their work by accumulating more ownership in their companies than their bosses. Ninety-eight of these 100 companies provide options to them or to most of their employees. In Intel's case, for example, 98 percent of the options granted between 1998 and 2002 went to employees other than the top five executives.

More than 200 companies from more than 29 States have filed public comments opposing mandatory expensing. The NASDAQ, which lists 3,600 companies, opposes expensing, and opposition to FASB's proposal comes not only from the high-tech and biotech sectors but also from other areas of our economy, such as from the National Association of Manufacturers, the U.S. Chamber, America's Community Bankers, the Business Roundtable, and the Association of Financial Professionals.

I would like to thank the gentleman from Louisiana (Mr. BAKER), the Committee on Financial Services chairman; the gentleman from Ohio (Mr. OXLEY); and the gentleman from California (Mr. DREIER), the young chairman of the Committee on Rules, for all of their hard work, their vision, and leadership on this issue on behalf of American workers and investors. I believe this legislation improves the financial information available to investing for the public while ensuring that rank-and-file employees and middle management can still participate in the great American tradition of a broad-based employee ownership of their company.

The choice presented by this legislation is very stark and clear: Should Congress allow inside-the-beltway accounting technicians to implement standards with severe negative economic consequences, or should we develop policies that encourage economic growth, job creation, and international competitiveness? I say yes. I believe the choice is clear and that Congress should take this opportunity to stand up for American workers and business. I encourage all of my colleagues to support this rule and the underlying legislation.

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

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

I thank the gentleman from Texas (Mr. SESSIONS) for yielding me this time.

Mr. Speaker, while I would prefer that this be an open rule, I rise today in support of the rule, as it makes in order those amendments which were submitted yesterday evening during the Committee on Rules hearing.

I note that this is the 149th rule that this body has considered in the 108th Congress. Of those 149 rules, 18 have been procedural. Of the remaining 131 rules, 106, or more than 83 percent, have been closed or restricted. One can only hope that the majority will use this rule as the template for future rules.

As my colleague from the majority pointed out, the underlying legislation blocks the implementation of new accounting standards recently proposed by the Financial Accounting Standards Board. These new standards would require companies to deduct from their profits the value of the stock options they issue to employees and executives.

Supporters of the Stock Option Accounting Reform Act will note that their bill includes a compromise, requiring the inclusion of stock options afforded to a company's top five executives in that company's profits. The Wall Street Journal, however, has noted that such disclosure would not adequately reflect a company's true profits. Top executives of companies which offer stock options to their employees typically only receive 2 percent of the options that are issued.

Another study found that in the year 2003, only 18 percent of the options provided by the S&P 500 companies went

to the top five executives. The standard included in the underlying legislation potentially leaves anywhere between 82 and 98 percent of a company's stock option expenses hidden from the public. This failure to disclose runs the grave risk of inflating a company's profits and misleading investors.

For example, if this bill were law in 2003, Intel would have deducted $3.5 million from its 2003 profits, although it actually doled out more than $990 million in options.

Investors have a right to know the true profits and total expenses of the companies in which they invest. The underlying legislation fails them, in my judgment, in this arena.

In addition to my concerns about the policy of the underlying legislation, I am equally concerned about the implications of Congress overriding the rulings of the Financial Accounting Standards Board, an independent governing authority. I echo the comments that have already been made by the chairman of the Senate's Banking, Housing and Urban Affairs Committee, who has noted that Congress has no business undermining the Accounting Standards Board.

Independent boards, such as FASB and the Securities Exchange Commission, exist to ensure the veracity of the financial services industry. Efforts on the part of Congress to undermine their decisions compromise the integrity and reliability of the industry. When congressional pressure, political ideology, or legislative fixes play a role in the decisions of boards such as the FASB and SEC, these boards will cease to be independent.

The gentleman from Pennsylvania (Mr. KANJORSKI), ranking Democrat of the Capital Markets, Insurance and Government Sponsored Enterprises Subcommittee, as well as the gentleman from Delaware (Mr. CASTLE) will offer an amendment in the nature of a substitute that I intend to support. Their substitute recognizes the roles of the FASB and SEC as independent boards, and I urge my colleagues to support it.

Mr. Speaker, Congress has a role to play to regulate and observe the financial services industry. The underlying legislation, however, runs the risk of crossing the line that currently exists. I urge my colleagues to strongly consider the implications of the underlying legislation.

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

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

What this legislation does do is run the risk of encouraging entrepreneurs and companies and people to work harder, produce better products for this country, to do the right thing for the investor, but mostly it runs the risk of making sure that the person who would get that stock option is able to then take advantage of that and better their life and to better the life of America by making sure that people have money in their pockets to where they can make their own decisions.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS), my friend, for his fine management of this rule and his commitment to the structure which will encourage innovation and creativity.

We are on the verge of yet another very important bipartisan victory for this institution and, most important, for the American people.

Mr. Speaker, I would like to begin my comments by extending my appreciation to a couple of Californians on the other side of the aisle who have played a very important role in getting us to the point where we are. First and foremost, the gentlewoman from California (Ms. ESHOO), my great friend with whom I have been privileged to work on this issue for literally years now as we have been trying to tackle and deal with this very important challenge. And also I would like to praise the gentlewoman from California (Ms. PELOSI), our minority leader, my fellow Californian who has joined as a cosponsor of this legislation and understands how important it is not only for our State of California and for the area that is represented by the gentlewoman from California (Ms. ESHOO) and the gentlewoman from California (Ms. PELOSI), but for the overall concept of encouraging innovation and creativity. And I do know that we have a wide range of other Members on the other side of the aisle who have followed the lead of the gentlewoman from California (Ms. ESHOO) and the gentlewoman from California (Ms. PELOSI) on this issue.

I also want to say, Mr. Speaker, that on our side of the aisle there have been a number of people who have been great champions in this. First of all, I want to express appreciation to the gentleman from Illinois (Speaker HASTERT) and the gentleman from Texas (Mr. DELAY), majority leader, for working closely with me and ensuring that we would have an opportunity to bring this measure to the floor; also to the two committee chairmen who have been very involved in this.

The prime committee of jurisdiction is the Committee on Financial Services. I would like to congratulate the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) and other members of that committee, including the gentleman from California (Mr. ROYCE) and the gentleman from California (Mr. OSE) and the gentleman from Arizona (Mr. SHADEGG), who have worked very hard on this issue. And also I would like to express appreciation to the gentleman from Texas (Mr. BARTON), who has just recently become the chairman of the Committee on Energy and Commerce and is doing a great job and joins with us in support of this important legislation.

I should also say that there are a number of staff people who have been very involved as well, Mr. Speaker. I see a number of them on the floor, but I do want to specifically mention the staff director of the Committee on Rules, Mr. Pitts; and from the Speaker's office, Seth Webb; and from the majority leader's office, Brett Shogren, who worked very hard with us in making sure that we got to the point where we are today, because this has been a difficult and a real challenge for us, but it is the right thing for us to do.

Mr. Speaker, I want to state for the record that I am an ardent opponent of mandatory stock option expensing.

□ 1045

With all due respect to the wonderful people who are supporting the Financial Accounting Standards Board's expensing proposal, the notion that stock options are an expense is absolutely absurd. You do not have to be an accountant to clearly understand that stock options result in no cash outflows from a company, nor do they add to its financial liabilities. But I recognize that in the wake of the corporate accounting scandals, and I know many people are going to be talking about that as we begin debate on this issue, a whole new environment does now exist.

In this arena, those who have long opposed the use of employee stock options, and recognize, there are many people, Mr. Speaker, who have long been opponents of the utilization of employee stock options, they have been able to artificially link the public's legitimate hunger to rein in corporate abuse with their desire to kill the use of employee stock options.

Let me say that again. We all are outraged at the corporate abuse that we have seen over the past few years, but it is, to me, very troubling that a number of people who are opponents of the utilization of employee stock options are using that shared concern that we all have to try and limit the opportunity for stock options to exist. In effect, they are trying to use an accounting sleight of hand to eliminate stock options in the name of investor interests and open corporate reporting.

If stock option opponents succeed, innovation and ingenuity, the indisputable drivers of our 21st century economy, will be unquestionably undermined. Millions and millions of rank and file employees will lose their ability to hold stakes in their company's future successes. A troublesome precedent will have been set in the promulgation of accounting standards.

Expensing proponents have successfully used what is supposed to be a technical, a technical, determination of an accounting standard to obtain what is really a corporate governance policy decision. That is why I want to applaud, as I said earlier, the gentleman from Louisiana (Chairman BAKER) for crafting a bill that achieves a critical balance.

H.R. 3574, the Stock Options Accounting Reform Act, while implementing stock option expensing for, as

has been pointed out by my colleague the gentleman from Texas (Mr. SESSIONS), for the company's top five executives, does so in a way that will preserve the continued viability of broad-based employee stock option plans. It is one of two critical reasons why I am a proud cosponsor of this Baker-Eshoo bill.

It is that latter objective, giving workers on the lower rungs of the corporate ladder the opportunity to own a piece of the company pie, that is so important to the health and growth of our ingenuity-driven economy.

Remember, it is the estimated 14 million workers, 90 percent of whom hold nonmanagement positions, who would be immediately affected by a mandatory expensing standard. These are the rank-and-file workers, the Americans who have invested their sweat equity in the hope, not the guarantee, but the hope that their investment will provide future retirement funds, college tuition or a housing downpayment.

I am reminded how my friend, the gentlewoman from California (Ms. ESHOO), and I joined in getting a wide range of employees, from Sun, Cisco, Intel and other companies, who have talked about the fact that their opportunity to own a home, to pay for their college education for their children, has come from the existence of these options.

Many argue that expensing will prevent CEOs from abusing stock options. That is simply untrue, Mr. Speaker. Illegal accounting tactics are just that, they are illegal. An accounting standard is not going to stop an individual who is intent on breaking the law. Instead, FASB's proposed accounting standard will eliminate what has been a valuable employee incentive tool. That will not help the top managers. Similar to what traditional companies, like Coca-Cola do now, we know that executives will continue to receive stock options even with mandatory expensing.

Speaking more broadly, if high-growth industries lose their flexibility to use broad-based stock options, we will all lose. Stock options align the employee interests with the company interest, and that produces a motivated worker. Nowhere has that formula proven more effective than in the technology sector of our economy, particularly in California's Silicon Valley.

No matter what area of technology you look at, you will find that the common thread to a company's success has been employee stock options. Without that flexibility, we would lose a key motivator for would-be entrepreneurs and existing innovative companies to take risks and transform new ideas into industry. New industries create new jobs, higher wages and increased standards of living.

That brings me to my other primary reason for supporting this legislation, and that is the investor. Expensing proponents cite time and time again the urgency of giving investors accurate information about a company's use of stock options. I absolutely agree with that goal, Mr. Speaker. Investors need meaningful and transparent information. However, the real investor class issue here is a corporate reporting issue, not an accounting issue. Options do not cost a company money, but they do have an impact on share value.

We must stand on the side of investors and ensure that they have clear and accurate information about how stock options dilute the value of their shares. I want to commend the gentleman from Ohio (Chairman OXLEY) for adding provisions to this measure that will do just that. His language will expand required disclosures to include plain English discussion of the dilutive effects of stock option plans, increased comparability information, the number of outstanding stock options and the estimated number of outstanding stock options that will vest in each year.

Many of us, Mr. Speaker, may have been following this issue closely over the past few years. Actually, I know a number of our colleagues, frankly, have not been following this issue in great detail over the last couple of years, so it is for that reason I think it is important to explain why stock option expensing will do everything but bring clarity and accuracy to corporate financial statements.

The inability to correctly value options that have not been exercised, may never be exercised and are not tradable in open markets means investors will necessarily get wrong information from expensing. Why? Because no one has been able to figure out how to value these options. That, in and of itself, should make anyone question FASB's fundamental premise that stock options are a corporate expense.

FASB set up an options valuation group earlier this year to come up with one single method, but the group was unable to do so. FASB now is preparing to recommend allowing companies to choose from two different valuation models in its pending proposal.

Mr. Speaker, Professor William Sahlman from Harvard, commenting on the Black-Scholes model said, ''If anything, expensing options may lead to an even more distorted picture of a company's economic position and cash flows than financial statements currently paint.''

One of the inventors of the other model, the binomial method, recently said, ''I was one of the inventors of the board-proposed model, and I say: Don't use it. It doesn't work.''

Mr. Speaker, I want to close my remarks by doing what I did when the gentlewoman from California (Ms. ESHOO) and I testified before the Committee on Financial Services subcommittee on this issue by taking us back nearly two millennia to around 100 A.D.

During that time, a brilliant mathematician, astronomer and geographer named Claudius Ptolemy, wrote a 13-volume treatise entitled The Mathematical Compilation. It is also known as the Almagest. It explained the movements of the sun, moon and five planets around the center of the Earth.

For nearly 15 centuries, his work was the leading scientific explanation of that ''truth.'' And based on the fact that the Earth was at the center of the universe, scientists of that time developed very complicated and precise answers to all types of questions, such as why the visible planets take certain paths around the sky.

Mr. Speaker, geniuses like Nicolaus Copernicus improved on the Ptolemaic work by proposing that the sun and Earth revolved around a point near the sun. And Tycho Brahe explained how the planets revolved around the sun, and the sun and planets revolved around the Earth. Even Galileo did not break completely from the intellectual view underpinning the 15 centuries of Ptolemy's astronomy.

What does Ptolemy have to do with stock options, expensing and the FASB? Mr. Speaker, the accountants at FASB, good people that they are, are determined to fit the entire universe around a world view that in the end is flawed as much as Ptolemy's universe was. Their view is that everything must be able to be scored and placed on a corporate balance sheet. Well, the Earth is not the center of the universe, and everything does not belong on a balance sheet.

That is not to say that given enough hard thinking, a smart person could not figure out a way to put everything on a balance sheet. Utterly brilliant people figured out a way to explain with amazing precision how and why the sun and planets revolved around the Earth. You can explain just about anything with mathematical precision, but that does not make it true.

FASB is not populated by Ptolemy, Copernicus, Brahe or Galileo, and you do not have to be a Johannes Kepler to know that FASB is just plain wrong when it comes to stock option expensing.

Mr. Speaker, the Stock Options Accounting Reform Act is one of the most important proeconomic growth, proemployee ownership bills that we will consider in this Congress. Unlike the FASB, and I do recognize their independence, we as elected officials have an obligation to American workers and investors to preserve an environment that allows entrepreneurs to grow our economy. A potential change in accounting treatment may be arcane to some, but it is in the real world that the negative impact of mandatory expensing will hurt the risk-takers who are creating jobs and wealth in this country.

Mr. Speaker, we have made a rule in order that will allow for consideration of all the amendments that have been submitted to us, but I want to urge my colleagues to vote in opposition to those amendments that could in any

way undermine the basis of this very important legislation.

So I urge my colleagues to support the rule and, of course, enthusiastically support this measure as it comes to passage, and enjoy a strong bipartisan victory at the end of the day.

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

Mr. Speaker, the chairman has certainly given us an enlightened view of the universe. I want to remind him that the Vatican did not agree with much of what he talked about. But Ptolemy, I did not know he was going to wind up being here with us on this important subject.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. STARK), a good friend of all of us, to enlighten us perhaps in yet another of the universal aspects of this business.

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

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

I really meant to talk about celebrating the 35th anniversary of Apollo 11, but I can see that my distinguished colleague from California was there with me. I thought we were really talking about accounting, and we are talking about H.R. 3574, which is appropriate, because it is sheer lunacy.

While our soldiers are fighting overseas, our children are crying out for better schools, 45 million people have no health insurance, we have set the goal today of ''Let's help the rich get richer.'' Yes, sir, Mr. Speaker, let us give more money to the millionaires.

Frankly speaking, do you know how high gas prices have gone? Do you know how much jet fuel costs? Do you know how much private jet pilots earn? We must help those people so they do not have to go from $4,000 to $5,000 to fly those little things. And that is what this bill today is doing.

I am glad to see we are helping. Why? Right now, corporations can deduct stock options for tax purposes, ha-ha, and not pay the income tax, but they do not have to report those expenses to shareholders on their SEC financial statements. That is what I call sleight of hand.

You cannot have it both ways. If you want to not deduct options, then do not take them off your income tax. It makes some sense.

This accounting loophole was encouraged by companies like Enron and Cisco to artificially inflate the value of their company while deceiving their investors and evading corporate income tax. It is much simpler than moving to Bermuda. Even Alan Greenspan has criticized this practice.

To fix this problem, the FASB board has drafted a rule requiring that we expense the options. It makes some sense. But rather than following FASB, a board made up of professional accountants, I might add, to implement a sensible rule, why, Congress has decided to use their accounting expertise.

I look around the room at my fellow Congressmen, and wonder how many of them have taken the accounting course I took?

□ 1100

And if they did, they all know that debits are in the column next to the windows, except as one looks around this Chamber, there are windows on four sides. No wonder we are confused.

So let the FASB rule be damned; we are going to set some rules of our own about accounting around here. Do my colleagues know what? They anticipate that there will be criticism that lets rich corporate executives off the hook, so they are going to limit it to the top five executives. I say to my colleagues, nice try, but as Warren Buffett points out, that is like saying in a large company which gives everyone a bonus, only five bonuses have to be expensed.

This bill requires companies to assume also that stocks have zero volatility. Stocks with zero volatility? Now, that does not pass the laugh test. Ask Martha Stewart about stocks with no volatility. She knows something about stock volatility. I suspect Ken Lay could tell us that it is a real phenomenon that we cannot do away with by legislation.

So the bill perpetuates the Bush administration's failed economic policies, while simultaneously lining the pockets of their fat cat friends. And the sponsors of this bill should be proud. It increases the deficit, it falsifies corporate earnings, and it serves the millionaires in this country well.

Mr. SESSIONS. Mr. Speaker, I would like to notify my colleague, the gentleman from Florida (Mr. HASTINGS), that at this time the majority does not have additional speakers. I believe I have approximately 5 minutes remaining, and I would encourage him to utilize that time that is necessary for him to close, and then I will do so myself.

Mr. HASTINGS of Florida. Mr. Speaker, just so that we can accurately record it so that I may dispense time on our side, how much time remains for both sides?

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from Florida (Mr. HASTINGS) has 21½ minutes remaining; the gentleman from Texas (Mr. SESSIONS) has 5 minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from California (Ms. ESHOO), my good friend, who is an original cosponsor of this legislation; and she and I came to Congress together, and she has worked actively. The first bill that she introduced was a measure dealing with what we are discussing today.

Ms. ESHOO. Mr. Speaker, I thank the gentleman from Florida (Mr. HASTINGS), my good friend and classmate, for yielding me this time.

I am very proud to be the Democratic lead sponsor of the Stock Option Accounting Reform Act, and I want to thank the gentleman from California (Chairman DREIER) for his partnership and his hard work, and the gentleman from Louisiana (Chairman Baker), as well as colleagues from both sides of the aisle for the work that they have done to bring this issue forward so that we can take this up on the floor of the House today.

The Financial Accounting Standards Board, FASB, has sought for years to force public companies to expense stock options from their earnings, and Congress has consistently turned away these efforts. This is not the first time. I hope it will be the last time, but it is not the first time.

Now, the board has seized on the recent corporate scandals to push this controversial proposal through. But supporters of the FASB rule, including FASB itself, are unable to identify a single instance where the accounting treatment of broad-based stock option plans for rank-and-file employees has contributed to corporate misconduct or shareholder fraud. Stock options are already fully disclosed in corporate financial treatments. They are not, however, deducted from earnings.

The reason most companies reject the expensing of stock options is that their actual cost is highly speculative and extremely difficult to measure. Options have a direct impact on the dilution of shareholder value, but the actual cost to the company is uncertain. Furthermore, valuation of employee options is highly inaccurate, and FASB has yet to come up with an acceptable means for estimating their value.

That is why this legislation is needed. It is needed to prevent FASB's new rules from taking effect later this year, causing substantial disarray in corporate accounting. Implementation of these new accounting rules would have a disastrous impact on American companies and, most importantly, American workers. If companies are forced to expense stock options, most likely they will drop broad-based stock option plans because of the prospect of taking a huge and misleading charge against their bottom line.

So while corporate executives will undoubtedly continue to receive lucrative compensation, rank-and-file employees will lose the benefits of these employee ownership programs.

Congress, I believe, has the responsibility to ensure that a major change in corporate accounting is appropriate and that it is implemented prudently. Why? Because impacts on our national economy are the business of the Congress. We would not have stepped in before, and I would not be offering this legislation were this not the case. FASB has acknowledged that to us, that they are in charge of accounting rules; but they do not take into consideration the economic impacts.

So I urge my colleagues to look at this carefully. There are many, many complications to this. More than anything else, this is not for corporate executives. This is for rank-and-file employees who take a risk in start-up

companies and say that when the risk is realized in a positive way that everyone wins. Let us protect that, especially at a time where our national economy needs to protect something that we know works.

Mr. HASTINGS of Florida. Mr. Speaker, at this time I am pleased to yield 2½ minutes to my good friend, the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in yielding me this time, and I rise in strong support of the sentiments just expressed by my good friend, the gentlewoman from California (Ms. ESHOO).

This is about fundamental policy, not just accounting standards. I am as reluctant as any to have Congress meddle in regulatory affairs, but this legislation is most decidedly not about helping rich people. Enron did not have a broad-based stock option program. Indeed, the evidence is those companies that have broad-based stock option programs have a countervailing force that militates against this sort of abuse.

I personally am not worried about the investor class. They hire smart people to check what is already a part of company financial records. The mutual funds, the pension funds, the venture capitalists all know the status. Expensing would have a negative impact on the value of these companies who use broad-based stock options, and retroactive application would make it even worse. It would make it much less likely that we are going to have these programs in the future, and many current programs will be eliminated. This is a fundamental issue of policy that Congress can and should be involved with.

I take modest disagreement with some sentiments that were expressed here earlier. I do not know anybody who is against stock options per se. I do not think Warren Buffett is a part of a conspiracy to eliminate stock options, and there are legitimate issues about how they are taxed.

But my concern is making sure that we have an entrepreneurial tool that is available for start-up enterprises, particularly in high tech, where people can invest their sweat equity, that are broad based, and help not just the top of the financial heap. The top executives are going to be taken care of one way or another. The enactment of this standard is simply going to take it away from the vast majority of employees in the broad-based program.

I think it is important for us to maintain this tool. It is currently used by a minority of companies with no evidence of abuse. Strong support here from Congress in being able to keep this going is going to be good for the economy, it is going to be good for these entrepreneurial efforts; and, indeed, the extent to which we transition to broad-based stock options, I think it will be a tool against abuse in the future.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3½ minutes to the gentlewoman from New York (Mrs. MALONEY), my good friend, who represents the financial district of this country.

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me this time.

I am pleased that the Committee on Rules has decided to allow my amendment to protect investors by making companies show their true earnings in their public filings, and I am pleased that they have placed this in order. This amendment keeps whole the authority of the SEC to regulate the contents of public filings by companies issuing stock. The SEC has had that authority since its inception, and for good reason, to protect investors, to protect stockholders, and to protect the safety and soundness of our financial institutions.

This bill would remove the SEC's existing power to regulate whether stock options are shown as an expense. Simply put, a stock option is either an expense, or it is not an expense. My amendment preserves present law and the policy that Congress has followed since 1934, of letting an independent agency make the rules about what information companies must tell their investors and their filings. It preserves transparency to the investing public.

Accounting standards, like interest rates, should not be set by Congress, although we do have oversight. A host of the biggest names in financial policy have spoken out against this bill and in support of my amendment and in favor of preserving independent standard-setting for corporate accounting: Alan Greenspan, Arthur Levitt, William Donaldson, Warren Buffett, John Bogle; and the list goes on and on. Many editorials across this country have come out against the bill that is before us today. I will include the statements of these individuals and the editorials in the RECORD.

Expensing is the overwhelming view of financial experts, even before Enron. A 2001 survey of over 18,000 analysts and portfolio managers showed that 83 percent agreed that stock options must be expensed. None of these authorities stand to make a dime off expensing. They are standing up for the right thing to do for investors and shareholders in our country.

On the other hand, we have the corporate views of Cisco, Intel, and others who will lose, at least on paper, a cool billion-plus each if they have to show their options as expenses. Now, whose interests do they have at heart? Is it the investors? I do not think so.

It is a tragedy that these few corporations have set up a false war between investors and employees. Nothing in the FASB standard prevents expensing. Over 600 companies in America voluntarily expense. These companies tell the truth about the expense of stock options, but still give them to employees. Other companies can do the same. Is showing the true cost of stock options so damaging to these companies that no one should know how much they are spending for them?

I have received several letters from employees. They say that they need these options because they do not have pension plans or health care plans; and I ask my colleagues, is this what we want to encourage? Employees deserve pensions and health care. Hidden stock options should not be used as a substitute.

Expensing stock options is the right thing to do for both investors and employees; and as Arthur Levitt said, finally and plainly put, this bill hurts investors and the financial markets of America.

I urge a ''no'' vote on this bill and a ''yes'' on the amendment.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to the gentlewoman from Oregon (Ms. HOOLEY), my good friend.

□ 1115

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

I rise in support of the legislation before us today. I would like to give special thanks to the gentlewoman from California (Ms. ESHOO) for working on this important legislation.

The legislation before us today is in response to FASB's proposed rules that would require the expensing of all stock options. First, let me quickly touch on the specific issue of accounting accuracy, which proponents of the FASB rule argue is a primary motivation. They claim that expensing options is right because in the accounting world, it is the accurate way to do things. Well, this is wrong in two ways.

First, it is impossible to accurately value the expense of stock options. That fact is indisputable.

Second, options are already reflected in the earnings per share calculation with before-and-after dilution. Requiring expensing options would be double-charging their issuance, once as an expense and the second time as a dilution.

In a broader sense and somewhat separate from the accounting issue is the larger problem with FASB's proposal, and that is why, by all appearances, they have given no consideration toward the economic consequences. Their proposal would seriously jeopardize the health of the American economy. The issuance of stock options has allowed small start-up companies to present the motivation, an essential tool for new recruits. These new employees are literally given a piece of the company, and consequently, they have a vested interest in the success of that company.

The stock options have helped new businesses. They have helped start-up companies. In fact, that is one of the ways that really makes those companies go.

People have accused supporters of this legislation as being in the pocket

of huge technology companies. Well, nothing could be further from the truth. The fact is that when I talk to companies at home about stock options, it is the small companies, it is the start-up companies, it is the innovators that say we would be lost without this.

And it makes sense. Large companies already have the capital to recruit the best and the brightest, and they do not really need to offer stock options as an incentive, but the small companies, the new start-ups who are struggling to meet the day-to-day costs, they are the ones to rely on the prospect of future successes of the company. That is the heart of this debate.

Preserving stock options is preserving an optimism in the growth of our economy and our Nation. Stock options we know have increased productivity. We know they have increased innovativeness, and they were a large part of the emergence of the new economy in the 1990s. When we are striving to have an economic recovery, the last thing we need is a proposal to stifle the growth, productivity and the innovativeness that stock options have provided. This bill is a vehicle to protect the safety of the American economy, and it is vital that we support it today.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

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

The problem with this bill is that it has so many flaws in it that it just would not work in the real world. How can there possibly be an argument made that the four highest paid executives, plus the chief executive of a company, their stock options would be counted one way and all the other stock options of the other employees would be counted another way inside of the same company? It makes no sense at all.

But the biggest detour into accounting Never-Never Land that the bill provides is when a company is calculating the expense of the options to these five executives, it must assume that the stock price has zero volatility. That is right, zero.

So let me read the language, which appears on page 4 of the bill. ''To the extent that an option pricing model is used to determine the fair value of an option, the assumed volatility of the underlying stock shall be zero.'' It will be zero. Volatility for stocks is zero. We are legislating that here on the floor of Congress today.

Now, there are lots of assumptions, which this Congress could actually begin to write right into the law, and I am sure the Republicans would like to do that. When it comes to the budget, the Republican Party is a great proponent of dynamic scoring as a way of getting the numbers to come out right. Here is an alternative, static scoring, no volatility whatsoever. Let us just legislate that.

How about the cost of the war in Iraq? We could assume that the volatility is zero. It would be zero, after all, if we simply assumed that we have already won the war, transformed Iraq into a pluralistic, secular, capitalistic democracy. So easy, we just declare the war won and we go home. No messy occupation, no truck bombs, no terrorism. Just hold a big parade to celebrate.

Hey, I have got an idea for the banner too. It could just read, ''Mission Accomplished.'' No volatility in Iraq. Let us just legislate that out here on the floor as well.

Al Qaeda, pay no attention to Al-Jazeera broadcast. We just assume that terrorism has ended as well. We will just legislate. No volatility in terrorism.

And while we are at it, let us just legislate that if we have a couple of hot fudge sundaes every day, it will have no impact on our weight, no volatility in our weight. We will just legislate it down here. Let us just legislate.

That is what they are saying today, that stocks have no volatility. Tell them who tune into CNBC and Bloomberg all day long with their eyes glued to the set, no volatility.

What are we doing here in Congress? We have no right, we have no right, ladies and gentlemen, in making that assumption for all of the investors in our country.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, I rise today in support of the rule and in support of the Stock Option Accounting Reform Act. This bipartisan legislation has widespread support on both sides of the aisle. This bill is all about maintaining the leadership role of the United States in emerging industries such as high technology and biotechnology and by recruiting and sustaining the best available workforce. This bill is about giving employees an incentive to be the best that they can be and encouraging small companies, not stifling them.

Mr. Speaker, this legislation ensures that the rank-and-file employees who have benefited from broad-based stock option plans in the past can continue to reap these benefits in the future. Broad-based employee stock option plans benefit middle-class and younger workers who have taken a chance on smaller companies right out of school with the opportunity and promise to grow with that company and share in its success professionally and financially.

In my congressional district, companies such as American Airlines, Verizon, Time Warner and Jet Blue are just a few of the companies that provide stock options as a benefit to their employees. And throughout this debate, some have claimed that stock option benefits only benefit senior corporate executives. The facts say otherwise; 14.6 million American workers held stock options in 2002, representing 13 percent of private sector workers nationwide. Eighty-five percent of stock options are held by nonmanagement workers, and one out of eight employee option-holders is either a union member or married to someone who is. And 39 percent of the employees earning stock options earn only $30,000 to $75,000 a year.

Meanwhile, this bill is also about combating abuse in executive compensation. The bill immediately requires the expensing of all stock options given to the top five executives of a company, but exempts small companies from this requirement for 3 years so that they do not get penalized disproportionately, a balanced and fair compromise.

There are undoubtedly reservations about having Congress enact accounting laws, and I share these reservations and counsel that we should be prudent in our approach. However, the granting of stock options to certain employees in the early and growth stages of a company, particularly in a technological industry, has been a critical component and the success of many technological companies and technological innovations that many Americans utilize, including the devices we carry around with us in the House.

Mr. Speaker, this is bipartisan legislation which reflects the kinds of issues that this Congress needs to address to jump-start our economy with quality jobs for all of American workers. I urge my colleagues to join me in voting for this bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Speaker, I thank my colleague from Florida for yielding me the time.

Mr. Speaker, I had an amendment to the Committee on Rules that unfortunately did not get a part in this debate process. My amendment to the bill of the gentleman from Louisiana (Mr. BAKER) would allow companies that voluntarily expense all employees' options to continue doing so. I contend, and I submit, that the original bill, H.R. 3574, would bar them from that practice.

At a recent hearing I held as chairman of the Committee on Energy and Commerce Subcommittee on Commerce, Trade, and Consumer Protection with jurisdiction over FASB, the Financial Accounting Standards Board, the chairman of FASB said that 576 companies are currently expensing options. Think of that, 576 are expensing options, and as it now stands, H.R. 3574 would prevent these companies from continuing to voluntarily expense stock options.

Now, my amendment would correct that, and I believe congressional interference into FASB rule-making sets a

dangerous standard and a precedent and that the process should be left to independent experts. And as the bill now stands, that is not true. We hope we can correct it, but my amendment was not included as part of this debate.

And I filed this amendment in the Committee on Rules to correct it, and subsequent to that, I think the proponents of this legislation realized the wisdom of my amendment. In fact, I think they have adopted it as their own in the manager's amendment, and I consider that high flattery that they would take what we offered and adopt it as a manager's amendment, but I still believe that this stand-alone amendment would make a better point in this case for why FASB should be left intact, and we should not, as Members of Congress, go about the process of instituting, by statute, written accounting rules.

In fact, I know of no occasion in history in which Congress, by statute, has written an accounting rule, and so I do not think Members are that confident that they can go ahead and disregard the unanimous advice of the President's leading economic advisers and the most famous investor in history.

When we think about it, the most famous investor in the country indicated that in a sense this bill H.R. 3574 sets an accounting rule that is in direct contradiction to the treatment of the same item in the Tax Code. So Warren Buffett has 62 years of investing experience. That seems to be a lot, a lot more, perhaps, than many of us here in the House, and I think if his recommendation is that we not institute a statute which changes the accounting rule, we should also abide by what he is talking about.

We saw what happened with Enron and WorldCom, and they paid themselves tens of billions of dollars in stock options. And they were never accounted for, and I do not think this bill is going to do it. And I think my amendment would have helped.

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

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

I thank you for your indulgence in hearing this debate today and for your wisdom and hard work to be with us through this process.

Mr. Speaker, what we have heard today is, Members of Congress from all across this great country, California, Oregon, Florida, Texas and other places, who have talked about the need and the desire for us to pass this legislation that we have before us.

I am proud that our speaker, the gentleman from Illinois (Mr. HASTERT) and our majority leader, the gentleman from Texas (Mr. DELAY) are fully in support of this bipartisan legislation, legislation that has been brought to the floor through the leadership of the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) and the gentleman from Texas (Mr. BARTON), who is the chairman of the Committee on Energy and Commerce, and certainly the words from the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, in talking about how this excites America and workers to achieve not only dedication and hard work, but also encourages biotech firms.

I think this is exciting. I think this is the right thing. I think this is what Congress should be doing in the leadership of the gentleman from Texas (Mr. DELAY) and the gentleman from Illinois (Mr. HASTERT) to make sure this kind of legislation consumes our time, is important to America and our future.

In 2002, nearly 15 million Americans held stock options, about 13 percent of private sector workers nationwide. About 85 percent of the existing stock options are held by nonmanagement workers. This is a whole lot to do about allowing people who get up and go to work every day, Mr. Speaker, who care about not only this country and about their families, but this offers them to protect that nest egg that grows.

I am proud of what the Republican Party is doing by bringing this legislation to the floor. I am equally as proud that it is bipartisan, because it is doing the right thing for people, and I stand in support of this, encourage my colleagues to support the underlying legislation in the rule.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1130

PROVIDING FOR CONSIDERATION OF H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 724 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 724

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except: sections 116, 126, 130, and 131. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

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

H. Res. 724 provides for consideration of H.R. 4850, the District of Columbia Appropriations Act of 2005, under an open rule, as is customary with most annual appropriations measures.

I am very pleased that the normal, open amendment process outlined in H. Res. 724 will allow a Member to offer any amendment to the bill, as long as it complies with the standing rules of the House.

The rule provides 1 hour of debate in the House on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The resolution waives all points of order against consideration of the bill.

H. Res. 724 waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI, which prohibits unauthorized appropriations or legislative provisions in an appropriations bill, except as specified in the resolution.

H. Res. 724 also authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. This procedure will help the House in considering amendments in a more orderly manner. Finally, H. Res. 724 provides for one motion to recommit with or without instructions.

Mr. Speaker, with respect to the underlying legislation, I want to begin by commending the chairman of the Subcommittee on the District of Columbia of the Committee on Appropriations, the gentleman from New Jersey (Mr. FRELINGHUYSEN). He has done a good job in working with the gentleman from Pennsylvania (Mr. FATTAH) in crafting H.R. 4850, and the bill deserves the support of the House today.

This provides the District of Columbia with a $560 million Federal payment, and it provides $8.2 billion in

funds for the District of Columbia's governmental activities. Both of these figures match the President's budget request.

On a parenthetical note, I would note that the county in which I live, Gwinnett County, Georgia, has 50 percent more citizens than the District of Columbia and provides all the same services with the exception of welfare, and it does it for $1 billion a year.

Mr. Speaker, this rule provides for an open amendment process for consideration of the FY 2005 District of Columbia appropriations bill. I urge my colleagues to support this fair rule.

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

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

Mr. Speaker, I thank the gentleman from Georgia (Mr. LINDER) for the time.

Mr. Speaker, this rule is typical for most appropriations bills, and I would support it. I rise today, albeit reluctantly, in support of the District of Columbia appropriations bill for fiscal year 2005.

Mr. Speaker, as there is no perfect legislation and certainly not when it comes to funding matters, I would be remiss if I did not say that the bill includes provisions that are controversial and detrimental, in my view, to the District's residents and the country as a whole. I do not have to tell any of my colleagues about the uniqueness of the District of Columbia as a Federal city.

It is the only place in the Nation where constitutionally Congress can exercise micromanagement at the highest and lowest levels. It is the petri dish of the country where the ideological differences of those in this body wreak havoc on the lives of some 560,000-plus District of Columbia residents.

Taking into consideration the fact that the District of Columbia has no voting representation in Congress, we should be mindful of the privileged duties and be careful not to put our own parochial agendas on the table when considering this legislation. The underlying legislation includes a direct Federal funding increase for the District of $18 million over last year. A large part of the increase will go towards paying the cost of the District's court system as well as related criminal justice programs.

The bill also provides for direct appropriations for the Resident Tuition Support program and $13 million for District of Columbia charter schools. It also includes $14 million for school vouchers, despite the fact that a significant portion of the funds appropriated last year for this controversial program went unused.

The underlying legislation also includes legislative riders that prohibit the use of funds for abortions, registering same-sex couples. And for the distribution of clean needles and syringes. This bill has quickly become a smorgasbord of controversy.

Hot-button social issues should not enter into play when considering the needs and lives of the residents of the Nation's capital. It is high time that we as lawmakers in this great body stop playing political chess games with our responsibility to this process. We should allow the people of Washington, D.C. to govern themselves.

Funding for the education of the Nation's children and the overall healthy well-being of its citizens should be our primary focus and goal. The District of Columbia appropriations bill is not the stage to act out experimental projects that will not necessarily prove beneficial in the end. We must be mindful of the District's citizens that we have been given charge of. They are silenced in this process by the Constitution, and we must be responsible in our actions on their behalf.

I urge my colleagues to consider this responsibility when voting on the underlying legislation.

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

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia (Ms. NORTON), who knows more about this appropriations measure and about the things of which I just spoke.

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me time. I thank the gentleman from Georgia (Mr. LINDER) and the gentleman from Florida (Mr. HASTINGS) for their work in the Committee on Rules on this bill.

Everything is relative in the Congress and, I appreciate the bill that has been brought forward this year, particularly when I compare the time that this body has had to take up on the smallest appropriations in prior years, and so I thank both of the gentlemen for their work. I want to thank and congratulate the full committee chairman, the gentleman from Florida (Mr. YOUNG), and the full committee ranking member, the gentleman from Wisconsin (Mr. OBEY), for the way in which they urge and guide our appropriations bill through, because of their concern for the process and their respect for self-government in the District of Columbia. And their guidance has been, I think, heard and felt this year.

I am particularly grateful to the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), who did all the heavy lifting on this work. I am grateful for their bipartisan efficiencies and cooperation in handling this appropriations. They have been mindful of the fact that Members are here appropriating funds for a city, not a Federal agency; and that makes all the difference in the world.

First, most of the money comes from the taxpayers of the District of Columbia. This is one of the great anomalies that the Congress has thrust on itself to force taxpayer funds from the District of Columbia to come here and be blessed. And by the way, I thank the committee that from time immemorial the committee does not, in fact, go into the body of the District of Columbia budget. Everybody understands that that would be treacherous. So mostly it comes here for oversight and for attachments that the ranking member spoke of, attachments that would never be abided in Members' own districts. But I am very pleased to simply have this money get out of here with the kind of rule that the Committee on Rules has come forward with this year.

There are huge hardships in any delay in the District of Columbia appropriations, hardships, chaos in city operations, hardships on District of Columbia residents. When our appropriations do not go smoothly and it has to go back and forth, the biggest hit is taken by school children and the schools of the District of Columbia. All manner of problem breaks out with ordering school books, with having to send supplies back because the appropriations is not out yet. I will not regale you with those problems this year, particularly since the Committee on Rules and the Committee on Appropriations have worked so hard to bring this forward.

I do note for Members, particularly those Members who have not had to go through this ordeal before, who are scratching their heads saying, what am I doing here considering the appropriations of a city, that this appropriations has had the oversight of the authorizing committee, the Committee on Government Reform, whose chairman is the gentleman from Virginia (Mr. TOM DAVIS) and the ranking member is the gentleman from California (HENRY WAXMAN).

It has had the oversight of, of course, the Committee on Rules, and I thank them for the way they have done the rule this year. And, of course, it has gone through the subcommittee and the full Committee on Appropriations.

Let us look and see what these three committees have come forward to recommend to this body. I will call it a clean bill because everything is relative, and this is a clean dirty bill; but it is the kind of bill, perhaps the best bill, that one could get from this House.

Now, all the old attachments are there, and the ranking member has spelled out some of them. I cannot say enough about how much those attachments are resented in the District of Columbia. I cannot say enough about the price residents pay for them. Perhaps the worst price is paid for the needle exchange attachment where none of our own money, there is some private money, but none of our own money can be used to save the lives of men, women, and children with AIDS now

being spread in the District of Columbia faster than in any other jurisdiction in the United States, most of it intravenously; and we cannot do what I must tell you dozens and dozens of jurisdictions do and have done with great effect in halting AIDS, and that is to professionally use needle exchange programs now recommended by literally all the great scientific authorities.

The attachment forbidding abortions for poor women when hundreds of jurisdictions all over the United States, in fact, fund abortions for poor women speaks for itself. Why should one jurisdiction be the exception in the United States of America?

□ 1145

Of course, I suppose the House should really think about how to hang its head in shame, that there is an attachment that bars the District of Columbia from using its own money to lobby for its own rights. George Washington, Thomas Jefferson, try not to turn over in your graves. In the year 2004, we have the Congress saying that American citizens cannot use their own tax money to lobby their own Congress where they have no vote for their own rights.

My colleagues heard me. I hope they will not hear me have to say this again. I do not think that anyone in this House has anything to fear from hearing from elected officials and from the residents of the District of Columbia using their own money to petition their government for their basic rights. It is one of the great shames of this bill, and one that I cannot believe today enjoys majority support of Members of this House.

So I am asking, in short, the House to respect the work of the Committee on Rules, the work of the Committee on Appropriations, and yes, by direction the work of the Committee on Government Reform, and in doing so, I am going to lead by example.

I am asking Members not to come forward with amendments. I am going to lead by example because there is an amendment that I feel strongly about. Again, the gentleman from Florida (Mr. HASTINGS) spoke of that amendment as well, and that is an amendment I fought in this House with a lot of Republican support last year, when I sought to keep the House from imposing vouchers against the will of a supermajority of the elected officials, the great majority of the people of the District of Columbia, and yet, this was done to the District what has not been done to any other district.

I intended to come forward with an amendment, even if I had to withdraw it, and I would have had to withdraw it because it would have been out of order, to take the $4 million that is lying on the table, that cannot be used for vouchers because not enough residents came forward in the grades that the bill calls for in order to take up the vouchers. All along we had said that what District residents want is charter schools if there is to be an alternative. They have our D.C. public schools. We have the largest number of charter schools per capita in the United States, and I think that is shown by the fact that the waiting lists continue to grow in charter schools. Yet there is $4 million left on the table that has not been used for school vouchers.

So I intended to come forward and say, Pick that money up off of the table, and let it be used by the children of the District of Columbia; but I am going to respect the work of the Committee on Rules, I am going to respect the work of the Committee on Appropriations because they have come forward with a bill without additional attachments, and I am not going to offer that amendment. It particularly would have been subject to a point of order or would have drawn people down here to talk about it.

But if the point is to compliment the Committee on Rules and the Committee on Appropriations for the efficiency with which they have handled this committee, then I think I ought to get in line with what they have done, and I will, therefore, not come forward with such an amendment during the debate.

The matter never passed in the Senate. It passed here by one vote. This was the test vote for the prescription drug vote. This was the vote that was kept open over 40 minutes while they flipped somebody in order to let vouchers go through. It never did get through in the Senate. It was simply attached to an omnibus bill.

This is the great hall of democracy, great Congress of democracy. So I feel strongly about it, but I also feel strongly about the way in which the Committee on Appropriations and the Committee on Rules have accommodated the District of Columbia during this appropriations process, and I am not going to waste the time of this body, and I ask other Members not to waste the time of this body.

I understand a letter went around concerned that a Council member had put a bill in to allow noncitizens to vote in local elections. I do want Members to know that that was put in on the last day of the Council. Everybody went home, taking no action on it, and this is an election year.

One of the things we ought not to do is rise to every bait. Obviously, this is not a bill that was considered serious, certainly not at the moment, because it would have been introduced earlier and there would have been some action on it. If we really feel so moved to come to the floor, it seems to me we ought to wait and see if the District of Columbia, in fact, is going to act on the matter or if there, in their own Council, they can dispose of the matter. At least give us that respect.

Just like there were Members who were concerned about slots. Boy, they could not have been more concerned about slots, as I am. I am with my good friend, the gentleman from Virginia (Mr. WOLF), when it comes to gambling. I am kind of an extremist on the question of gambling. I consider the kind of gambling that goes on, in slots especially, a kind of tax on the poor.

They tell people it is going to be used for their schools. Fine, well, let people who can afford in a progressive fashion to pay for schools do it. It is a real game played on the poor. I could not hate it more. The people who bring it forward in this city are playing a game on the city, particularly on the poor people of the city.

This is basically a class matter. Better-educated people look at the odds and tend not to play these slots. Poor people who, after all, do not have the same opportunities, who cannot see any other way for their ship to come in, are most vulnerable to certain kinds of gambling measures.

So this matter has come forward in the District. Guess what, the majority of the City Council has already said they are going to overturn it.

Suppose we had jumped up here and run to the Committee on Rules and run to the Committee on Appropriations without giving the sensible Council of the District of Columbia the right to say, Slots is not economic development, and we do not want that sleazy stuff in the District of Columbia. We do not want it even if we were not the capital of the United States, but we certainly do not want it, not in the capital of the United States.

We understand who we are, and I am saying to other Members, who would be inclined to come down and offer amendments, to give us the opportunity to consider these matters. My colleagues can always have their opportunity because there is always another appropriation, so they can always come forward with the very same matter. At least give us the respect of dealing with the matter ourselves, particularly if it is a bill that has only been introduced at the end of the session, then everybody went home.

Note that all of the committees I have cited have come to the same conclusions, have come forward with a cleaner bill than I have seen in some time. These are only the committees that spend any time on the District of Columbia, and I apologize to all Members that we are having to spend any time whatsoever on an appropriation that, if it means anything to them, they are in trouble because when the people back home find out they are spending any but the time that they are committed to spend by law on somebody else's money, and almost all of this is our money, I do not think they would be very pleased.

Anything that would be, shall we say, ''untoward'' had opportunity to come to the attention of the Committee on Appropriations, the authorization committee, and the Committee on Rules, and they have put forward the bill that we see before us; and I ask my colleagues to pass the bill we see before us.

Finally, Mr. Speaker, I have to certainly say that while I have apologized that Members are having to consider this matter at all, and I do apologize for it, at the same time I want to say this is a burden that they could relieve themselves of. This entire process violates the most basic American idea, that is, the idea of Federalism. It is the idea of local control on local matters.

The gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) have worked very hard to make this process no worse than it already is by doing it as the law requires. I ask my colleagues to respect their work. I ask them to respect the people of the District of Columbia. I ask my colleagues to pass this rule so that we can get the District's own taxpayer-raised money to the District of Columbia.

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3574, the Stock Option Accounting Reform Act.

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

There was no objection.

STOCK OPTION ACCOUNTING REFORM ACT

The SPEAKER pro tempore. Pursuant to House Resolution 725 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3574.

The Chair designates the gentleman from Iowa (Mr. LATHAM) as chairman of the Committee of the Whole, and requests the gentleman from Texas (Mr. BONILLA) to assume the chair temporarily.

□ 1156

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 consideration of the bill (H.R. 3574) to require the mandatory expensing of stock options granted to executive officers, and for other purposes, with Mr. BONILLA (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Pennsylvania (Mr. KANJORSKI) each will control 30 minutes.

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

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

I would like to commend the gentleman from Louisiana (Mr. BAKER), the chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, for his great leadership on the Stock Option Accounting Reform Act. His legislation strikes a significant compromise between those who believe that expensing options will help prevent some of the corporate governance abuses we have seen in the last few years and those who believe that expensing options will harm our most innovative companies, especially those in the high-tech industry, but not exclusive to them.

Requiring publicly held companies to record as an expense options granted to the chief executive and the next four most highly compensated officers will help preserve broad-based employee stock options and, at the same time, addresses the corporate governance concerns voiced by advocates of expensing.

Our most successful enterprises, many of which are small businesses and venture capital companies, would not be as successful as they are today but for their ability to attract and retain talented employees by giving them ownership in that endeavor. Ownership rewards due to one's personal contribution to a successful enterprise is the ethos of our capital markets system.

While I have been, and continue to be, a strong supporter of FASB's independence, I am supportive of the gentleman from Louisiana's (Chairman BAKER) legislation because I believe FASB's proposal, as currently drafted, would do harm to our most innovative companies. While I believe that FASB should be separated from the political process, and I have supported FASB's independence during all of my 20-plus years here in the Congress, its authority is subject to review by the Congress.

In extraordinary circumstances, and I believe this is one of those rare occasions, FASB's rule-making should be halted when its proposal will do harm to our economy, and I believe that is the case here. The Congress is ultimately responsible for the economic well-being of this country. Policies that could create an environment that is hostile to innovation and entrepreneurship must be reviewed and altered accordingly.

Therefore, I urge all of my colleagues to support the gentleman from Louisiana's (Chairman BAKER) important legislation.

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

□ 1200

Mr. KANJORSKI. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, we are unfortunately meeting today to consider the Stock Option Accounting Reform Act. This bill would begin the process of repealing the reforms we enacted in the historic Sarbanes-Oxley Act just 2 years ago. As I repeatedly noted during the Committee on Financial Services' consideration of these matters, deciding what should be accounted for and how it should be accounted for is the job of the Financial Accounting Standards Board, not the Congress.

Nevertheless, I recognize the strong feelings and deep concerns expressed by the parties on the other side of this contentious issue. The accounting treatment of stock options has caused significant controversy for more than a decade and FASB's decision to revisit this matter has rekindled a fiery debate.

Although I have great sympathy for those individuals in the high-tech community who have raised considerable reservations about the expensing of stock options and the effects on business operations and compensation plans, H.R. 3574 would interfere with FASB's independence. It could also undermine the credibility of financial reports.

We need to work in Washington, particularly in the wake of recent accounting scandals, to improve the transparency of financial reporting statements in order to help average investors make better decisions. A decade ago, the Congress strong-armed FASB into abandoning an effort to adopt a rule requiring stock option expensing. We now know that this retreat helped contribute to a recent financial storm on Wall Street. In fact, a recent study by economists at Texas A&M found that companies where CEOs had options equal to 52 times their annual salary were 70 percent more likely to have a restatement than similar-sized companies in similar industries where CEO had little option wealth.

In considering this bill today, we may, therefore, ultimately allow history to repeat itself. We would for the first time also be making the Congress an appeals board for the development of accounting standards. Support in the business community for mandatory expensing has increased significantly in the wake of the recent tidal wave of accounting scandals. A Merrill Lynch study found more than 90 percent of institutional investors want stock options expensed. This view is shared by the American Institute of Certified Public Accountants, the Investment Company Institute, and the Council for Institutional Investors. Our largest accounting firms have also called for the expensing of stock options.

In addition, nearly 600 companies have already voluntarily adopted or are in the process of adopting fair-value expensing of stock options. Respected corporations like Home Depot, General Motors, General Electric, Wal-Mart, Microsoft, and Amazon have all decided to treat stock options as expenses.

In a recent letter to FASB, Citigroup emphasized its ''strong support for private sector standard setting'' and ''its opposition to congressional intervention on the accounting for stock options.''

Furthermore, in recent proxy votes at IBM, Peoplesoft, Hewlett-Packard, and Texas Instruments, the shareholders of these leading high-tech companies have voted in favor of stock options expensing. Moreover, in May the shareholders of Intel approved a proposal asking the company to expense stock options. This proposal passed with 54 percent of the 5.7 billion votes cast. To date, however, Intel's management has disregarded the decision of its stockholders.

Numerous consumer groups, including the Consumer Federation of America, Consumers Union, and Consumer Action, are also supporting the expensing of stock options. They have determined that the legislation we are considering would deprive investors of comprehensive and transparent financial transactions. Many in the labor movement share these concerns. These entities include the AFL–CIO, the Teamsters, and AFSCME, among others. Each of these groups has called on us to reject H.R. 3574.

Additionally, our Nation's leading financial regulators have previously made the case for options expensing and recently advised us to preserve FASB's independence. In a recent letter to me, SEC Chairman Donaldson notes his strong support for an independent and open standard-setting process for establishing accounting standards.

At a congressional hearing in April, Federal Reserve Chairman Alan Greenspan said, ''I think the Congress would err in going forward and endeavoring to impede FASB,'' in its consideration of stock options expensing rule.

Moreover, leaders on Capitol Hill have already opined on the need to protect FASB's independence. In a recent op-ed in the Wall Street Journal, the chairman of the Senate Banking Committee asserted that Congress should ''stay out of FASB's rulemaking, and let the experts do their job.'' Because many of his colleagues in the other body on both sides of the aisle agree with this assessment, this legislation seems unlikely to become law.

In sum, Mr. Chairman, I agree with the assessments of my esteemed colleagues, leading regulators, reputable financial experts, concerned consumer groups, interested labor leaders, and a growing number in the business community regarding the need to protect FASB's independence.

To strengthen investor confidence and promote the international convergence of corporate reporting standards, FASB must proceed with diligence, and without political interference, in its consideration of a rule proposal on the mandatory expensing of stock options. I urge my colleagues to reject H.R. 3574.

Mr. OXLEY. Mr. Chairman, I ask unanimous consent that the gentleman from Louisiana (Mr. BAKER) be permitted to control the remainder of my time for consideration of this bill.

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

There was no objection.

Mr. BAKER. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Chairman, I speak in favor of this bill for the fundamental reason that this protects an extremely successful tenet of the American innovation economy. I look around my district and what I see is a collection of companies, 10, 20, 30 employees doing incredible things and frequently using stock options. These are companies which may be on the cusp of actually developing a cure for diabetes, a company with a couple dozen employees which may develop a cure for stroke, a company with a couple dozen employees that have a solution so you cannot see muzzle fire from our soldiers' rifles. These type of companies use this system to bring in talent, and bringing in talent is absolutely fundamental to the innovation economy of America.

Stock options have been one of the most successful mechanisms to make sure that when someone has a good idea, they can marry it with good brains around them who can come in without a paycheck. Let us preserve and protect the ability to use stock options.

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

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

Mr. Chairman, I wish to acknowledge at this time the leadership of the gentleman from Ohio (Chairman OXLEY) on this most important and difficult matter. Over the course of the past months, the committee has engaged in numerous hearings and roundtables to discuss the advisability of FASB's recommendation and to craft the appropriate remedy given the committee's concerns. The chairman at all times has been insistent on a balanced analytical process to afford all stakeholders the ability to be heard.

I certainly would also wish to extend my appreciation to the leader on the Democratic side, the gentlewoman from California (Ms. PELOSI); and the gentlewoman from California (Ms. ESHOO), who have been at the forefront of leading the charge from their perspective on what they both believe to be an important economic tool for job creation.

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

Mr. KANJORSKI. Mr. Chairman, I yield 4 minutes to the gentlewoman from California (Ms. ESHOO), a chief sponsor of the bill.

Ms. ESHOO. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. KANJORSKI) for yielding me this time.

I am very proud to be the lead Democratic sponsor of this bill. My partner, the gentleman from Louisiana (Mr. BAKER), the gentleman from California (Mr. DREIER) before him, and colleagues from both sides of the aisle, this is a true bipartisan effort: over 100 cosponsors, including leadership from the Democratic side, our distinguished leader, the gentlewoman from California (Ms. PELOSI), as well as from the Republican side. This is not a partisan issue, nor should it be.

What this debate is about is not simply the grays and the green eye shade issues of accounting. What stands front and center in this issue is the American economy and how we continue to spur it. There are three major ingredients that other countries around the world have come to understand because they have studied it, and it has been part of our success: venture capital, the protection of intellectual property, and stock options. Why stock options? Because it is a magnet that attracts workers to a company; and with that magnet it is stated, yes, we are willing to take a risk and make this company grow. And when we do, we will all share in the rewards. That is intrinsically American.

Now, have there been people who have abused stock options at the top? Sadly, that was the case. And the Congress stepped in because the SEC needed us to step in. The SEC did not do what it was supposed to do, and the Sarbanes-Oxley legislation was passed. So in terms of the debate, leave the SEC alone, leave the FASB alone, we should not interfere, we should not step in, that case is absolutely blown by having adopted Sarbanes-Oxley.

The FASB has put out an accounting standard. They understand that they have nothing to do with the economy, and they are proud of saying that. The Congress does have a responsibility for anything that impinges on our economy. There are institutional investors in this country that are not interested in individual stakes and shareholders. That is all right; it is the view that they hold.

So this debate today, and make no mistake about it, listen carefully, this is about protecting a tool that has paid off for rank-and-file workers across the country. This is not only about high technology and biotechnology. In fact, most of the stock option holders' rank-and-file are outside of those two industries, and they represent 14.6 million workers in our country.

Now why expense the people at the top? Because they come to their compensation package differently. Rank-and-file workers do not negotiate with a board of directors; the top five in the company do. This is balanced. This is important. This is essential. Do not wreck one of the most valuable tools that we have in our country today to expand our economy, to expand new businesses and to have a stake in the future of America. I urge my colleagues to support H.R. 3574.

Mr. Chairman, I'm proud to be the lead Democratic sponsor of the Stock Option Accounting Reform Act, and thank Chairman BAKER for his leadership, moving it through the Financial Services Committee with such strong support. The legislation is urgently needed to avert the implementation of new accounting rules that would have a disastrous impact on American companies, and more importantly, American workers.

The Financial Accounting Standards Board (FASB) has long threatened to require stock options to be deducted from a company's earnings, and this bill would prevent FASB from implementing this requirement for many critical reasons. Mandatory expensing of stock options would have a terrible impact on companies that rely on options to recruit and retain the most talented employees. Without stock options, many of these companies—including some of the most successful high-tech and biotech firms—would not even exist today.

Stock options have become associated with corporate scandals and excessive executive compensation, leading to a call for expensing as the ultimate prescription for these problems. But stock options were not the cause of the recent corporate accounting scandals, and eliminating stock options would do nothing to instill corporate responsibility or accountability. The crimes committed at Enron, Tyco, and other companies would not have been prevented if expensing was the accounting rule of the day.

The Sarbanes-Oxley legislation, which I was proud to support, was passed to prevent future corporate swindles. If companies are forced to expense stock options, most will drop broad-based option plans because of the prospect of taking a huge and misleading charge against their bottom line in accounting statements.

Make no mistake about it. Stock option plans or some other form of lucrative compensation for senior executives will undoubtedly continue to be offered. Consider this: Only a small portion of employee-held options—about 15 percent—are held by corporate management. 14.6 million American workers—13 percent of private-sector workers nationwide—held stock options in 2002.

It's ironic that many are calling for the expensing of stock options in order to reign in executive compensation, when expensing stock options would do little to accomplish this. Rather rank and file employees would be the ones to lose, because they don't get to negotiate with a Board of Directors for their compensation package.

H.R. 3574 also answers many of the critics of stock options who maintain (wrongly) that this compensation is an ''executive perk'' and a tool to avoid reporting executive salaries. The Stock Option Accounting Reform Act requires companies to expense options granted to the CEO and the next four highest paid officers. Small businesses are exempted from this requirement and cannot be required to expense options for the 3 years following an initial public offering.

The bill would also enact new disclosure rules for companies who offer stock options, requiring them to disclose additional information regarding share value dilution and other stock option-related information.

Some have also argued that FASB's independence must be protected and accounting standards—like other technical rules—should not be set by Congress. While in general this is the case, there are many occasions when expert bodies fail to fully protect the public interest and it's incumbent on Congress to step in. For example, the Securities and Exchange Commission—an independent, expert agency—failed to adequately protect investors and the public from the corporate scandals of recent years: Congress stepped in to enact the reforms of Sarbanes-Oxley.

Recently, a ''determination on drug safety'' was made by the Food and Drug Administration which found that the morning-after birth control pill was not safe enough to approve for over-the-counter sale, despite ample evidence to the contrary. I would hope that if the FDA does not change its position on the morning-after pill, we will act to overturn this decision as well.

Even the Chairman of FASB recently acknowledged that the Board has proceeded too quickly and the implementation of the new expensing rules may need to be delayed. H.R. 3574 would simply ensure that the rules are not implemented for at least a year, pending economic impact studies by the Commerce and Labor Departments.

Given the radical change the new rules would establish and the potentially devastating impact on employee ownership programs, Congress has the responsibility to make sure that these rules are appropriate and implemented responsibly. I urge my colleagues to support this legislation and protect broad-based employee ownership programs.

Mr. BAKER. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, the illusion that stock options only benefit fat-cat corporate executives is just that, an illusion. Fifty-three percent of companies that offer stock option plans offer them to all employees. Within the tech sector, 88 percent offer them to all employees. With start-ups it is even more important. According to the National Venture Capital Association, more than 70 percent of venture-backed companies award stock options to all employees.

As my colleague, the gentlewoman from California (Ms. ESHOO), has noted, this is an essential component to the innovation economy that really is pulling the entire American economy forward, but that does not seem to matter to FASB.

□ 1215

When stock options that have a strike price of $40 are being traded at $18 and the FASB accounting system accounts for that as a valuable option, there is something wrong with the standards that they are using. We need to study this matter and to make sure that in our efforts to be clear, we do not destroy the tech economy.

Mr. KANJORSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. GILLMOR).

Mr. GILLMOR. I thank the gentleman for yielding time.

Mr. Chairman, I rise today in strong opposition to this legislation and in support of the Kanjorski amendment which is going to be offered later.

The real issue we are debating today is whether or not we in the House want to set a dangerous precedent and politicize the process of setting accounting standards. The Financial Accounting Standards rule does not in any way, despite the implication of some other statements, prevent the issuance of stock options. It just says you have to honestly tell the shareholders what their real cost is.

If we pass this bill and prevent the SEC from adopting FASB's draft rule, American workers and other investors may invest their pensions and other retirement incomes in unprofitable companies because they will continue to be given misleading financial statements.

Under our current accounting standards, companies are allowed to choose whether or not to expense stock options, and many have chosen not to report any expense of this compensation, even when they claim stock option expenses on their tax returns. Stock options are the only form of compensation that may be omitted from a corporation's financial statements. The issue is not whether these forms of compensation provide useful incentives, but whether all of them should be reflected honestly on company financial records as company expenses.

Objective observers are virtually unanimous in calling for expensing of stock options. They include Federal Reserve Chairman Alan Greenspan, Treasury Secretary John Snow, SEC Chairman William Donaldson, Public Company Accounting Oversight Board Chairman William McDonough, former SEC Chairman Arthur Levitt, and investor Warren Buffett, who in a July 6, 2004 editorial gave, quote, this bill's opponents an ''A'' for imagination and a flat-out ''F'' for logic.

It is also supported by the Council of Institutional Investors, the Investment Company Institute, Financial Services Forum and the Consumer Federation of America. The FASB standards are about having honest and not misleading reporting to people who have invested in a company.

I urge my colleagues to oppose this legislation.

Mr. BAKER. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. CROWLEY).

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

Mr. CROWLEY. I thank the gentleman from Louisiana for yielding me this time.

Mr. Chairman, I rise in strong support of the Stock Option Accounting Reform Act, and I urge my colleagues on both sides of the aisle to support this bill without any damaging amendments. This legislation is a necessary response to proposed damaging regulations by the Financial Accounting Standards Board which threaten broad-based employee stock options. This bill will not cloud basic accounting principles as investors and analysts who are interested in adjusting an issuer's

income statements for the cost of stock options already have the necessary information available to them.

This FASB rule will lead to greater confusion for investors as this rule actually allows corporate accountants to pick and choose their expensing methods instead of implementing a uniform standard.

This FASB rule will effectively destroy broad-based stock option plans, plans that have spread real wealth creation among employees as opposed to the consolidation of wealth at the top of a corporate pyramid.

The FASB rule hurts the ability of high-tech firms to recruit and retain good personnel as stock options were and still are used by start-up and venture capital firms to attract the talent that is needed when capital is sparse.

Finally, FASB, by definition, does not take economic impacts into effect when issuing its regulations, meaning they did not take into consideration the negative effects of this bill when drafting this rule. This bill also actually allows for transparency at the top, the top five individuals of a corporation, those who are most at risk in putting a company in danger when they play around with stock options.

Mr. Chairman, for all those reasons I urge my colleagues to support this balanced approach to the issue of stock options.

Mr. KANJORSKI. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

(Ms. SCHAKOWSKY asked and was given permission to revise and extend her remarks.)

Ms. SCHAKOWSKY. Mr. Chairman, I rise today to oppose H.R. 3574, the so-called Stock Option Accounting Reform Act. The bill will actually take away the power from the Financial Accounting Standards Board, an independent agency, to protect investors, pension holders and workers by requiring corporations to expense stock options.

In the wake of Enron and other corporate scandals, this is the wrong message to be sending to all those workers and investors who lost their life savings and retirement security, and it is the wrong policy to pursue if we want to boost consumer confidence and improve our economy.

We know from all the corporate scandals that have come to light that accurate and transparent accounting is vital to corporate accountability and shareholder confidence. Yet the accounting treatment of stock options allows corporations to continue to distort their true financial standing.

Stock options make up 80 percent of compensation packages for corporate managers. In 2003, CEO pay at 350 major U.S. public companies averaged $8 million, with stock options as the largest component. Despite those facts, stock options are the only form of compensation that may be completely absent from corporate financial statements.

H.R. 3574, a supposed compromise from the FASB rule, only counts stock options given to the top five executives, when calculated using what Warren Buffett describes as ''fuzzy math,'' in the bottom line but not those options given to all the other employees.

The special accounting treatment of stock options which this bill would allow to continue has fueled abuses linked to excessive executive pay, inflated earnings, dishonest accounting and corporate misconduct. Nobel prize winner Joseph Stiglitz believes that the absence of stock option expensing requirements has ''played an important part in the spread of other forms of financial chicanery.''

A report by a blue-ribbon panel of the Conference Board found that the current treatment of stock options has fostered a vicious cycle of increasing short-term pressures to manipulate earnings to bolster stock price so that those receiving options could cash in, take the money and run.

FASB is currently working to address this problem, yet Congress with the passage of this bill will undercut its effort. I would suggest that we let FASB do its job and oppose this legislation that would eliminate the possibility of the transparency that stockholders and pension recipients need.

Mr. Chairman, I rise today to oppose H.R. 3574, the so-called Stock Option Accounting Reform Act. This bill will take away Financial Accounting Standard's Bd., FASB's, an independent agency, power to protect investors, pension holders, and workers by requiring corporations to expense stock options. In the wake of Enron, and other corporate scandals, this is the wrong message to be sending to all those workers and investors who lost their lives' savings and retirement security, and it is the wrong policy to pursue if we want to boost consumer confidence and improve our economy.

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The special accounting treatment of stock options which this bill would allow to continue, has fueled abuses linked to excessive executive pay, inflated earnings, dishonest accounting, and corporate misconduct. Nobel Prize winner, Joseph Stiglitz, believes that the absence of stock option expensing requirements has "played an important part in the spread of other forms of financial chicanery" where corporate energy and creativity was "directed less and less into new products and services, and more and more into new ways of maximizing executives' gains at unwary investors' expense." A report by a blue-ribbon panel of the Conference Board found that the current treatment of stock options has fostered a vicious cycle of increasing short-term pressures to manipulate earnings to bolster stock price so that those receiving options could cash-in, take the money, and run.

FASB is currently working to address this problem, yet Congress, with the passage of this bill, will undercut its effort. FASB's proposed rule would remove the perverse incentives to manipulate earnings and help bring transparency to corporate financial statements. FASB is trying to close an accounting loophole that has allowed corporations to understate executive compensation and distort the companies' financial standing. Investors and pension plan managers want the kind of accurate financial information that FASB's rule would provide: it would help them make informed investment decisions about retirement security. Let us let FASB do its job.

Two years ago, when we passed the Sarbanes-Oxley Act, we recognized the need to protect the Financial Accounting Standards Board, or FASB's, independence for setting accounting standards. We knew then that if we wanted true corporate accountability, if we wanted to protect investors and pension holders, then we needed to make sure that an independent body was overseeing accounting standards to which corporations had to adhere, and FASB's independence became an important part of the Act. We knew that then, but how soon we forget. As Consumers Union states, "Those reforms (to hold corporations accountable) will have proven to be all but meaningless if less than two years after they were enacted, Congress reneges on its promise and subjects the independent, standard-setting process to political interference." That is exactly what we will do—render meaningless our own reforms—if we pass H.R. 3574.

As Alan Greenspan recently said, "With respect to stock options, I think it would be a bad mistake for the Congress to impede FASB in this regard. And in this regard, as best I can judge, the FASB changes in recommendations with respect to accounting procedures strike me as correct, and it's not clear to me what the purpose of the Congress is in this particular procedure." It is not clear to me either. What is clear is that if this bill passes, we are telling investors, pension holders, and workers that Congress believes it is fine to keep them in the dark, and that corporations can continue to hide their true financial standing. I urge my colleagues to vote no on H.R. 3574.

Mr. BAKER. Mr. Chairman, I yield 2½ minutes to the gentleman from Arizona (Mr. SHADEGG), a member of the committee and an interested party in this most important issue.

Mr. SHADEGG. Mr. Chairman, I thank the gentleman for yielding time and I rise in strong support of H.R. 3574, the Stock Option Accounting Reform Act.

Let me make it very clear, this is not a technical issue which Congress should leave to FASB. This is not how do we account for something. Indeed, that issue presents itself here, and no

one can agree on how we should account for the expensing of stock options.

But the issue that brings us here is not a technical FASB issue; the issue that brings us here is one that has great implications on public policy. That is, do we continue to incent companies to use stock options to give employees a stake in their company, which I believe all Americans want and is the key to our Nation's vibrant economy, or do we squelch that by allowing a technical rule to go into place forcing the expensing of all stock options the minute they are issued.

I submit to my colleagues that it is FASB that is acting too fast. It is FASB that is acting imprudently and without taking the time to study this area closely. Indeed, there has been no study yet of the impact on our economy were we to suddenly jump forward and require the expensing of all stock options immediately. This economy is beginning to emerge from a recession and is getting stronger every day, but it is critically important that we allow America's companies to continue to give incentives to their employees.

This is particularly true of start-ups. It may be that the big companies, those with billions of dollars in assets, can handle this requirement, but the little start-ups, the small companies that bring ingenuity to the marketplace and challenge the existing large companies in the market and our high-tech industry, have survived and indeed prospered by using stock options. They are confident that this will damage them immensely.

Harvard professor William Sahlman has said, ''If the advocates of expensing win their small point and the spotlight on corporate America fades away as a result, I fear that we will end up having done nothing at all to prevent unscrupulous executives from yet again stealing their investors' money.''

It is absolutely critical that we not allow FASB to treat this as a technical issue. There is not yet an agreed-upon best or even good method for calculating the value of stock options. Expensing will not make our corporate expenditures more clear or bring greater clarity to investors. It solves nothing.

I urge my colleagues to oppose it because it will hurt start-ups and it will hurt high-tech companies.

Mr. KANJORSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK), the ranking member of the Committee on Financial Services.

Mr. FRANK of Massachusetts. Mr. Chairman, I appreciate the leadership the ranking member of our subcommittee is showing here. I am somewhat torn on this bill because I do agree, it is certainly beyond question, that the granting of stock options in the high technology industry, especially for start-up companies, has been enormously beneficial, and I do not want to see it changed. I do not even want to take the strong risk of it being changed, so if I were in charge of the Financial Accounting Standards Board, I would defer this. But I am not, and I do not want to be.

We are in danger, I think, on this and on other issues of collapsing entirely the notion of a kind of respect for procedures. It is a mistake for this body always to legislate to get the specific outcome it wants on a particular issue without regard to the institutional frameworks. I think the institutional framework of a separate and independent and autonomous Financial Accounting Standards Board is a valuable asset. I do not want to impinge upon it.

Members of this body are well aware that we never do anything only once. Maybe you can eat one potato chip, but you cannot overrule a board once only. If we set the precedent today of dictating to the Financial Accounting Standards Board what the accounting standards ought to be, I believe we will live to regret it.

With regard to the options, here is the issue. I think they are a good thing in companies, particularly young start-ups. They ought to be able to give them. I guess if you are an old start-up, you ought to get out of the business. Young start-ups ought to be able to continue to give them.

Here is the argument, because nothing in what FASB says says you cannot do them. What we are talking about is this: If companies are mandated to change the way in which they do the accounting on this, no change in the reality, but they change the accounting, will this leave the investment community to abandon a whole class of investments? I do not think a large number of people are now misled because it is in the footnote. I would assume if you are going to invest, you read the footnotes. But neither do I think that people will abandon the whole class of investments because when the accounting changes and it goes in the footnote to an expense, some of these companies will have gone from having shown a profit in one form of accounting to showing a loss.

That is the argument. The argument is because nothing is being proposed. It would ban stock options from being done.

What we are being told by the high-tech community, and I understand their fears, they do not want to take this risk. They are arguing that the investment community is apparently pretty dense and as long as the options are put into a footnote and they show a profit, they will invest. But if we change the accounting, the reality has not changed one iota, they will walk away from the whole class of places.

Where is the gentleman from Texas, the former majority leader, Mr. Armey? Because he is the one who said, government is stupid and markets are smart. Would he please explain to them that markets are not stupid?

In this case, he may have been right, because this is the argument. The crux of the argument is that if you change the accounting and do not change the reality, you will collapse investor interest in this whole class of industry, and I think that is wrong.

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

I wish to speak to the issue of FASB's independence and their track record on matters of financial accounting standards. It was in the fall of 1998 when FASB issued a statement relative to concerns about earnings manipulations by registrants in a number of industries, specifically banks, in the treatment of what was called loan loss reserves.

□ 1230

The allegation was that executives were exacerbating the amount of reserves necessary in order to offset potential volatility in financial institutions' earnings. Suffice it to say, it is a technical issue, again beginning in fall of 1998. I reference testimony of Governor Lawrence Meyer, member of the Federal Reserve, speaking on behalf of the Federal Reserve and all finance regulators. Six years later a letter issued then by the FDIC indicated that institutions should continue to determine the appropriateness of all their loan loss reserves on the basis of existing guidance set forth in GAAP and in the agency's supervisory guidance. Translation: they should ignore what FASB started 6 years earlier as an ill-conceived modification of safety and soundness provisions.

The point of this historic analysis is to provide the Congress with the understanding that FASB does not always get it right. I join with many Members of Congress in that era in expressing concerns about the unintended consequences of the implementation of FASB's rule should it be implemented.

Let us talk about what FASB has done in the course of the consideration of the issue currently at hand. The board announced their positions before a single comment from the public was solicited. The board disinvited comments on key issues of the current matter. The board disregarded the overwhelming majority of comments solicited. The board created an option valuation group to discuss valuation.

After all was said and done, apparently FASB did not find the board's work to be of much use since it decided to revert to the same valuation models before appointing the board. FASB refuses to conduct road tests of actual valuation models, meaning it is not trying out to see what the real-world consequence is of its valuation methodology. It has refused to respond to industry presentations on the existing valuation methodologies. It has refused to respond to recommended alternatives and compromises.

What has the board done? I alert the Members who have not yet received it to an e-mail distributed by a representative of FASB's foundation, I assume an independent arm of an independent

agency prescribed with the responsibility of engaging in political correspondence. What is a sad note about this particular e-mail, if one goes to the two phone numbers listed at the bottom of the e-mail, which is probably in all Members' offices, and they call those numbers, they can then refer themselves to directory assistance and ask for FASB's telephone numbers.

The two numbers cited in this independent political correspondence are numbers listed as FASB's official phone numbers. If one were to apply their own standards of financial transparency to their own e-mail, it should say FASB is now lobbying the Congress and using our phone numbers for ones to respond and make significant inquiry into the matter. It would appear although they find political interference a sullied and tawdry business, they have now engaged in such practice in attempting to influence the Congress on the direction of appropriate conduct.

What is an option, and what does it mean to our economic direction? Assume for the moment we are trying to gather a half dozen young bright people into a garage at someone's home to construct a new innovative product and we bring these people in without sufficient cash to pay them salary; but we offer them the opportunity, should their intellectual prowess be sufficient in building value to a company, to one day cash in on the options we are giving them as a piece of their investment. Assume for the moment the value of the options are $20. Things go awry. Things go poorly. Six months hence the stock price may be worth $10. The employees will not cash in their right to those options because they are called, in the terms of the industry, underwater. They are not worth what they were when they were granted. The employee may leave and go elsewhere. Without the passage of this bill, what would FASB require them to do? To expense that option at the time of granting even though it were later not exercised. The result: an underreporting of financial value of corporate value. That seems to me to be just as big a problem as what those opponents allege is some grand misrepresentation of current financial condition.

Options are reported today in the footnotes. One who persists can find out the dilutive effect on other shareholders. Translation: one can find out the facts about accurate financial condition if they choose to seek it out in currently published information.

It is quite clear that many have accused the current administration and others of finding ourselves in a jobless economic recovery. Were that to be the case, which I certainly dispute, there is no dispute that the granting of options to a broad base of employees has been and remains a very strong component of job creation within our economy. Does it make sense for those who criticize a jobless economic recovery to take away one of the proven tools that does create jobs when they are so badly needed? I think not.

So where are we to go? The identified problem was that a handful of executives were manipulating the granting of options for their personal financial gain. I, frankly, do not think the bill before us is a perfect remedy. I think it is a flawed remedy because the valuation of the option cannot be accurately predicted. But in response to the critics, we have said those top five must expense their options. Let us make them accountable for the reported wrongdoings of the past, but please do not affect adversely the broad-based stock option plans for the vast numbers of employees who have gained from their hard work, shared in the dynamic capital enhancement of corporations, and, yes, made money.

I am one of those staunch advocates in the Congress who believe that money is the cure to poverty. And by allowing employees to invest and work and believe in the great American Dream that one day they can have a part of it, stock options represent a magnificent tool of economic opportunity.

I urge this Congress to adopt H.R. 3574 as balanced; fair; transparent; and, most importantly, important for our economy.

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

Mr. KANJORSKI. Mr. Chairman, I yield 3½ minutes to the gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Chairman, I rise in opposition to the bill.

And let me talk to my good friend from Louisiana. I heard him say in his statement that this bill is a flawed remedy. That is what I heard him say. And I agree with him. The bill is flawed.

He mentions the footnotes. During the oversight hearings on Enron, we had the dean of the Dartmouth School of Business spend 3 weeks looking at the footnotes of Enron. He could not, he could not understand them, and he said nobody in their right mind could understand the footnotes. We could go from Enron across any of these corporations and see the lack of clarity in their corporate footnotes. WorldCom is another one, where Bernie Ebbers paid himself tens of millions of dollars in stock options, and they were never accounted for. People are not going to find them in the footnotes.

This legislation is attacking accounting standards, and he is criticizing FASB. Certainly one could criticize the Securities and Exchange Commission. Where were they during all this corporate corruption?

Options are immensely valuable to those who receive them, and we all agree options are good. That is not the debate. The debate is what this bill is about. Options are fully deductible against corporate income tax. A congressional mandate to ignore economic reality does not change economic reality.

If my colleagues are thinking of voting for this legislation, they should ask themselves why Congress should forbid that stock options be deducted from corporate income when reporting to investors but fully deductible against income when paying corporate taxes. It is a distinction that makes no sense.

Listening to the debate today, we know that this legislation is opposed by Allen Greenspan; Treasury Secretary John Snow; SEC Chairman Bill Donaldson, the chairman of the SEC. Warren Buffet has ridiculed this legislation, saying it is absolutely flawed, it makes no sense.

I know of no occasion in history in which the United States Congress by statute has written an accounting rule, and that is what we are doing today. Are Members so confident in this body in their knowledge of accounting and financial markets that they will disregard the unanimous advice of the President's leading economic indicators, advisers, and the most famous investor in history? He has had 62 years of investing. How many of us have done that? He has ridiculed and said this bill is flawed.

Obviously, we should make some change to FASB. I agree with that, and I believe we are missing an opportunity today because there is another way to approach the problem of accounting for options that would be less heavy handed and might improve the quality of information investors receive so when they go to the footnotes, they will be there and they can actually understand what the stock options are all about.

U.S. GAAP is very detail oriented. It needs to be changed. On that I agree with my colleague from Louisiana. We learned from our investigation of Enron and WorldCom that the very complexity of GAAP itself can be exploited by those who obscure rather than enlighten. The legislation we are considering today mandates a dictatorial rule grafted on to the current GAAP regime that needs change, that simply forbids expensing except for the top five executives. Why is that so sacrosanct that we take just the top five? What about six? What about seven? What about eight? What about four? What about three? No. Just the top five. And then so long as those executives can significantly undervalue their options. If my colleagues stand for a rigorous accounting, oppose this bill.

Mr. KANJORSKI. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for his leadership and for yielding me this time.

I rise in opposition to this bill and in support of the amendments by the gentleman from California (Mr. SHERMAN) and the gentleman from Pennsylvania

(Mr. KANJORSKI) and me. And in opposition to this bill, I am joined with comments from Arthur Levitt, John Bogle, Warren Buffet, Allen Greenspan, John Snow, SEC Chairman Donaldson, and many others. Their comments I will include for the RECORD.

Some of my colleagues today have said that it is necessary for companies to not show the cost of stock options to investors in order to encourage innovation. So my question is why is it necessary for companies to hide an expense to innovate? Why in the world is this good public policy? On the contrary, this accounting loophole encourages companies like Enron and WorldCom to artificially inflate the value of their stock, deceive investors, and evade corporate income taxes. Many large companies have employee stock options and expense them, including Home Depot, Microsoft, Netflix. We should continue and have one standard.

In understanding stock options and their use, there is probably no greater authority than the indicted Enron president and CEO, Jeffrey Skilling. This is what Jeffrey Skilling has to say about stock options when he testified before the Senate: ''Because stock options are not required to be disclosed as an expense on public filings, corporations use them to hide expenses and inflate the balance sheet. You issue stock options to reduce compensation expense and therefore increase your profitability.'' He ought to know, and he is going to jail.

Hidden stock options encourage accounting fraud. End of story. I urge a ''no'' vote on the underlying bill.

Mr. BAKER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. COX), a respected Member on matters of financial reporting.

Mr. COX. Mr. Chairman, I thank the gentleman from Louisiana (Mr. BAKER) for bringing this bill to the floor.

It is vitally important because I agree with the last speaker, hidden stock options are a tool of fraud artists. What we are about to do at FASB is give corporate managers, the new Jeff Skillings, an opportunity to manipulate earnings because, by choosing whether or not to issue stock options, they will now be able to do what they cannot do today, and that is fudge the earnings figure. Currently, stock options are not run through the income statement. But if we make this change where we imagine a notional value for stock options, where nobody real knows really what they are worth, run them not through the balance sheet but through the income statement, we have now got a new tool to manage earnings. That is exactly what Enron taught us we should not do.

We should fully disclose stock options, and there is ample evidence that we can do much better in disclosing to investors stock option costs to the company, to the shareholders, and the place we do that is on the balance sheet.

□ 1245

The issuance of stock and the issuance of an option on stock is a dilution event. It is an adjustment to the capital accounts. It belongs on the balance sheet; it does not belong on the income statement.

The FASB chairman testified before the Committee on Energy and Commerce 2 weeks ago that FASB wants to make this change not because it is technically correct or professionally sound, but rather ''because of the high level of public concern expressed by investors.''

But during the most recent proxy season, shareholders across the country are rejecting proposals to expense stock options. Shareholders of Gillette where Warren Buffett, the champion of stock option expensing on the income statement, sits on the board and controls nearly 10 percent of the shares, voted against expensing on the income statement.

The people for whom FASB claims to be acting, the people with money at stake, are not only not convinced, but they recognize if FASB goes forward with this, it is going to be a new tool for manipulation.

Let us keep the earnings statement honest. Let us vote for the bill.

Mr. KANJORSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. MARSHALL).

Mr. MARSHALL. Mr. Chairman, I spent a lot of my career as a lawyer representing small banks and small businesses and individuals that felt that they had been defrauded as a result of false financial statements that had been provided them in order to induce investment or induce credit.

Most folks who are watching this understand that they cannot file a false financial statement in order to get a credit card, that they cannot file a false financial statement in order to get a loan. They have got to comply to the letter with the information that is requested and provide that information, failing which they could end up in jail. That, I think, is largely what is going on here.

The question is whether or not we are going to defer to the Financial Accounting Standards Board, which historically has set the standard for providing the financial statements of a corporation, whether we are going to defer to that body so that that body can figure out what kind of information must be provided so that the financial statements of a corporation fairly reflect the condition of the corporation, or are we going to interfere and essentially enable start-up venture capital corporations to mislead those who are investing in those businesses.

Now, most investors are sophisticated enough they are going to read the footnotes and understand that there are stock options that have been granted, and that consequently the value of the corporation and its earnings have been affected as a result of that. But some are not.

We should leave it to the experts, independent experts that do not have a dog in this fight as far as money is concerned, to try to come up with the standards that are appropriate in order to assure that the best kind of financial reporting is available to those who are investors, to those who are shareholders.

It is no different really than seeking a credit card, wanting to get money from an investment company, wanting to get money from a bank, wanting to get money from somebody else, and having to fill out a financial statement. It is as simple as that. We ought not to be interfering.

Mr. BAKER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER), a staunch defender of free enterprise.

Mr. BOEHNER. Mr. Chairman, I rise before my colleagues today to urge support for the bill offered by the gentleman from Louisiana (Mr. BAKER).

In many respects, the use of broad-based stock options reflects what we have come to understand about our new economy, that is, that economic growth and opportunity are all about unleashing the talents, ideas and knowledge of workers who create constant improvements and constant innovation. The employers who have best answered this call and who have best generated the kinds of jobs that our workers need are those who have understood that these products and services come from bright, enterprising workers who will share their imagination and experience with their employers. That is why stock options have become such a fixture of economic growth, and it is important that we preserve the ability of employers to give their employees a stake in the success of their organization.

Regrettably, instead of recognizing stock option plans for what they are, incentive plans, FASB has deemed them a net cost to the company and supports requiring these firms to calculate and deduct those costs from corporate earnings. If companies do, the real losers in this will be American workers and the U.S. economy.

Who knows at what value companies will be required to charge their earnings? I think the point that was made by the gentleman from Louisiana (Mr. BAKER) and the gentleman from California (Mr. COX) that the ability of corporate managers to manipulate earnings based on the value of their stock options is in fact a real concern.

So, while we can get hung up on whether we should interfere with FASB or not, we are elected by the American people to represent their interests; and I believe when you look at the use of broad-based stock options in the American economy, it really is the incentive that is driving many companies and their employees to be creative, to be inventive and to continue to be the real leaders in the world economy.

Mr. BAKER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

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

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Louisiana (Chairman BAKER) for his leadership on this issue, and I rise in strong support of H.R. 3574, the Stock Option Accounting Reform Act.

For years, companies in the U.S. have been using stock options to attract the most skilled applicants in the world. Because many new companies do not have the financial resources to attract the best qualified candidates, stock options provide a much-needed incentive for the brightest workers to work for them.

Not only do stock options hold the potential of additional income for employees, but they create a sense of ownership that helps workers recognize they have a stake in the company.

Now is not the time to bind the hands of America's technology companies by imposing additional layers of red tape on them. If U.S. companies are to continue to win the global competition for tech talent, they need to have the most flexibility to run their companies, including the flexibility to offer innovative compensation and benefits packages like stock options.

H.R. 3574, the Stock Option Accounting Reform Act, would allow companies to continue their practices of offering stock options to employees as a method of attracting the best and brightest workers without mandating that companies expense these stock options in annual reports.

There are also important safeguards in the Stock Option Accounting Reform Act to guard against corporate fraud. While companies would not have to expense the stock options given to rank-and-file employees, they would have to expense any stock option given to the chief executive officer and the next four most highly compensated executive officers of the company. In addition, this legislation requires companies to clearly disclose all information related to stock options in plain English in their financial statements.

H.R. 3574 protects an important tool that small businesses and start-up companies use to compete with others all over the world to bring the most skilled employees to work in the U.S. With companies in China and other competitors using stock option compensation packages to attract workers, we must ensure our government does not impede the ability of U.S. companies to compete in the highly-skilled labor market.

H.R. 3574 contains important safeguards against corporate fraud and ensures that American businesses have the tools they need to compete in the global marketplace.

Mr. Chairman, I urge each of my colleagues to support this important legislation.

Mr. BAKER. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota (Mr. KENNEDY), a member of the committee.

Mr. KENNEDY of Minnesota. Mr. Chairman, I too rise in support of the Stock Option Accounting Reform Act. This is about innovation that drives our economy. So many businesses have stock options as a primary tool to get the innovative juices of their employees going. It also really helps align the employees of the company with the interests of the company, moving it forward, helping it to be competitive.

This is a prime source of our innovation and success here in America. We do not need to limit it beyond the top five officers, as this does. If we went ahead with expensing stock options, the volatility and uncertainty, I think, would end the use of stock options and be detrimental to our economy.

So I do believe that we have to move forward to protect this innovative source of energy in our economy, keep our small businesses creating the new jobs of the future, keep America at the cutting edge, keep employees motivated and aligned with the interests of their enterprises, and this, in the end, will be good for America and good the American economy.

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

Mr. BAKER. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I rise as a cosponsor and a strong supporter of H.R. 3574, the Stock Option Accounting Reform Act.

Stock options are extremely important to America's economic growth. They allow companies, particularly start-ups, to recruit and retain top-flight talent when the salaries they offer cannot compare with more established competitors. This is particularly important since the majority of the new jobs in the economy come from start-ups, and that issuance of stock options did not lead to corporate corruption.

The mandatory expensing of stock options as proposed by the Financial Accounting Standards Board will result in stock options being offered to only the most senior managers, if at all. Requiring the expenses of all stock options will make companies less inclined to offer such options to employees and thereby hamper the ability of companies that currently offer options to attract and retain talented employees.

Because options are used extensively by small innovative start-up companies, requiring expensing would have an adverse impact on innovation, economic growth and competitiveness.

It will confuse investors, because they cannot be accurately valued and do not reflect a cash cost. The expensing of stock options reflects a desire to reduce all potential liabilities to a single number in a company's earnings statement. However, GAAP earnings are only one measure to which investors should be looking.

Mr. BAKER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the chairman of the Democratic Caucus.

Mr. MENENDEZ. I thank the gentleman for yielding me time.

Mr. Chairman, I rise today in strong support of H.R. 3574, the Stock Option Accounting Reform Act. This bill I believe is proworker and corporate accountability. It is a true compromise that will protect broad-based stock options for rank-and-file workers, while ensuring accountability and transparency of the top corporate executives.

This bill requires stock option expensing of the top five corporate executives, which ensures public disclosure of executive compensation packages. So there is full disclosure and full transparency for corporate executives. At the same time, the bill protects the stock options that rank-and-file workers currently receive.

More than 14 million U.S. workers receive stock options and 15 percent of union workers receive stock options. That means that rank-and-file workers, not just corporate executives, are sharing in the benefit of stock options. These options are crucial to the global competitiveness of high-growth industries in this country. Companies such as the high-tech industry have to rely on stock options to recruit and retain high-skilled workers, very often keeping these good-paying jobs in the United States, rather than sending them overseas.

Stock options also give employees a stake in their company, creating incentives for every employee to work hard and ensure that the company succeeds. That gives U.S. companies an additional competitive advantage over their foreign competitors.

Some have argued that this bill just benefits fat-cat executives, but I believe nothing could be further from the truth. No one should be fooled into thinking that this bill lets corporate executives off the hook, because it does not. It actually requires the expensing and full accounting of the top executives' stock options.

It is naive to think if we require the expensing of all stock options, that suddenly executive compensation packages are going to be reduced or eliminated. That simply is not going to happen. What will happen if this bill is not passed, however, is that the stock options of 14 million rank-and-file workers will be in jeopardy. I encourage my colleagues to support the bill.

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

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in permitting me to comment briefly.

I want to make three points: One, WorldCom and Enron, some of the abusers that we have talked about here, did not have broad-based stock option programs. If you have listened carefully to the debate, no one has given an example of abuse from any broad-based company scheme. Indeed, the fact that they are broad-based makes it less likely that they will be abused.

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Second, cash poor, innovative companies deserve this tool. This is how they can compete with the more mature companies that the Warren Buffetts of this world invest in, where cash is king.

Third, contrary to what some of my friends have asserted, if one talks to investors, employees in these companies, and executives, they all agree that the highly variable balance sheet values that will be produced by this scheme will have a very negative impact on the perceptions of these companies, making it much less likely that they will use this technique.

The consensus is clear, and I hope my colleagues will approve the legislation.

Mr. BAKER. Mr. Chairman, I yield to the gentleman from Michigan (Mr. SMITH) for the purpose of making a unanimous consent request.

(Mr. SMITH of Michigan asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Chairman, I rise to oppose the bill and ask that my ''no'' vote be submitted in the RECORD at this point because of the uniqueness of the intrusion of the Federal Government in demanding accounting principles.

I oppose H.R. 3574 for two reasons. First, it would set a precedent of Congress interfering in accounting minutia. According to CRS, Congress has never passed a law telling the private sector how to do accounting other than taxes. Second, if this bill were to become law, it would require different accounting standards for the United States and the rest of the world. It would, in effect, require two different accounting numbers for international companies, one with U.S. standards and one with international standards, as set by the International Accounting Standards Board (IASB). FASB, Federal Reserve Chairman Greenspan, SEC Chairman Donaldson, and many others have said that this type of rule change may harm the transparency of American accounting rules.

Mr. Chairman, I add to my ''no'' vote explanation, comments by some financial experts:

The Honorable Alan Greenspan, Chairman, Federal Reserve System, April 21, 2004

With respect to stock options, I think it would be a bad mistake for the Congress to impede FASB in this regard. And in this regard, as best I can judge the FASB changes in recommendations with respect to accounting procedures strike me as correct, and it's not clear to me what the purpose of Congress is in this particular procedure. I think the Congress would err in going forward and endeavoring to impede FASB in its particular activities:

William H. Donaldson, Chairman, United States Securities and Exchange Commission, May 3, 2004

For the policy reasons described above, recently underscored by the Sarbanes-Oxley Act, I strongly support an independent and open standard-setting process for establishing accounting principles for U.S. public companies. Accordingly, I believe that the process established by the FASB to consider the pending stock option proposal should be allowed to run its course:

The Honorable Paul A. Volcker, Chairman of the Trustees of the International Accounting Standards Committee Foundation, and former Chairman of the Federal Reserve System, April 20, 2004

I suggest that, before acting, Senators and Congressmen ask themselves two simple questions: Do I really want to substitute my judgment on an important but highly technical accounting principle for the collective judgment of a body carefully constructed to assure professional integrity, relevant experience, and independence from parochial and political pressures? Have I taken into account the adverse impact of overruling FASB on the carefully constructed effort to meet the need, in a world of globalized finance, for a common set of international standards?

Warren Buffett, Chairman and CEO, Berkshire Hathaway, May 1, 2004

Write your congresspeople giving them your views on whether options should be expensed. . . . It was a disgrace 10 years ago when Congress bludgeoned the SEC and the [Financial] Accounting Standards Board to override FASB's decision to expense options. It accelerated the anything-goes mentality of the 1990s.

The Honorable Richard C. Shelby, Chairman of the Committee on Banking, Housing, and Urban Affairs, United States Senate, June 30, 2003

I don't think we should make those rules in the Banking Committee or even in Congress. . . . [FASB] understands the implications. There are economic implications here, but it also gets into corporate governance and honesty in financial statements.

In conclusion Mr. Chairman, options clearly have a value and failing to expense them, despite the difficulty of doing so, distorts financial statements and is misleading and unfair to the casual investor.

Mr. BAKER. Mr. Chairman, I yield reluctantly only 1 minute, because of time limitations, to the gentleman from Texas (Mr. BARTON), the chairman of the Committee on Commerce.

Mr. BARTON of Texas. Mr. Chairman, I thank the distinguished subcommittee chairman, the gentleman from Louisiana (Mr. BAKER); and I want to commend the full committee chairman, the gentleman from Ohio (Mr. OXLEY), for bringing this bill to the floor.

There have been some issues about how to get it to the floor, and I am happy to report that we were able to work those out. The committee I chair was given a sequential referral, which we handled very expeditiously on Friday while we were not in session, so we were able to move on this bill.

I think the policies in the bill are a fair compromise between those who think all stock options should be expensed and those who think no stock options should be expensed. The gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) and others on the Committee on Financial Services have given us a compromise that sets a finite number of the most senior management team whose options should be expensed.

So I am happy to support the bill. I would encourage all Members to vote for the bill and hope that we can move it to the other body and hopefully get a positive vote on this piece of legislation in the other body.

So on behalf of the Committee on Energy and Commerce, we are happy to cooperate with our friends on the Committee on Financial Services to bring this bill to the floor.

Mr. KANJORSKI. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SHERMAN).

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

Mr. SHERMAN. Mr. Chairman, I come here as a CPA to fight for the independence of the FASB, an independent board that has given us generally accepted accounting principles which this bill would change to generally political accounting principles. America has to fight in the world for capital.

In China, domestic companies just report pretty much whatever they want on their financial statements. America competes with tough, transparent, enforced, nonpolitical accounting standards. That image has been recently tarnished by recent scandals, and now we are being told to adopt generally political accounting principles that will further tarnish our image.

We are told that it is difficult to estimate the expense amount of stock options, that accountants cannot do it. Well, it is actually a lot easier than things accountants have been doing for centuries involving amortization, obsolescence, depreciation, and dozens of other estimates. We are talking here about executive compensation, some $40 billion a year.

Now, imagine if you gave a crumb to 999 people and a giant cake to one person. You could then come to the floor and talk about a broad-based distribution of carbohydrates. That is in effect what we have here.

When the academics came before our committee, they explained roughly 30 percent of all stock options are in the hands of the top five executives, and the remaining 70 percent is spread very narrowly among other top executives. We have crumbs for the rank-and-file, almost all the options in the hands of the top executives. That is why 80 percent of CEO compensation in this country is in the form of stock options.

Let us say, even though that phoney accounting was good, should we not do it for health care instead of executive compensation? Why not have an accounting principle that says companies can provide employee health care, and we are going to encourage them to do so, and they do not have to list it as an expense on their income statement? The users of accounting information do not want this bill. The Investment Company Institute representing the mutual funds, and Alan Greenspan, for example, have come out against it.

Finally, this bill is absurd politics. It will hurt America in the fight for capital around the world.

This bill, for the first time in history, would overrule the FASB. Let us vote it down.

Mr. BAKER. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HENSARLING), a member of the

committee and an outspoken advocate for the bill.

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank the gentleman from Louisiana (Chairman BAKER) and the gentleman from Ohio (Chairman OXLEY) for their work on this compromise legislation that is so important to our economy.

H.R. 3574 would prevent the proposed FASB rule from hurting start-ups and other small companies who very often rely on stock options as an incentive to hire and retain employees. If FASB is permitted to require these companies to report their options as an expense, the result will be a distorted view of earnings by investors and less confidence in our markets.

This bill will help improve the transparency and disclosure of stock options, while not negatively impacting the ability of businesses to provide this valuable incentive to their employees.

As our economy continues to improve and investor confidence rises, we must be careful not to place any excessive burdens on private business or act in any way that would reduce confidence in our markets.

If expensing options is mandated, I believe inaccurate and certainly misleading information will be produced, leaving investors with more questions than answers about a company's financial statements and economic conditions.

Also, Mr. Chairman, studies have shown that companies with broad-based option plans are generally more productive, and I urge my colleagues to support this legislation.

Mr. KANJORSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Chairman, I rise in strong support of the bipartisan Kanjorski-Castle substitute and oppose the underlying bill.

I find it ironic, on a day in which the Wall Street Journal reports in its lead story about the disparity in the economy between the top 1 percent who are benefiting from this economy and the middle class who are hitting a dry hole as it relates to income costs, college costs, savings and retirement, here we are on the floor debating a bill in which the bulk of the benefits go to the top 1 percent.

Eighty percent of the compensation for CEOs is in the form of stock options. This is the year in which we are supposed to debate a higher education reauthorization bill. We do not do it. This is the year in which 44 million Americans are without health insurance, 33 million who work full-time. We do not debate it. So what does this Congress do? Rather than do the things it is supposed to be involved in, it is involving itself in the things that we should not be involved in. I wonder why the American people are so cynical about what we do around here.

The fact is, let me give Warren Buffett's quote about expensing stock options, with all due respect to the intelligence and the wisdom of 435 Members when it comes to the private sector. Warren Buffett says, if options are not a form of compensation, what are they? And if compensation is not an expense, what is it? And if expenses should not go into the calculation of earnings, where in the world should they go?

That was Warren Buffett's analysis. That is why he believes this is the right thing for FASB to do.

The fact is, FASB was right to say that there should be expensing of options. What they need to continue to work on is how we come up with the issue of value and how we evaluate them. The work of FASB on this issue is not done, but they are right when it comes to the issue of expensing. It is time for Congress to return to the work of focusing on the middle-class families who are facing squeezes as it relates to their income that has been stagnated, college costs that have gone up by 26 percent, health care costs that have risen by 33 percent, 44 million Americans who are without health care, rather than get sidetracked into issues that do not relate to middle-class families and the forces of this economy on their living standards.

I support and ask Members to support the Kanjorski bill and not the underlying legislation.

Mr. BAKER. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, under the current FASB proposal, one would either use the binomial or the Black-Scholes methodology to determine the valuation of a stock option. During the intervening period, staff has calculated the remaining debate time available to me to close through both Black-Scholes and binomial, and the result has come out anywhere from zero to an hour and a half. Recognizing we have a commonsense limit of 1 minute, I shall proceed diligently.

The current proposal under H.R. 3574 would lead us to a transparent disclosure regime. It would continue a very important job-creation tool to our free enterprise system. It would allow employees to share in the free-enterprise dream of participating in the growth and ultimate financial profitability in the corporation for which they work.

Make no mistake: this bill nails those executives who have been held up as the abusive forces within our system by requiring the top five to expense their options granted.

The solution is not perfect; frankly, I would not require expensing at all. But it is a response to the critics who said executives have abused their privilege. For commonsense job creation and reform, I urge this body to support H.R. 3574.

Mr. UDALL of Colorado. Mr. Chairman, I rise in reluctant support of this bill.

I support what the bill attempts to preserve. Stock options have been an important way for companies to attract and retain talented workers. Many small, start-up companies—competing for employees with larger firms that can pay more—have been able to offset the advantage of these larger firms by offering stock options to their employees.

I am not opposed to companies electing to expense stock options voluntarily—in fact, I voted for Representative OXLEY's amendment today that clarifies the right of those companies to continue to do so. But with so many millions of our workers still depending on these options at a time when we need entrepreneurship and innovation more than ever, I believe that if we are going to require the expensing of options, we have to make sure it is done right.

I am not an accountant, so I don't claim to know what is the "right" way to value options. The Financial Accounting Standards Board (FASB)—not Congress—is the appropriate institution to be addressing that question.

I do know, however, that I have heard from constituents, business leaders, and small and large companies alike representing many industry sectors that they are concerned about how FASB's current proposal would value options. One business leader wrote to me that "the FASB rule in its current form is unworkable, complex, extremely hard for investors to understand—let alone management to certify—and costly to implement."

I also know that I have heard many concerns expressed about FASB's process in formulating the stock options expensing rule, and many calls for Congress to intervene to prevent FASB's current proposal from taking effect. Many expressing those concerns think that FASB strayed from its own mission to be objective in its decisionmaking.

Mr. Chairman, this has left me and some of my colleagues in a quandary. While requiring the expensing of stock options might be the right course, it is the wrong course if it is done the wrong way. And with FASB moving ahead on its rule, I believe it is important to support this bill to send the message that FASB needs to slow down and work to come up with a standard that has broader support.

So let me be clear that my support for this bill is based less on the bill's provisions than it is on what I believe are the inadequacies of the FASB proposal. A better bill would provide investors with the information they need, but without penalizing the entrepreneurial spirit and employee ownership that stock options make possible. The bill we are considering today does not include these improvements.

Mr. Chairman, I strongly support making financial statements more accurate and transparent. But I also strongly believe that companies in Colorado and throughout this country have been able to innovate and contribute to the growth of our economy in part because of the stock option plans they have been able to offer to their employees. We must find the right way to value these options so as not to put this country's workers, their employees, and the economy in jeopardy.

Mr. SMITH of Texas. Mr. Chairman, I support H.R. 3574, the Stock Option Accounting Reform Act, which preserves broad-based stock options. It is vital that we preserve these incentives to promote stock ownership for millions of workers as we try to fulfill President Bush's goal of creating an "ownership society."

In my home state of Texas, numerous high-tech companies offer stock options to attract the best and the brightest employees. Options

have become a vital tool used to attract educated and highly-skilled employees to companies both in Texas and elsewhere.

Broad-based employee stock option plans give employees at all levels a chance to own a ''piece of the rock.'' This in turn fuels innovation and the entrepreneurial spirit and increases productivity, because employees feel as though they have a vested interest in the success of the company.

However, the Financial Accounting Standards Board wants to change the rules in a way that would make it more difficult for companies to continue offering stock options to their rank-and-file employees.

Passage of H.R. 3574 is essential in our efforts to create more jobs and growth in the high tech sector of our economy. It would be a huge mistake to discourage companies from offering stock options. Many of our international competitors are increasing the use of stock options to gain competitive advantage. So they are a vital tool to recruit and retain high tech workers in America.

Mr. KIND. Mr. Chairman, I rise today in strong support of H.R. 3574, the Stock Option Accounting Reform Act. I believe it is extremely important to the nearly 15 million Americans who hold stock options that we pass this legislation.

As a member of the New Democrat Coalition, I have always supported protecting stock options. The promotion of stock options is an important tool for businesses seeking to recruit and keep employees. Innovative, creative companies have recognized that a key component to keeping the brightest and most talented workers is giving employees a stake in their company. The increasing accumulation of stock options by American workers has proved a financial success for employees and an important tool in helping the economy.

Another mark of the success of stock options is that employees at all ranks of companies hold them. Contrary to popular belief, it is not only corporate executives who hold stock options; rather, 85 percent of stock options are held by non-management workers. H.R. 3574 simply assures that these rank-and-file workers will have continued access to an important benefit. At a time when Americans are increasingly worried about losing jobs overseas and many small businesses are struggling, the protection of stock options is crucial to helping this country's economy.

Employee stock options are threatened, however, by a Financial Accounting Standards Board (FASB) proposed standard that would require companies to expense all employee stock options. This decision was made over the objection of numerous businesses and despite the likely negative economic consequences of the proposed standard. If Congress does not react, we run the risk of allowing millions of hard-working Americans to lose the financial benefit they have enjoyed from stock options as well as hurting small and large businesses throughout the country.

Cleary, there is a great need for the Stock Option Accounting Reform Act, which would require that stock options given to the top five executives of a company be expensed and require a study to review the possible implications of the FASB proposal on workers, businesses, and the American economy. The FASB ruling has the potential to do great harm to our country's economy and its workers. To prevent such harm, I urge my colleagues to support this bipartisan bill that is so important to American workers.

Mr. HONDA. Mr. Chairman, as a Member of the Silicon Valley Congressional Delegation, I fully support H.R. 3574, the Stock Option Accounting Reform Act.

This sensible and balanced legislation promotes corporate transparency while protecting broad-based employee stock option plans. Such plans are good for workers, good for business and good for our Nation!

I would caution my colleagues against believing that stock options are bestowed upon a privileged few. A 2002 study concluded that 13 percent of American workers held stock options. That equals 14.6 million Americans, 85 percent of whom are in non-management positions.

It is no wonder then that workers are some of the most vocal opponents to expensing of stock options.

Just consider the comments submitted to FASB by one San Jose employee, ''I have never felt the same ownership as I do now because of stock options. I am not an executive in the company but a supervisor-level engineer. This sense of ownership is true even for the entry-level technicians who also receive options.''

Another high tech employee rightly concludes, ''Making stock options less available only hurts the little guys—your constituents.''

I ask my colleagues to act in the best interests of their constituents. Rather than allow FASB's rules to take effect, Congress should encourage more companies to offer stock options, so that thousands more can enjoy the financial security realized by 13 percent of American workers that have taken advantage of stock option purchase plans.

Employee stock option plans set our country apart from others; they reward hard work, ingenuity and dedication—the very qualities that have helped make our Nation the success story that it is. This bill is critical to preserving this important tradition.

I urge my colleagues to support H.R. 3574.

Mr. DINGELL. Mr. Chairman, the House should be ashamed today.

Two years after Jeff Skilling of Enron testified before the Congress about how stock option accounting can be abused to overstate earnings, and two years after we passed the Sarbanes-Oxley Act to clean up corporate and accounting fraud, the House has come to this Floor to pass legislation sanctifying phony accounting. We told the Financial Accounting Standards board (FASB) to fix this problem—now we're telling them, and investors, that the political fix is in.

H.R. 3574 is a bad bill. Federal Reserve Board Chairman Alan Greenspan warned in Congress that ''it would be a bad mistake for the Congress to impede FASB'' because the proposed FASB changes to accounting for stock options ''strike me as correct.''

Famed investor Warren Buffett says the legislation is ''nonsensical'' based on ''fuzzy math'' and ''Alice-in-Wonderland assumptions.''

Why does he say that? Well the bill mandates that, when a company is calculating the expense of the options given to the five highest paid executives—the only ones allowed to be expensed—it must assume that the stock price has zero volatility, i.e., it never goes up or down. As Buffett notes, the only reason for making such an assumption is to ''significantly understate'' the value of the few options the bill allows to be accounted ''to enable chief executives to lie about what they are truly being paid and to overstate the earnings of the companies they run.''

The Chairman of the Securities and Exchange Commission (SEC) also opposes this legislation: it runs counter to the SEC's mandate to protect investors and to make sure that companies provide honest and transparent information.

The bill gets worse. Not content to sprinkle holy water on bad numbers, it goes on to prohibit the voluntary expensing of stock options by companies that want to present honest accounts. There are currently over 575 companies, including Ford, General Motors, Microsoft, and Citigroup, voluntarily expensing their options at fair value. If this bill were enacted in the form reported by the Committee on Financial Services, they would have to cease doing so and restate their financials at substantial cost and disruption to the market. Only after a hearing on the subject before the Committee on Energy and Commerce did the manager of the bill produce a Floor amendment to fix this flaw.

Finally, H.R. 3574 is opposed by FACTS (the Financial Accounting Coalition for Truthful Statements), a broad coalition of 30 pension funds, consumer groups, labor unions, and investors. Their July 19, 2004, statement to the House warns that ''the proposed legislation is worse than current accounting practice.''

I urge my colleagues to vote ''yes'' on the Kanjorski substitute, which affirms the independence of FASB and the importance of honest and credible accounting standards. If it fails, vote ''no'' on H.R. 3574.

The CHAIRMAN pro tempore (Mr. LAHOOD). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3574

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 ''Stock Option Accounting Reform Act''.

SEC. 2. MANDATORY EXPENSING OF STOCK OPTIONS HELD BY HIGHLY COMPENSATED OFFICERS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

''(m) MANDATORY EXPENSING OF STOCK OPTIONS.—

''(1) NAMED EXECUTIVE OFFICER.—As used in this subsection, the term 'named executive officer' means—

''(A) all individuals serving as the chief executive officer of an issuer, or acting in a similar capacity, during the most recent fiscal year, regardless of compensation level; and

''(B) the 4 most highly compensated executive officers, other than an individual identified under subparagraph (A), that were serving as executive officers of an issuer at the end of the most recent fiscal year.

''(2) IN GENERAL.—Subject to paragraph (4), every issuer of a security registered pursuant to section 12 shall show as an expense in the annual report of such issuer filed under subsection (a)(2), the fair value of all options to purchase

the stock of the issuer granted after December 31, 2004, to a named executive officer of the issuer.

''(3) FAIR VALUE.—

''(A) IN GENERAL.—The fair value of an option to purchase the stock of the issuer that is subject to paragraph (2) shall—

''(i) be equal to the value that would be agreed upon by a willing buyer and seller of such option, who are not under any compulsion to buy or sell such option; and

''(ii) take into account all of the characteristics and restrictions imposed upon the option.

''(B) PRICING MODEL.—To the extent that an option pricing model, such as the Black-Scholes method or a binomial model, is used to determine the fair value of an option, the assumed volatility of the underlying stock shall be zero.

''(4) EXEMPTIONS.—

''(A) SMALL BUSINESS ISSUERS.—This subsection shall not apply to an issuer, if—

''(i) the issuer has annual revenues of less than $25,000,000;

''(ii) the issuer is organized under the laws of the United States, Canada, or Mexico;

''(iii) the issuer is not an investment company (as such term is defined under section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3));

''(iv) the aggregate value of the outstanding voting and non-voting common equity securities of the issuer held by non-affiliated parties is less than $25,000,000; and

''(v) in the case of an issuer that meets the criteria in clauses (i) through (iv) and is a majority-owned subsidiary, the parent of the issuer meets the requirements of this paragraph.

''(B) DELAYED EFFECTIVENESS.—The requirements of this subsection shall not apply to an issuer before the end of the 3-year period beginning on the date of the completion of the initial public offering of the securities of the issuer, and shall only apply to an option to purchase the stock of an issuer granted after such date.''.

SEC. 3. PROHIBITION ON EXPENSING AND ECONOMIC IMPACT STUDY.

(a) PROHIBITION.—Section 19(b) of the Securities Act of 1933 (15 U.S.C. 77s(b)) is amended by adding at the end the following:

''(3) PROHIBITION ON EXPENSING STANDARDS.—

''(A) IN GENERAL.—The Commission shall not recognize as 'generally accepted' any accounting principle relating to the expensing of stock options unless—

''(i) it complies with the requirements of subparagraph (B); and

''(ii) the economic impact study required under section 3(b) of the Stock Option Accounting Reform Act has been completed.

''(B) REQUIREMENTS.—A standard referred to in subparagraph (A) shall require that—

''(i) if an option to purchase the stock of an issuer that is subject to the requirements of section 13(m) of the Securities Exchange Act of 1934 is exercised—

''(I) any expense that had been reported under that section 13(m) with respect to such option shall be recomputed as of the date of exercise and shall be equal to the difference between the price of the underlying stock and the exercise price; and

''(II) to the extent the recomputed amount differs from the amount previously reported under section 13(m) with respect to such option, the difference shall be reported in the fiscal year in which the option is exercised as a reduction or increase, as the case may be, of the total expense required to be reported under that section 13(m) during that fiscal year;

''(ii) if an option to purchase the stock of an issuer that is subject to the requirements of section 13(m) of the Securities Exchange Act of 1934 is forfeited or expires unexercised, any expense that had been reported under that section 13(m) with respect to such option shall be reported in the fiscal year in which the option expires or is forfeited as a reduction of the total expense required to be reported under that section 13(m) during that fiscal year; and

''(iii) to the extent that any reduction required under clause (i) or (ii) exceeds total option expenses for any fiscal year, such excess shall be reported as income with respect to options to purchase the stock of the issuer.''.

(b) ECONOMIC IMPACT STUDY.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce and the Secretary of Labor shall conduct and complete a joint study on the economic impact of the mandatory expensing of all employee stock options, including the impact upon—

(1) the use of broad-based stock option plans in expanding employee corporate ownership to workers at a wide range of income levels, with particular focus upon non-executive employees;

(2) the role of such plans in the recruitment and retention of skilled workers;

(3) the role of such plans in stimulating research and innovation;

(4) the effect of such plans in stimulating the economic growth of the United States; and

(5) the role of such plans in strengthening the international competitiveness of businesses organized under the laws of the United States.

SEC. 4. IMPROVED EMPLOYEE STOCK OPTION TRANSPARENCY AND REPORTING DISCLOSURES.

(a) ENHANCED DISCLOSURES REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Commission shall, by rule, require each issuer filing a periodic report under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) to include in such report more detailed information regarding stock option plans, stock purchase plans, and other arrangements involving an employee acquisition of an equity interest in the company. Such information shall include—

(1) a discussion, written in ''plain English'', in accordance with the Plain English Handbook published by the Office of Investor Education and Assistance of the Commission, of the dilutive effect of stock option plans, including tables or graphic illustrations of such dilutive effects;

(2) expanded disclosure of the dilutive effect of employee stock options on the issuer's earnings per share;

(3) prominent placement and increased comparability and uniformity of all stock option related information;

(4) the number of outstanding stock options;

(5) the weighted average exercise price of all outstanding stock options; and

(6) the estimated number of stock options outstanding that will vest in each year.

(b) DEFINITIONS.—As used in this section:

(1) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

(2) ISSUER.—The term ''issuer'' has the meaning provided in section 2(a)(7) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)(7)).

(3) EQUITY INTEREST.—The term ''equity interest'' includes common stock, preferred stock, stock appreciation rights, phantom stock, and any other security that replicates the investment characteristics of such securities, and any right or option to acquire any such security.

SEC. 5. PRESERVATION OF AUTHORITY.

Nothing in this Act shall be construed to limit the authority over the setting of accounting principles by any accounting standard setting body whose principles are recognized by the Securities and Exchange Commission under section 19(b)(1) of the Securities Act of 1933 (15 U.S.C. 77s(b)(1)).

The CHAIRMAN pro tempore. No amendment to the committee amendment is in order except those printed in House Report 108–616. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by a proponent and an opponent, shall not be subject to amendment, and shall not be subject to demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–616.

AMENDMENT NO. 1 OFFERED BY MR. OXLEY

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OXLEY:

At the end of subsection (m)(4)(B) of the matter proposed to be inserted by section 2 of the bill, strike the close quotation mark and following period and insert the following:

''(5) VOLUNTARY EXPENSING.—Notwithstanding the requirements of this subsection, issuers may elect to expense the fair value of all officer and employee stock options in the annual report of such issuer under subsection (a)(2), in accordance with the expensing alternative of Statement of Financial Accounting Standards Number 123, and any such issuer making such election in the annual report for a fiscal year shall not be subject to paragraphs (2) through (4) of this subsection for such fiscal year.''.

At the end of paragraph (3)(B) of the matter proposed to be inserted by section 3 of the bill, strike the close quotation mark and following period and insert the following:

''(C) EXCEPTION FOR VOLUNTARY EXPENSING.—Nothing in this paragraph or in any other provision of the Stock Option Accounting Reform Act shall prevent the Commission from continuing to recognize the expensing alternative of Statement of Financial Accounting Standards Number 123 as part of generally accepted accounting principles for issuers that elect to expense the fair value of all officer and employee stock options in the annual report of such issuer pursuant to section 13(m)(5) of the Securities Exchange Act of 1934.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 725, the gentleman from Ohio (Mr. OXLEY) and a Member opposed each will control 5 minutes.

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

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

The manager's amendment to H.R. 3574 makes an important clarification to the bill as reported by the Committee on Financial Services. The bill was never designed to prevent any company that either currently expenses its employee stock options or wishes to do so in the future from doing so. The manager's amendment makes it explicit that a company that wishes to voluntarily expense its employee stock options may do so based on the expensing rules that companies are using today to expense their stock options.

The bill's requirement that companies expense the employee stock options with the five top executives would not apply to any company that voluntarily expenses all of its employee stock options under current rules.

Mr. Chairman, this is an important distinction, because if companies feel

it is important to expense these stock options, if they feel they may perhaps have a competitive advantage over competitors, they may choose to do so. It literally is a free country, and they have that obligation. This amendment simply clarifies that option that all companies, publicly traded companies, have; and I urge my colleagues to support the manager's amendment.

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

Mr. KANJORSKI. Mr. Chairman, we have no objection to the manager's amendment and support it.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 2 printed in House Report 108–616.

AMENDMENT NO. 2 OFFERED BY MR. SHERMAN

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. SHERMAN:

In subsection (m) of the matter proposed to be inserted by section 2 of the bill, strike

''(3) FAIR VALUE.—

''(A) IN GENERAL.—The''.

and insert

''(3) FAIR VALUE.—The''.

In subsection (m)(3) of the matter proposed to be inserted by section 2 of the bill, strike subparagraph (B).

The CHAIRMAN pro tempore. Pursuant to House Resolution 725, the gentleman from California (Mr. SHERMAN) and a Member opposed each will control 5 minutes.

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

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

Mr. Chairman, this bill is packaged as a bill that requires the expensing of stock options that are issued to the top five executives of every company. This amendment allows the bill to achieve its stated purpose.

The bill, in fact, when one reads the fine print, says that in calculating the value of options given to the top five executives of the company, one does not use either of the two formulas that are established. One does not use the best estimate. But one instead assumes that the stock does not go up or down in price over time, an absurd assumption, an assumption that yields a zero valuation for the stock options given to many top executives in this country.

If we adopt this amendment, then the bill will at least achieve the purpose it sets, namely, that we will have a fair expense reported on the income statement for options given to the top five executives.

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

Mr. OXLEY. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, as I say, we have debated this amendment in committee, and it was defeated on a vote of 13 ayes and 43 nays, precisely because while the gentleman's intentions I think are good, as debate in the committee clearly showed, this amendment, should it be adopted, would, frankly, confuse investors far more than it would educate them.

□ 1315

An options value is estimated by applying an options pricing model at the date the option is granted.

It was interesting that one national accounting firm, which incidentally supports expensing, wrote FASB last year to support zero volatility, something that the Sherman amendment would bring into question. ''We believe that using zero as the expected volatility of the stock price would increase the reliability of option values.''

So what we are trying to do with the underlying bill is not only provide the top five executives with the need to expense stock options, but also to give the investing public the kind of information they need so they can compare apples to apples in this regard; and unfortunately, the Sherman amendment does just quite the opposite.

So for those reasons, I would oppose the Sherman amendment.

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

Mr. SHERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I rise in very, very strong support of the Sherman amendment. We need to understand there is $126 billion in stock options granted in any one year, there was in 2000 in the United States of America. We are talking about small potatoes here, and frankly, the underlying bill here, in my judgment, is completely wrong in terms of the direction that the country and the stockholders are going. Who is speaking here for the stockholders of America, for those who have their value diluted because of what happens with stock options without any expensing whatsoever?

I yield to the gentleman from California (Mr. SHERMAN) in terms of his knowledge about accounting, but what I know about volatility is that without volatility, you would not have anybody in the stock market whatsoever. Without volatility, you really have no value in terms of the stock options which are being granted. Without volatility, that means you basically are not really expensing the stock options so that the other stockholders and other potential investors can see what is happening out there.

For all these reasons, I believe absolutely we should pass this amendment in order to insert the measure of what these expenses are really worth by putting the volatility back into it. It is almost impossible to determine value if you do not do that.

And I might just add, while we are talking about this, that in the area of accounting, we can talk about Black-Scholes being imprecise and laugh about it, whatever it might be, and certainly it is imprecise, but so is sometimes the good will, depreciation and a whole series of other accounting measures that are used in determining the values of corporations. It is not all quite as black and white as everybody would like.

So for all these reasons, but mostly because it is the stockholders, the shareholders who are suffering, by far the largest bulk. It is not the CEOs running the companies. It is not even the employees of the companies. It is the stockholders of the companies who are, in my judgment, being faulted by the methodology which we use now.

For all these reasons, I would encourage everyone here to consider supporting the Sherman amendment.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I thank the chairman for yielding me this time and commend him and the subcommittee chairman for their work on this legislation, as well as my colleagues on the other side of the aisle.

But I wanted to continue this discussion that we have had in committee, that I have had with the gentleman from California about this issue.

See, I do not think that the best argument for having zero as our volatility number is actually a plausible argument, that valuing these options is inherently a very difficult task and assigning the appropriate volatility is very difficult.

I prefer the argument that we should not be expensing these at all. See, I think what some of my colleagues are confusing here is the difference between value and expense. Nobody is disputing that a stock option has value, but what I would dispute very vigorously is that issuing an option is equal to an expense on the part of the company issuing it.

Let us look at what happens. You grant an option to an employee. There is no cash outlay, and in fact, if that option expires worthless, there never will be a cash outlay. And, yet, if this amendment were to be adopted and became law, you would have to show an expense on an income statement in which no expense ever is incurred. And it is not just the options that expire worthless; in most cases, options that expire in the money are not bought out by the company. If they are, then current law requires that that cash event be represented on the income statement as it should be. But in fact, that expiration, most options that expire in the money are dealt with by a company issuing new shares. Again, there is no expense. There is no cash event. It never happens. There is a dilution in earnings, and that needs to be represented.

But what the gentleman is proposing in this amendment is to make a difficult situation worse.

I respect the compromise that is in this bill. If I could write it, I would write it differently, but I think it makes much more sense than what FASB is proposing and much more sense than what this amendment suggests, because this amendment suggests that we knowingly and systematically list an expense on an income statement even when it is not going to be incurred, and we never correct for that. So I would urge my colleagues to vote ''no'' on this amendment.

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

We are told by the gentleman from Pennsylvania that you should not list an item as expense on the income statement unless cash leaves the company. What if stock options were given to a health insurance company in return for providing health insurance to the employees? Everyone in this hall agrees that would be listed as an expense. What if a company issues stock in return for employee services or stock in return for supplies? Everyone agrees that would be listed as an expense.

Again and again, when a company is getting supplies, when it is rewarding its rank-and-file employees, when it is providing health care, everybody agrees you list that as an expense, even if no cash leaves the treasury of the company. And, yet, we are asked to make one exception, and that is for executive compensation.

Keep in mind the vast majority of these options are going to top executives. Thirty percent of the options are going to just the top five individuals. Now, there is a compromise that is set forward by the authors of this bill, and that is that at least the options going to the top five are going to be expensed. That is the compromise stated in the title of the bill.

And yet, when you look at the details, you see that roughly a quarter of the companies in this country expense stock options. Some use the binomial method. Some use Black-Scholes. No one uses the phony method, also known as the minimum-value method, under which you say you are expensing stock options, but assume zero volatility, a unique approach used only to conceal what the bill would accomplish.

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

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

Let me say this debate raged in the committee. I think the committee made a wise choice in defeating that. It only got 14 votes and 33 against because of some of the arguments that were purported from members on both sides of the aisle regarding the innate confusion the gentleman's amendment would cause to the investing public.

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

Mr. TOOMEY. Mr. Chairman, I thank the gentleman for yielding.

I would just make one brief further point, and that is, I think what accounting is supposed to be all about is providing the most accurate information, and by ''accurate,'' I think we mean information that either immediately or at least in time converges with economic reality. We do not want corporations to be showing income or expenses that never occur. That is common sense, but that is the reality we are dealing with here.

And what this amendment does is it moves us away from that convergence to economic reality, and I think the underlying bill does a better job of capturing that economic reality, which ultimately in the case of stock options, I believe, should be primarily captured by showing the dilution that occurs in the form of new stock that is issued.

Mr. OXLEY. Mr. Chairman, I yield as much time as he might consume to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Chairman, I want to speak in opposition to the amendment. I want to thank the gentleman from Louisiana (Mr. BAKER) for drafting this thoughtful and thorough legislation.

I believe the approval of H.R. 3574 is essential to the economic well-being of many businesses, most significantly, many small businesses. As for the gentleman's amendment, while H.R. 3574 only requires the expensing of stock options granted to the top five employees of a given company, it is still necessary to accurately determine a value for the option to be expensed. Determining this value has proven tedious at best and extremely inconsistent and inaccurate at worst.

One of the reasons for the unreliability of these valuations is the requirement to factor in the anticipated volatility of a company's future stock prices. The value has proven virtually impossible and actually difficult to determine and is highly susceptible to error and manipulation.

I urge my colleagues to reject this amendment.

Mr. Chairman, I want to speak in opposition to the gentleman's amendment.

Mr. Chairman, I want to thank my friend, Mr. BAKER, for drafting this thoughtful and thorough legislation. I believe that the approval of H.R. 3574 is essential to the economic wellbeing of many businesses, most significantly many small businesses.

As for the gentleman's amendment, while H.R. 3574 only requires the expensing of stock options granted to the top five employees of a given company, it is still necessary to accurately determine a value for the options to be expensed. Determining this value has proven tedious at best and extremely inconsistent and inaccurate at worst.

One of the reasons for the unreliability of these valuations is the requirement to factor in the anticipated volatility of a company's future stock price. This value has proven virtually impossible to accurately determine and is highly susceptible to error and manipulation. By setting the volatility to zero, we greatly reduce the possibility of manipulation. Some have incorrectly stated that setting volatility to zero will result in an expense value of zero. This is inaccurate. Other factors, including the underlying price of the stock, the exercise price of the option, and the life of the option will still be used to determine a value for the option.

I urge my colleagues to defeat the amendment.

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

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentleman from California (Mr. SHERMAN).

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

Mr. SHERMAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. SHERMAN) will be postponed.

AMENDMENT NO. 3 OFFERED BY MRS. MALONEY

Mrs. MALONEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mrs. MALONEY:

At the end of the bill, insert the following:

SEC. 5. CONFIRMATION OF S.E.C. AUTHORITY.

Nothing in this Act shall be construed to impair or limit the authority of the Commission to establish accounting principles or standards on its own initiative as the Commission deems necessary in the public interest or for the protection of investors.

The CHAIRMAN pro tempore. Pursuant to House Resolution 725, the gentlewoman from New York (Mrs. MALONEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. MALONEY).

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

My amendment preserves the full power of the SEC to determine what companies report and how they report it. This power was given to the SEC in 1934 after the accounting scandals in the 1920s and 1930s. My amendment preserves the current authority to protect investors and the public interest.

Under present law, and I quote from the law, if ''the SEC determines that the public interest or the protection of investors so requires,'' it can set an accounting standard even if it has to override another law to do so, but only to protect the public interest.

This underlying bill takes away the SEC's power to protect investors. It would prevent the SEC from adopting any accounting standard, except the one set in the underlying bill.

So I would urge my colleagues on both sides of the aisle to be very careful with their vote on this amendment. If you vote against this amendment, you will be walking away from accounting standards that are set on the

principle of protecting the 84 million investors in our country and moving to a different standard, one that does not focus on protecting investors but gives a competitive advantage to a small number of companies.

This amendment protects investors. This amendment saves independent accounting standard setting, and this amendment prevents this body from making what Alan Greenspan called, ''a bad mistake.'' And it is expressly supported by Arthur Levitt, Warren Buffett, John Bogle, the founder of the first mutual fund, and many other financial experts.

So I hope that this body will listen to the overwhelming views of financial experts and professionals and protect investors by supporting my amendment.

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

Mr. OXLEY. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Let me first say, while I oppose the amendment, the gentlewoman from New York has made an excellent contribution to the committee on a number of fronts, and we appreciate her efforts. We just happen to disagree on this particular amendment.

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

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

This, of course, is an important amendment, and we should not forget for a moment that the lawmaking business is a very difficult course to follow. If one introduces a measure in the House of Representatives, it may be subject to numerous hearings and, of course, examination by many people over the course of many months, in some cases, years. It then must go to the United States Senate, where it goes through a similar process.

Assuming the House and Senate may disagree, there is an extensive conference committee process. Ultimately, if passed by both Houses as a conference committee report, it goes on to the President of the United States, either for his signature or for his veto.

What is contemplated by the gentlewoman's amendment is to dramatically alter the course of public policy consideration. If one were to take, for example, the 1934 Securities Act, considered after many, many months of deliberation and debate, I would point out that we start in the United States Congress or in the United States Senate.

Both Houses meet, deliberate, hear witnesses, stakeholders, public comment, lobbyists abound, even FASB running around through the halls, and ultimately we pass a bill out that makes its way to the White House, and the White House may or may not sign or choose to veto such a proposal.

The effect of the gentlewoman's amendment from New York would be to say after that lengthy process which, by the way, in the case of the stock option expensing debate has raged now for some time, after considerable hearings within the House Committee on Financial Services, even the cursory examination in the Committee on Energy and Commerce, now this public debate on the House floor.

And might I remind you we are now officially in an open public comment period by FASB, which we all of course know is closed, but for the sake of public discourse, we have an open public comment period. I would suggest the Congress is getting ready to comment on the matter.

What some are proposing with the Maloney amendment in the last circling at the end of the chart is that it would be the ''oops'' provision. The SEC could say, ''Oops, the Congress got it wrong. The President got it wrong. We are simply going to disregard the actions of our public policymakers and decide we are going to do it differently.''

□ 1330

Nowhere in the text of the public policy is there an arbitrary and capricious grant of authority for any bureaucratic enterprise to set aside the public policy determinations of the United States Congress. This, in fact, would be a first.

Now, I understand the dispute over the underlying reform proposal; but this, I suggest to Members of the House, is not an appropriate remedy for the concerns expressed by Members opposed to this H.R. 3574.

Should you be opposed to it, I suggest you vote against this measure and simply vote against the bill on final passage. However, I, for one, think it an extremely well-crafted remedy to the identified problem and urge my colleagues to support it on final passage.

Mrs. MALONEY. Mr. Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I have a different solution than the gentleman from Louisiana (Mr. BAKER). I would suggest that we vote for the Maloney amendment and then against the underlying legislation, because the Maloney amendment would reinstate where all of this should be with the SEC. Have we not had enough corporate malfeasance in this country, say for the last decade?

We should let the SEC do the job that they are supposed to do. They are charged with the responsibility of dealing with this. It has the authority to establish financial reporting standards applicable to public companies since its inception. This bill would limit that authority for the first time ever, preventing the SEC from adopting an accounting standard for stock options even if it finds that it is needed to protect the interest of the public or the investors.

It prevents the SEC from performing one of its most important functions, establishing those accounting standards. It is that simple. That is where the expertise is.

I love the chart the gentleman from Louisiana (Mr. BAKER) had up there because eventually it showed that the regulators are the ones who are going to make the decisions. Perhaps they are better equipped to make these kinds of decisions. Perhaps people should sit down and talk to the FASB people and to the SEC people and understand that is where the decision should be made with respect to the expensing of stock options. Vote for the Maloney amendment.

The CHAIRMAN pro tempore (Mr. LAHOOD). The time remaining is 1½ minutes on each side.

Mrs. MALONEY. Mr. Chairman, I yield the balance of my time to the gentleman from Massachusetts (Mr. FRANK), the ranking member of the Committee on Financial Services.

The CHAIRMAN pro tempore. The gentleman is recognized for 90 seconds.

Mr. FRANK of Massachusetts. Mr. Chairman, I welcome the gentleman from Louisiana's (Mr. BAKER) concern for congressional prerogative and not excessive delegation. I just wish it extended to the war power and a few other trivial matters.

On this particular subject, the gentlewoman's amendment is quite sensible. We have had criticism of the FASB arguing that they are going to make a decision that has broader public policy implications on grounds that are too technical. The gentlewoman's amendment gets us out of that box. And I have some sympathy with that argument because I do not think the FASB ought to go ahead, but I do not want to set the precedent of overturning the regulators.

What her amendment does is to say, okay, it will not be up to the FASB, making a narrow technical accounting decision; it will be up to the Securities and Exchange Commission and specifically instructs them to take into account the public interest. In other words, it seems to me that this is what Members have been saying, that this decision obviously should not ignore accounting principles but that should be leavened by a concern for the public interest. So it is not simply a repeat of the whole bill. It does say it will not be up only to the FASB as current law would allow it, but it does say we will let the SEC make that decision.

As to the argument this would somehow let the SEC overrule Congress, we would be voting to say to the SEC, here, we think based on invested protection and the public interest, you should make that decision. It would not be setting any precedent of overruling us or giving away our authority at all.

I would love to have a consistent regard for congressional authority. I wish we could do it with regard to overtime rules and the war powers. This is not one of those problems.

Mr. OXLEY. Mr. Chairman, I yield 45 seconds to the gentlewoman from California (Ms. ESHOO), who has been enormously helpful throughout this process and, in fact, testified before the Committee on Financial Services on this legislation.

Ms. ESHOO. Mr. Chairman, I thank the gentleman from Ohio (Mr. OXLEY) for yielding me time.

Mr. Chairman, I oppose this amendment, and let me state very clearly why. Number one, this amendment allows the SEC to override what the Congress wants. I think that stands our process on its head. And I am not suggesting that our process is always perfect and tidy. I thought that when I came here that when the Congress legislates and the executive signs on to that and a bill becomes law that it is up to the executive branch of government to carry that out.

We have gotten nowhere with this accounting board. They do not want to sit down and hear the other side of this, which is economic. And so that is why I urge my colleagues to reject the amendment.

It essentially guts the bill. If you are opposed to stock options for rank-and-file employees, be opposed to that; but to do this the other way around, I think really begs the question.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Mrs. MALONEY).

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

Mrs. MALONEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New York (Mrs. MALONEY) will be postponed.

It is now in order to consider amendment No. 4 printed in House Report 108–616.

AMENDMENT NO. 4 OFFERED BY MR. KANJORSKI

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. KANJORSKI:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Accounting Standards Integrity Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Securities and Exchange Commission has broad authority to prescribe accounting standards applicable to issuers of publicly traded securities, and generally has relied on the Financial Accounting Standards Board to establish generally accepted accounting standards for private sector businesses.

(2) Objective accounting standards are essential to the efficient functioning of the economy and the capital markets, as investors, creditors, analysts, auditors, and others rely on credible, transparent, and comparable results of operations in making decisions regarding the allocation of capital.

(3) Congress recently acknowledged the importance of the accounting standard-setting process to our capital markets and strengthened the the Financial Accounting Standards Board's independence as part of the Sarbanes-Oxley Act of 2002, which passed the House of Representatives and the Senate by votes of 423–3 and 99–0, respectively.

(4) Congress, in the Sarbanes-Oxley Act of 2002, also recognized the importance of the convergence of United States and international accounting standards on high quality accounting standards.

(5) The United States capital markets enjoy a competitive advantage as a result of the high quality and integrity of our financial reporting system and the accounting standards that underlie it and would lose that advantage over foreign markets if our accounting standards and policies are considered less than objective.

(6) Investors benefit from independent and fair accounting standards that are free from undue political interference.

(7) The rulemaking authority and credibility of the Financial Accounting Standards Board may be irreparably damaged by legislation that preempts the existing public and fair deliberative process.

(8) The Securities and Exchange Commission of the United States has the ultimate authority over the content and process for setting standards for issuers of publicly traded securities.

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of Congress that—

(1) preserving the integrity of the accounting standard-setting process and the independence of the Financial Accounting Standards Board is crucial to the functioning and transparency of the financial reporting systems and capital markets of the United States; and

(2) the Securities and Exchange Commission should be permitted to recognize or adopt new accounting standards without Congress or other parties intervening in the process before it is completed to override or delay recognition of those standards.

SEC. 4. SECURITIES AND EXCHANGE COMMISSION MANDATE.

Consistent with its established procedures, the Securities and Exchange Commission shall—

(1) oversee the process of accounting standard-setting to ensure a process that assures that all of the comments, concerns, and recommendations gathered during the comment period on any proposal regarding equity-based compensation are subject to appropriate review; and

(2) before a final standard is adopted, ensure that any modifications are made that are appropriate for the purposes of adopting the highest quality accounting standards that will best serve the purposes of our financial reporting system and the United States economy as a whole.

The CHAIRMAN pro tempore. Pursuant to House Resolution 725, the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from Ohio (Mr. OXLEY) each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. KANJORSKI).

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

Mr. Chairman, the Kanjorski-Castle-Dingell-Maloney-Emanuel substitute is simple in its structure and intent. In short, it would replace the current text of H.R. 3574 with language designed to preserve the independence of the Financial Accounting Standards Board in establishing accounting standards.

Specifically, the substitute incorporates a series of findings concerning SEC authority over standards setting and the importance of credible accounting standards to the economy and investors. It also puts forward a sense of Congress that preserving the integrity of the accounting standards setting process is crucial to the financial reporting systems and markets.

Finally, it provides direction to the SEC to oversee the process of setting standards for equity-based compensation to ensure that all comments, including those of the high-tech industry, are appropriately reviewed and that any modifications necessary to ensure the highest quality accounting standards are adopted.

Mr. Chairman, deciding what should be accounted for and how it should be accounted for is the job of the Financial Accounting Standards Board, not the Congress. As a Washington Post recently editorialized, ''The accounting standards, like interest rates and determinations of drug safety, should not be set by Congress.'' They should be set by the experts at the Financial Accounting Standards Board.

Moreover, we should not start proceeding down a slippery slope of establishing accounting standards via political process. As the Financial Accounting Foundation has noted, ''Once Congress starts setting accounting standards through its political process, the integrity of the United States accounting standards-setting and the credibility of the U.S. financial reporting will be dangerously compromised.''

In short, we should ensure that the Congress does not become an appellate court for accounting standards. I hope my colleagues, therefore, would support our bipartisan substitute.

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

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding me time. I congratulate him on the role that he has played in getting us to this point.

I rise in strong opposition to this substitute because just as the amendment that was proposed by my friend, the gentlewoman from New York (Mrs. MALONEY), it basically guts the bill. I believe it is very important for us to recognize that the United States Congress has a very important role here. We all recognize the independence of the Financial Accounting Standards Board, the Securities and Exchange Commission, but the United States Congress has oversight responsibility. And we have important oversight responsibility, especially in light of the fact that we are looking at a provision which is so amorphous, because no one

has been able to actually quantify exactly what the value of these options is. Whether it is Black-Scholes or binomial, virtually everyone has come to the conclusion that it is impossible, impossible for us to accurately do it no matter how hard we try to base it on a balance sheet.

But I think the important point that needs to be raised and why I am so strongly opposed to this substitute, which again would undermine the whole basis of what it is that we are trying to do with this legislation, is we are forgetting the fact that while the Financial Accounting Standards Board, the SEC, may not focus on the issues of economic growth, every single day we, as Members of Congress, have a responsibility to do what we can to make sure that we take steps to unleash the creative potential of the American worker. And that improves the quality of life, the standard of living for people here in the United States and around the world.

So I believe that it would be a real mistake for us to pass this substitute. We need to do everything we can to make sure that we as Members of the United States Congress encourage productivity, encourage innovation and make sure we have economic growth succeed.

Oppose this substitute and support final passage on the bill.

Mr. KANJORSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware (Mr. CASTLE), a co-sponsor of the substitute amendment.

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

I would like to paint a little bit of a different picture here. Let us assume instead of Members of Congress, these 435 seats were filled with stockholders of various companies in this country, and I said, look, we have $126 billion worth of expenses to the various corporations, but you will never see it because we will do it without any kind of an entry whatsoever.

That is what this is really all about. That is what we are dealing with.

We are really not expensing stock options at all. It is, in my judgment, ludicrous to suggest that the bill which is before us actually expenses stock options without any kind of a volatility standard in them. So we are just letting that go on as we did for some time.

But what is happening around the United States of America as we speak here today? What is happening is that a lot of people who are a heck of a lot more knowledgeable about corporations, equity and running of corporations than we are, are saying, hey, this is wrong; we need to expense stock options.

I have these names here; I cannot go through them all. I do not have time to do that in the 3 minutes I have, but we recognize a lot of them. Alan Greenspan, Paul Volcker, Warren Buffet, names such as that. A significant number of people who have looked at this very carefully have come to the conclusion that we absolutely must do something about it.

A number of stockholders, as well, have done the same thing. For the first time ever, public proxies opposed by corporations are actually passing in the United States of America, some 40 of them this year, because stockholders have actually spoken out and have actually made the statement that we are going to do something about this; we are going to start to expense stock options.

Then, in addition to that, many corporations have looked at this and they said, we really do not need to have stock options unexpensed. We can expense them. We can live with that. Or we can issue restricted stock. There is a whole variety of ways in which we can compensate our executives and our other employees in a fair manner but in a way that would be shown to everybody who has invested in the corporation or might want to invest in the corporation.

Then there are all those companies that are voluntarily expensing their stock options. Again, I do not have the time to go through all of them, but Amazon, American Express, AT&T, Capital One, Coca-Cola, Daimler Chrysler. You name it and they are all beginning to do it.

The proposal which we have before us allows a regulatory body, the SEC working through FASB, to be able to come up with the fairest methodology of doing this. They have issued a rule. They are now listening to whatever the suggestions are. They should perhaps listen to Congress. I will be the first to tell you that Black-Scholes and other methodologies are not necessarily precise, but at least we are showing the expense of stock options so that all of the investors in this world, well over 50 percent of Americans who have invested in either mutual funds or corporations, will actually know what the heck is happening with those corporations.

If we vote for this legislation, we are basically going to brush it right back under the rug, and that is not where it belongs. So I would encourage everybody to take a careful look at this substitute which I think makes a lot of sense in terms of giving FASB the right to continue to do what they are doing. I would encourage us to look at all the amendments which are outstanding at this point and to vote for them and to oppose the legislation when the final say comes for the stockholders and the people of America.

□ 1345

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER), the chairman of the subcommittee.

Mr. BAKER. Mr. Chairman, I thank the chairman for yielding me time.

Since 1969, the current debate has been in some form or fashion engaged by FASB, 1969, 35 years. You would not think that that would be considered a new and innovative strategy to begin expensing or not expensing options.

In 1995, the current methodology was adopted as a compromise. Yes, you can expense, if you so choose, determined by your board, driven perhaps by your shareholders, but you may also disclose in the footnotes.

What are footnotes? They are notes in the annual report to shareholders. If you are a shareholder and you are worried about diluted effect, in other words, they are giving an option to someone, what does that do to my asset in the company, you can find that out with an examination of the annual report.

To suggest that this is a new tactic developed by some executive in a back room to cheat shareholders or Americans out of value gained in their corporate investment is simply not accurate. This has been a practice common in the business world for many, many years.

Now, at question is whether or not a handful of executives who are identified as abusing their privileges ought to be brought to some account. The answer with the passage of this bill is ''yes.'' If you are one of the top five executives who, by some accounts, hold the majority of options granted, you will now be required to expense those options at the time they are granted to the employee. It does not, however, require the large number of employees who benefit from investment, showing up early, staying late, investing their intellectual and personal capital into the business, who ultimately benefit from the overall growth and value of that corporation by seeing their shares increase in value.

Forty-five percent of the venture capital in this country goes to the Silicon Valley, 45 percent, and the bulk of that goes to these new technology start-up companies. If my colleagues wish to see them in the future, please vote for H.R. 3574. It is rational reform headed in the right direction.

Mr. KANJORSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK), the ranking member of the Committee on Financial Services.

MR. FRANK of Massachusetts. Mr. Chairman, I am delighted to take up where the previous speaker left off.

No, I do not want to see an end to venture capital in the Silicon Valley, and my argument is that this is greatly overblown. Here is the argument; we have just heard it.

We have this very valuable resource in America, these high-tech start-ups. They are, on the whole, quite productive; they generate wealth, venture capitalists give them money, and we are being told that the venture capitalists in America are so stupid that a change in accounting, which represents no change in reality, will drive them away from this business.

Now, I agree with those who say that the options are a good thing. I do not

think investors are misled. If you are going to invest in a company, read the footnotes, and if you did not read the footnotes when you invested, do not complain to me. I have got constituents with real problems.

On the other hand, the argument that if you change the accounting and the reality is not changed, remember this has not been the issue. Nothing about what FASB is proposing would stop the issuance of options. It simply changes the way they are accounted for literally.

The argument is that the most sophisticated investors in America will see a change in the accounting and they will say, Oh, my God, I had better stop investing in these companies; I did not know that they were doing this. Well, of course they know. Both sides know. No one is getting any new information out of this.

The question is, if the accounting takes them from a gain on paper to a loss on paper with no change in reality, will that dry up capital?

Now, I understand where if you are one company out of many and you did this and others did not, maybe you would be at a disadvantage, but are venture capitalists so dumb that they do not know what apparently everybody here does? I think they at least tie us in intelligence and understanding of economic processes. Are they going to say, Oh, now that the accounting is changed, now that this is expensed, even though the realities are the same, I will withdraw my investment? I am wholly skeptical of that argument.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the gentleman from Ohio for the time, and Mr. Chairman, I would like to point out a few things here about the substitute.

First of all, obviously I respect the gentleman from Pennsylvania, but I do not support the substitute, and let me tell my colleagues why.

There was a chart that was here on the floor a little earlier of companies that expense. I wish we had a chart on the floor that demonstrated that those companies that do do not offer stock options to their rank-and-file employees.

This debate is not about the venture capitalists. They are going to make their investments. They are going to pick and choose. But this is a magnet that attracts individuals to form new companies to allow them to grow and bring them up to profitability. We want to destroy this? Well, it is going to be in the hands of the Congress to do that. That is what this debate is about.

Those that have problems with executive compensation have problems with it. Talk to the board of directors that form those packages, but rank-and-file employees do not get to negotiate their compensation or those packages. That is why their stock options are so important.

This substitute does not address FASB's failure to develop accurate expensing formulas. They are unwilling to even road-test the standards that they are talking about.

Now, I think that that is really unfair. That is why, as a Member of Congress, I stepped in. I think we should, and I think it is appropriate because we do have a responsibility to answer to the American people about economics and economic impacts on our people.

That is why I urge my colleagues to reject and to vote against the Kanjorski substitute. It was rejected in the committee and it should be on the floor.

Mr. KANJORSKI. Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for giving me an opportunity to talk about the Stock Option Accounting Reform Act.

This is Alice in Wonderland. The notion that the legislation could be labeled with such a title originates in a statement by Warren Buffett, CEO of Berkshire Hathaway.

Why does the second richest man in America oppose a bill that could conceivably make his company look more profitable? It is because the bill only makes the profit look better on paper, while the real bottom line does not change.

The bill perpetuates an accounting gimmick that has harmed far too many investors. Think Enron.

The bill's suggested method for valuing options could grossly underestimate their true value and provide an inflated view of a company's profits. That is misleading to investors who have a right to accurate information.

Take Intel as an example. If this bill were law, Intel would be able to overstate their profits by $991 million. If every company can overstate profits, as this bill allows, then no investor will have accurate information and our markets will be neither efficient nor truly free.

I ask my colleagues to vote against H.R. 3574. It is a misleading and irresponsible bill, and we ought to be here protecting small investors, and that ought to be a goal of the United States Congress.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I thank the chairman for the time.

I think that some speakers seem to distrust big business. Some do need it, but I would tell my colleagues, California was hit extensively with defense cuts. A lot of the jobs were lost, a lot of not just DOD but jobs in the high-tech industries, defense and so on.

We have replaced a lot of our businesses with bio-tech, and quite often the young entrepreneurial company does not have the capital to start up the business. So what did they do? They reach out to scientists and say, Hey, we cannot pay you the amount necessary to study a cure for AIDS or cancer, but we can give you a piece of the rock.

Some of my colleagues talked about creation of jobs. Well, we have gotten rid of the high-paying jobs and only have the low-service jobs.

These quite often are high-paying jobs. It is an investment in the future, not only of the company but for the workers on all levels of that company that do have stock options. For California, our job market is improving, primarily of those young entrepreneurial companies. There are some that want to tax those, put a tax on it, but we think that that is wrong. When we could create an environment that produces jobs on all levels of the scientists, all the way from the people that take out the trash, and that is good, and it means that the economy can recover; and in the State of California it helps us, and I rise in strong support of this bill.

Mr. KANJORSKI. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. SHERMAN).

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

America has to fight to get capital. China lets its domestic companies put anything they want on their financial statements. We respond with independent, nonpolitical, generally accepted accounting principles written by the FASB, an independent board. Under this bill, we would have generally political accounting principles. Capital will go abroad.

No wonder perhaps the best group defending investors, Greenspan, Buffett, the mutual funds represented by the Investment Company Institute and the major pension plans representing public employees all oppose this bill.

We are told that options are broadly based. Thirty percent of the options goes to the top five executives; the other 70 percent are narrowly spread among top executives. That is why 80 percent of CEO compensation in this country comes in the form of stock options.

We are told that it is difficult to do the calculations to expense stock options, but accountants do much more difficult calculations already and have for generations.

We are told that we should adopt an absurd accounting standard, one where if you give an option to the number five person at a company, that is an expense, but the number six person at the company gets an option that is not an expense. Only a political body like Congress would decide that the weights and measures varied dependent upon whether you are dealing with the number five executive or the number six executive.

In sum, Mr. Chairman, imposing political standards in an effort to conceal executive compensation will tarnish America's image for objective financial

reporting and hurt our efforts to attract capital from around the world.

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

This has been an excellent debate, and I have great respect for the two gentlemen who have offered this substitute, the gentleman from Delaware (Mr. CASTLE) and the gentleman from Pennsylvania (Mr. KANJORSKI), but the issue here is whether duly elected public policymakers, that is, the Congress, have a responsibility to deal with issues that come into the realm of the economy, job creation, economic growth and the like, and I think clearly the answer is ''yes.''

How many arguments have we heard about outsourcing? How many arguments have we heard about the fact that we are falling behind in the technology gap with Asian countries? How many times have we heard the arguments about the number of engineers that are produced in other parts of the world compared to here or in science and the like? How many times have we heard about the competition out there for good quality people who have an idea, who want to bring that idea to fruition?

That is really what employee stock options do. It gives them an incentive. It incentivizes these folks to work harder and to come up with more innovations because they have a piece of the action. They own part of that company, and this is clearly what it is.

The fastest growing area for employee stock options is Asia, and among the Asian countries, the fastest growing country for creation of employee stock options is Communist China.

□ 1400

When our American companies have to compete for talent with Japan and China and other countries in Asia, and at the same time we have politicians and pundits complaining about outsourcing and about our inability to be competitive, do we have to stand back as elected Members of Congress and say we are willing to allow those decisions to be made by unelected bureaucrats and the private sector? I say, no.

So this idea that the gentleman from Louisiana (Mr. BAKER) came up with, which deals with that 30 percent, the top five people in a corporation, this deals directly with that. It says we are going to have them report those stock options. That is precisely the point behind this.

If the argument is that somehow all of the business scandals resulted from the fact that people were abusing stock options, then this bill is the answer to that problem. I ask Members to oppose the substitute and for a strong bipartisan vote for final passage.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI).

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

Mr. KANJORSKI. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. 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 No. 2 offered by the gentleman from California (Mr. SHERMAN); amendment No. 3 offered by the gentlewoman from New York (Mrs. MALONEY); and amendment No. 4 offered by the gentleman from Pennsylvania (Mr. KANJORSKI).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. SHERMAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. SHERMAN) 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 vote was taken by electronic device, and there were—ayes 126, noes 296, not voting 11, as follows:

[Roll No. 394]

AYES—126

Abercrombie
Ackerman
Alexander
Andrews
Baldwin
Bass
Becerra
Bell
Bereuter
Berman
Berry
Bishop (NY)
Bono
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Cardin
Castle
Clay
Clyburn
Conyers
Costello
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Duncan
Ehlers
Emanuel
Evans
Fattah
Filner
Fossella
Frank (MA)
Gilchrest
Gillmor
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Holt
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kaptur
Kleczka
Kucinich
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Maloney
Markey
Marshall
Matsui
McCollum
McDermott
McNulty
Meek (FL)
Michaud
Millender-McDonald
Miller, George
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Peterson (MN)
Petri
Platts
Pomeroy
Rahall
Rangel
Rodriguez
Rohrabacher
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (MI)
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Taylor (MS)
Thompson (MS)
Tierney
Udall (CO)
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler

NOES—296

Aderholt
Akin
Allen
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Coble
Cole
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Dreier
Dunn
Edwards
Emerson
English
Eshoo
Etheridge
Everett
Farr
Feeney
Flake
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McGovern
McHugh
McInnis
McIntyre
McKeon
Meehan
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pelosi
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Vitter

Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Ballenger
Carson (IN)
Collins
Cooper
Engel
Ferguson
Hoeffel
Isakson
Majette
McCrery
Quinn

□ 1426

Mrs. WILSON of New Mexico, Ms. KILPATRICK, and Messrs. GUTKNECHT, WYNN, BRADLEY of New Hampshire, LANTOS and BISHOP of Georgia changed their vote from ''aye'' to ''no.''

Ms. CORRINE BROWN of Florida, Mr. DEUTSCH and Mr. DINGELL changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MRS. MALONEY

The CHAIRMAN pro tempore (Mr. LAHOOD). The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Mrs. MALONEY) 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 114, noes 308, not voting 11, as follows:

[Roll No. 395]

AYES—114

Abercrombie
Ackerman
Alexander
Andrews
Baldwin
Becerra
Bereuter
Berman
Berry
Bishop (NY)
Bono
Brady (PA)
Brown (OH)
Capps
Cardin
Castle
Clay
Clyburn
Conyers
Costello
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doyle
Emanuel
Engel
Fattah
Fossella
Frank (MA)
Gilchrest
Gillmor
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Holt
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (IL)
Jones (NC)
Kanjorski
Kaptur
Kleczka
Kucinich
Leach
Lee
Levin
Lipinski
Lowey
Maloney
Markey
Marshall
Matsui
McCollum
McDermott
McNulty
Miller (NC)
Miller, George
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pascrell
Pastor
Payne
Peterson (MN)
Petri
Pomeroy
Rahall
Rangel
Rohrabacher
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Serrano
Shays
Sherman
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Taylor (MS)
Thompson (MS)
Tierney
Towns
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wu
Wynn

NOES—308

Aderholt
Akin
Allen
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Coble
Cole
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Filner
Flake
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McGovern
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Paul
Pearce
Pelosi
Pence
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Young (AK)
Young (FL)

NOT VOTING—11

Ballenger
Carson (IN)
Collins
Cooper
Ferguson
Hoeffel
Isakson
Majette
McCrery
Quinn
Smith (MI)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1435

Mr. WYNN and Mr. FOSSELLA changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. KANJORSKI

The CHAIRMAN pro tempore (Mr. LAHOOD). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI) 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 127, noes 293, not voting 13, as follows:

[Roll No. 396]

AYES—127

Abercrombie
Ackerman
Alexander
Andrews
Baldwin
Bass
Becerra
Bell
Bereuter
Berman
Berry
Bilirakis
Bishop (NY)
Bono
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Cardin
Castle
Clay
Clyburn
Conyers
Costello
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dingell
Doyle
Emanuel
Engel
Evans
Fattah
Ford
Fossella
Frank (MA)
Gilchrest
Gillmor
Goode
Grijalva
Gutierrez
Hall
Hastings (FL)
Hinchey
Hoeffel
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (IL)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kleczka
Kolbe
Kucinich
Leach
Lee
Levin
Lipinski
Lowey
Maloney
Markey
Marshall
Matsui
McCollum
McDermott
McInnis
McNulty
Miller, George
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Osborne
Owens
Pascrell
Pastor
Payne
Peterson (MN)
Petri
Platts
Pomeroy
Rahall
Rangel
Rohrabacher
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Scott (VA)
Serrano
Shays
Sherman

Shimkus
Simmons
Slaughter
Smith (MI)
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Taylor (MS)
Thompson (MS)
Tierney
Towns
Van Hollen
Visclosky
Waters
Watt
Waxman
Weiner
Wexler

NOES—293

Aderholt
Akin
Allen
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Biggert
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Coble
Cole
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Eshoo
Etheridge
Everett
Farr
Feeney
Filner
Flake
Foley
Forbes
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McGovern
McHugh
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Ose
Otter
Oxley
Pallone
Paul
Pearce
Pelosi
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watson
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—13

Ballenger
Berkley
Carson (IN)
Collins
Cooper
Ferguson
Greenwood
Isakson
Johnson (CT)
Majette
McCrery
Quinn
Thomas

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1442

Mr. CONYERS changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MCINNIS. Mr. Chairman, during today's consideration of H.R. 3574, a bill introduced by Representative BAKER, I mistakenly voted ''no'' on one of the amendments to this legislation. Representative KANJORSKI introduced a substitute amendment to H.R. 3574, (rollcall No. 396). I voted in favor of Representative KANJORSKI's amendment. Please let the RECORD reflect that I intended to vote against that amendment.

The CHAIRMAN pro tempore. There being no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

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

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SWEENEY) having assumed the chair, Mr. LAHOOD, 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. 3574) to require the mandatory expensing of stock options granted to executive officers, and for other purposes, pursuant to House Resolution 725, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

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

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. OXLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 312, nays 111, not voting 10, as follows:

[Roll No. 397]

YEAS—312

Ackerman
Aderholt
Akin
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Becerra
Bell
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Clay
Coble
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Delahunt
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Everett
Farr
Feeney
Filner
Flake
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McGovern
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Ose
Otter
Owens
Oxley
Pallone
Paul
Pearce
Pelosi
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)

Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watson
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—111

Abercrombie
Alexander
Baldwin
Bass
Bereuter
Berman
Berry
Bishop (NY)
Bono
Brady (PA)
Brown (OH)
Capps
Cardin
Castle
Clyburn
Cole
Conyers
Costello
Cummings
Davis (FL)
DeFazio
DeGette
DeLauro
Dingell
Doyle
Emanuel
Emerson
Evans
Fattah
Fossella
Frank (MA)
Gilchrest
Gillmor
Goode
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hoeffel
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kleczka
Kolbe
Kucinich
LaHood
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Maloney
Markey
Marshall
Matsui
McDermott
McNulty
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Osborne
Pascrell
Pastor
Payne
Peterson (MN)
Petri
Platts
Pomeroy
Rahall
Rohrabacher
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Scott (VA)
Serrano
Shays
Sherman
Shimkus
Slaughter
Smith (MI)
Spratt
Stark
Stearns
Strickland
Stupak
Taylor (MS)
Terry
Thompson (MS)
Tierney
Towns
Van Hollen
Visclosky
Waters
Watt
Waxman
Weiner

NOT VOTING—10

Ballenger
Carson (IN)
Collins
Cooper
Ferguson
Gingrey
Isakson
Majette
McCrery
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1500

Mr. PAYNE changed his vote from ''yea'' to ''nay.''

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. GINGREY. Mr. Speaker, on rollcall No. 397 I was unavoidably detained. Had I been present, I would have voted "yea."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3574, STOCK OPTION ACCOUNTING REFORM ACT

Mr. BAKER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3574, the Clerk be authorized to correct section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House.

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

There was no objection.

CONFERENCE REPORT ON H.R. 2443, COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2004

Mr. YOUNG of Alaska submitted the following conference report and statement on the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes:

CONFERENCE REPORT (H. REPT. 108–617)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2443), to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be referred to as the ''Coast Guard and Maritime Transportation Act of 2004''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.

TITLE II—COAST GUARD MANAGEMENT

Sec. 201. Long-term leases.
Sec. 202. Nonappropriated fund instrumentalities.
Sec. 203. Term of enlistments.
Sec. 204. Enlisted member critical skill training bonus.
Sec. 205. Indemnity for disabling vessels liable to seizure or examination.
Sec. 206. Administrative, collection, and enforcement costs for certain fees and charges.
Sec. 207. Expansion of Coast Guard housing authorities.
Sec. 208. Requirement for constructive credit.
Sec. 209. Maximum ages for retention in an active status.
Sec. 210. Travel card management.
Sec. 211. Coast Guard fellows and detailees.
Sec. 212. Long-term lease of special use real property.
Sec. 213. National Coast Guard Museum.
Sec. 214. Limitation on number of commissioned officers.
Sec. 215. Redistricting notification requirement.
Sec. 216. Report on shock mitigation standards.
Sec. 217. Recommendations to Congress by Commandant of the Coast Guard.
Sec. 218. Coast Guard education loan repayment program.
Sec. 219. Contingent expenses.
Sec. 220. Reserve admirals.
Sec. 221. Confidential investigative expenses.
Sec. 222. Innovative construction alternatives.
Sec. 223. Delegation of port security authority.
Sec. 224. Fisheries enforcement plans and reporting.
Sec. 225. Use of Coast Guard and military child development centers.
Sec. 226. Treatment of property owned by auxiliary units and dedicated solely for auxiliary use.

TITLE III—NAVIGATION

Sec. 301. Marking of underwater wrecks.
Sec. 302. Use of electronic devices; cooperative agreements.
Sec. 303. Inland navigation rules promulgation authority.
Sec. 304. Saint Lawrence Seaway.

TITLE IV—SHIPPING

Sec. 401. Reports from charterers.
Sec. 402. Removal of mandatory revocation for proved drug convictions in suspension and revocation cases.
Sec. 403. Records of merchant mariners' documents.
Sec. 404. Exemption of unmanned barges from certain citizenship requirements.
Sec. 405. Compliance with International Safety Management Code.
Sec. 406. Penalties.
Sec. 407. Revision of temporary suspension criteria in document suspension and revocation cases.
Sec. 408. Revision of bases for document suspension and revocation cases.
Sec. 409. Hours of service on towing vessels.
Sec. 410. Electronic charts.
Sec. 411. Prevention of departure.
Sec. 412. Service of foreign nationals for maritime educational purposes.
Sec. 413. Classification societies.
Sec. 414. Drug testing reporting.
Sec. 415. Inspection of towing vessels.
Sec. 416. Potable water.
Sec. 417. Transportation of platform jackets.
Sec. 418. Renewal of advisory groups.

TITLE V—FEDERAL MARITIME COMMISSION

Sec. 501. Authorization of appropriations for Federal Maritime Commission.
Sec. 502. Report on ocean shipping information gathering efforts.

TITLE VI—MISCELLANEOUS

Sec. 601. Increase in civil penalties for violations of certain bridge statutes.
Sec. 602. Conveyance of decommissioned Coast Guard cutters.
Sec. 603. Tonnage measurement.
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Sec. 606. Koss Cove.
Sec. 607. Miscellaneous certificates of documentation.
Sec. 608. Requirements for coastwise endorsement.
Sec. 609. Correction of references to National Driver Register.
Sec. 610. Wateree River.
Sec. 611. Merchant mariners' documents pilot program.
Sec. 612. Conveyance.
Sec. 613. Bridge administration.
Sec. 614. Sense of Congress regarding carbon monoxide and watercraft.
Sec. 615. Mitigation of penalty due to avoidance of a certain condition.

Sec. 616. Certain vessels to be tour vessels.
Sec. 617. Sense of Congress regarding timely review and adjustment of Great Lakes pilotage rates.
Sec. 618. Westlake chemical barge documentation.
Sec. 619. Correction to definition.
Sec. 620. LORAN-C.
Sec. 621. Deepwater report.
Sec. 622. Judicial review of National Transportation Safety Board final orders.
Sec. 623. Interim authority for dry bulk cargo residue disposal.
Sec. 624. Small passenger vessel report.
Sec. 625. Conveyance of motor lifeboat.
Sec. 626. Study on routing measures.
Sec. 627. Conveyance of light stations.
Sec. 628. Waiver.
Sec. 629. Approval of modular accommodation units for living quarters.

TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

Sec. 701. Vessel response plans for nontank vessels over 400 gross tons.
Sec. 702. Requirements for tank level and pressure monitoring devices.
Sec. 703. Liability and cost recovery.
Sec. 704. Oil Spill Recovery Institute.
Sec. 705. Alternatives.
Sec. 706. Authority to settle.
Sec. 707. Report on implementation of the Oil Pollution Act of 1990.
Sec. 708. Loans for fishermen and aquaculture producers impacted by oil spills.

TITLE VIII—MARITIME TRANSPORTATION SECURITY

Sec. 801. Enforcement.
Sec. 802. In rem liability for civil penalties and costs.
Sec. 803. Maritime information.
Sec. 804. Maritime transportation security grants.
Sec. 805. Security assessment of waters under the jurisdiction of the United States.
Sec. 806. Membership of Area Maritime Security Advisory Committees.
Sec. 807. Joint operational centers for port security.
Sec. 808. Investigations.
Sec. 809. Vessel and intermodal security reports.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2005 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, $5,404,300,000, of which $25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,500,000,000, of which—

(A) $23,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990), to remain available until expended;

(B) $1,100,000,000 is authorized for acquisition and construction of shore and offshore facilities, vessels, and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater System; and

(C) $161,000,000 shall be available for Rescue 21.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $24,200,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,085,460,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $19,650,000, of which—

(A) $17,150,000, to remain available until expended; and

(B) $2,500,000, to remain available until expended, which may be utilized for construction of a new Chelsea Street Bridge over the Chelsea River in Boston, Massachusetts.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operation and maintenance), $17,000,000, to remain available until expended.

(7) For maintenance and operation of facilities, supplies, equipments, and services necessary for the Coast Guard Reserve, as authorized by law, $117,000,000.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 45,500 for the years ending on September 30, 2004, and September 30, 2005.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training for fiscal year 2005, 2,500 student years.

(2) For flight training for fiscal year 2005, 125 student years.

(3) For professional training in military and civilian institutions for fiscal year 2005, 350 student years.

(4) For officer acquisition for fiscal year 2005, 1,200 student years.

TITLE II—COAST GUARD MANAGEMENT

SEC. 201. LONG-TERM LEASES.

Section 93 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (a) through (x) in order as paragraphs (1) through (23);

(2) in paragraph (18) (as so redesignated) by striking the comma at the end and inserting a semicolon;

(3) by inserting ''(a)'' before ''For the purpose''; and

(4) by adding at the end the following:

''(b)(1) Notwithstanding subsection (a)(14), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.

''(2) A lease referred to in paragraph (1) is a lease—

''(A) to the United States Coast Guard Academy Alumni Association for the construction of an Alumni Center on the grounds of the United States Coast Guard Academy; or

''(B) to an entity with which the Commandant has a cooperative agreement under section 4(e) of the Ports and Waterways Safety Act, and for which a term longer than 5 years is necessary to carry out the agreement.''.

SEC. 202. NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

''§152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services

''The Coast Guard Exchange System, or a morale, welfare, and recreation system of the Coast Guard, may enter into a contract or other agreement with any element or instrumentality of the Coast Guard or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the Coast Guard Exchange System or that morale, welfare, and recreation system.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 14, United States Code, is amended by adding at the end the following:

''152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services.''.

SEC. 203. TERM OF ENLISTMENTS.

Section 351(a) of title 14, United States Code, is amended by striking ''terms of full years not exceeding six years.'' and inserting ''a period of at least two years but not more than six years.''.

SEC. 204. ENLISTED MEMBER CRITICAL SKILL TRAINING BONUS.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by inserting after section 373 the following:

''§374. Critical skill training bonus

''(a) The Secretary may provide a bonus, not to exceed $20,000, to an enlisted member who completes training in a skill designated as critical, if at least four years of obligated active service remain on the member's enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

''(b) If an enlisted member voluntarily or because of misconduct does not complete the member's term of obligated active service, the Secretary may require the member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary may charge interest on the amount repaid at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the calendar quarter preceding the date on which the amount to be repaid is determined.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting the following after the item relating to section 373:

''374. Critical skill training bonus.''.

SEC. 205. INDEMNITY FOR DISABLING VESSELS LIABLE TO SEIZURE OR EXAMINATION.

(a) REPEAL OF REQUIREMENT TO FIRE WARNING SHOT.—Subsection (a) of section 637 of title 14, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by striking ''after a'' and all that follows through ''signal,'' and inserting ''subject to paragraph (2),''; and

(3) by adding at the end the following:

''(2) Before firing at or into a vessel as authorized in paragraph (1), the person in command or in charge of the authorized vessel or authorized aircraft shall fire a gun as a warning signal, except that the prior firing of a gun as a warning signal is not required if that person determines that the firing of a warning signal would unreasonably endanger persons or property in the vicinity of the vessel to be stopped.''.

(b) EXTENSION TO MILITARY AIRCRAFT OF COAST GUARD INTERDICTION AUTHORITY.—Subsection (c) of such section is amended—

(1) in paragraph (1) by inserting ''or'' after the semicolon; and

(2) in paragraph (2) by—

(A) inserting ''or military aircraft'' after ''surface naval vessel''; and

(B) striking ''; or'' and all that follows through paragraph (3) and inserting a period.

(c) REPEAL OF TERMINATION OF APPLICABILITY TO NAVAL AIRCRAFT.—Subsection (d) of such section is repealed.

(d) REPORT.—The Commandant of the Coast Guard shall transmit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives describing the location, vessels or aircraft, circumstances, and consequences of each incident in the 12-month period covered by the report in which the person in command or in charge of an authorized vessel or an authorized aircraft (as those terms are used in section 637 of title 14, United States Code) fired at or into a vessel without prior use of the warning signal as authorized by that section.

(e) TECHNICAL CORRECTION.—

*(1) CORRECTION.—Section 637 of title 14, United States Code, is amended in the section heading by striking ''**immunity**'' and inserting ''**indemnity**''.*

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by striking the item relating to section 637 and inserting the following:

''637. Stopping vessels; indemnity for firing at or into vessel.''.

SEC. 206. ADMINISTRATIVE, COLLECTION, AND ENFORCEMENT COSTS FOR CERTAIN FEES AND CHARGES.

Section 664 of title 14, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (f);

(2) by inserting after subsection (b) the following:

''(c) In addition to the collection of fees and charges established under this section, the Secretary may recover from the person liable for the fee or charge the costs of collecting delinquent payments of the fee or charge, and enforcement costs associated with delinquent payments of the fees and charges.

''(d)(1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section.

''(2) A private enterprise or business employed by the Secretary to collect fees or charges—

''(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

''(B) shall provide appropriate accounting to the Secretary; and

''(C) may not institute litigation as part of that collection.

''(e) The Secretary shall account for the agency's costs of collecting a fee or charge as a reimbursable expense, subject to the availability of appropriations, and the costs shall be credited to the account from which expended.''; and

(3) by adding at the end the following:

''(g) In this section the term 'costs of collecting a fee or charge' includes the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on a fee or charge.''.

SEC. 207. EXPANSION OF COAST GUARD HOUSING AUTHORITIES.

(a) ELIGIBLE ENTITY DEFINED.—Section 680 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) in order as paragraphs (4) and (5); and

(2) by inserting after paragraph (2) the following:

''(3) The term 'eligible entity' means any private person, corporation, firm, partnership, or company and any State or local government or housing authority of a State or local government.''.

(b) DIRECT LOANS FOR PROVIDING HOUSING.—Section 682 of title 14, United States Code, is amended—

*(1) in the section heading by striking ''**Loan guarantees**'' and inserting ''**Direct loans and loan guarantees**'';*

(2) by redesignating subsections (a) and (b) as (b) and (c) respectively;

(3) by inserting before subsection (b) (as so redesignated) the following:

''(a) DIRECT LOANS.—(1) Subject to subsection (c), the Secretary may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

''(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.'';

(4) in subsection (b) (as so redesignated) by striking ''subsection (b),'' and inserting ''subsection (c),''; and

(5) in subsection (c) (as so redesignated)—

(A) in the heading by striking ''GUARANTEE''; and

(B) by striking ''Loan guarantees'' and inserting ''Direct loans and loan guarantees''.

(c) LIMITED PARTNERSHIPS WITH ELIGIBLE ENTITIES.—Section 684 of title 14, United States Code, is amended—

*(1) in the section heading by striking ''**nongovernmental**'' and inserting ''**eligible**'';*

(2) in subsection (a) by striking ''nongovernmental'' and inserting ''eligible'';

(3) in subsection (b)(1) by striking ''a nongovernmental'' and inserting ''an eligible'';

(4) in subsection (b)(2) by striking ''a nongovernmental'' and inserting ''an eligible''; and

(5) in subsection (c) by striking ''nongovernmental'' and inserting ''eligible''.

(d) HOUSING DEMONSTRATION PROJECTS IN ALASKA.—Section 687(g) of title 14, United Sates Code, is amended—

(1) in the heading by striking ''PROJECT'' and inserting ''PROJECTS'';

(2) in paragraph (1) by striking ''a demonstration project'' and inserting ''demonstration projects'';

(3) in paragraph (1) by striking ''Kodiak, Alaska;'' and inserting ''Kodiak, Alaska, or any other Coast Guard installation in Alaska;'';

(4) in paragraph (2) by striking ''the demonstration project'' and inserting ''such a demonstration project''; and

(5) in paragraph (4) by striking ''the demonstration project'' and inserting ''such demonstration projects''.

(e) DIFFERENTIAL LEASE PAYMENTS.—Chapter 18 of title 14, United States Code, is amended by inserting after section 687 the following:

''§ 687a. Differential lease payments

''Pursuant to an agreement entered into by the Secretary and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount, in addition to the rental payments for the housing made by the members, as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.''.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 18 of title 14, United States Code, is amended—

(1) by striking the item related to section 682 and inserting the following:

''682. Direct loans and loan guarantees.'';

(2) in the item related to section 684 by striking ''nongovernmental'' and inserting ''eligible''; and

(3) by inserting after the item related to section 687 the following:

''687a. Differential lease payments.''.

SEC. 208. REQUIREMENT FOR CONSTRUCTIVE CREDIT.

Section 727 of title 14, United States Code, is amended in the second sentence by striking ''three years'' and inserting ''one year''.

SEC. 209. MAXIMUM AGES FOR RETENTION IN AN ACTIVE STATUS.

Section 742 of title 14, United States Code, is amended to read as follows:

''§ 742. Maximum ages for retention in an active status

''(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes 60 years of age unless on active duty. If not qualified for retirement, a Reserve officer shall be discharged effective upon the day the officer becomes 60 years of age unless on active duty.

''(b) A Reserve officer on active duty shall, if qualified, be retired effective upon the day the officer become 62 years of age. If not qualified for retirement, a Reserve officer on active duty shall be discharged effective upon the day the officer becomes 62 years of age.

''(c) Notwithstanding subsection (a)and (b), the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes 64 years of age.

''(d) For purposes of this section, 'active duty' does not include active duty for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status.''.

SEC. 210. TRAVEL CARD MANAGEMENT.

(a) IN GENERAL.—Chapter 13 of title 14, United States Code, is amended by adding at the end the following:

''§ 517. Travel card management

''(a) IN GENERAL.—The Secretary may require that travel or transportation allowances due a civilian employee or military member of the Coast Guard be disbursed directly to the issuer of a Federal contractor-issued travel charge card, but only in an amount not to exceed the authorized travel expenses charged by that Coast Guard member to that travel charge card issued to that employee or member.

''(b) WITHHOLDING OF NONDISPUTED OBLIGATIONS.—The Secretary may also establish requirements similar to those established by the Secretary of Defense pursuant to section 2784a of title 10 for deduction or withholding of pay or retired pay from a Coast Guard employee, member, or retired member who is delinquent in payment under the terms of the contract under which the card was issued and does not dispute the amount of the delinquency.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 13 of title 14, United States Code, is amended by inserting after the item relating to section 516 the following:

''517. Travel card management''.

SEC. 211. COAST GUARD FELLOWS AND DETAILEES.

The Secretary of the department in which the Coast Guard is operating, in consultation with the Attorney General, shall by not later than 6 months after the date of the enactment of this Act—

(1) review the Coast Guard Commandant Instruction 5730.3, regarding congressional detailees (COMDTINST 5370.3), dated April 18, 2003, and compare the standards set forth in the instruction to the standards applied by other executive agencies to congressional detailees;

(2) determine if any changes to such instruction are necessary to protect against conflicts of interest and preserve the doctrine of separation of powers; and

(3) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the findings and conclusions of the review.

SEC. 212. LONG-TERM LEASE OF SPECIAL USE REAL PROPERTY.

(a) IN GENERAL.—Section 672 of title 14, United States Code, is amended by—

(1) striking the heading and inserting the following:

"§ 672. Long-term lease of special purpose facilities";

(2) in subsection (a), inserting ''special purpose facilities, including,'' after ''automatic renewal clauses, for'' ; and

(3) striking ''(b) The'' and inserting:

''(b) For purposes of this section, the term 'special purpose facilities' means any facilities used to carry out Coast Guard aviation, maritime, or navigation missions other than general purpose office and storage space facilities.

''(c) In the case of ATON, VTS, or NDS sites, the''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17, United States Code, is amended by striking the item relating to section 672 and inserting the following:

''672. Long-term lease of special purpose facilities.''.

SEC. 213. NATIONAL COAST GUARD MUSEUM.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§ 98. National Coast Guard Museum

''(a) ESTABLISHMENT.—The Commandant may establish a National Coast Guard Museum, on lands which will be federally owned and administered by the Coast Guard, and are located in New London, Connecticut, at, or in close proximity to, the Coast Guard Academy.

''(b) LIMITATION ON EXPENDITURES.—(1) Except as provided in paragraph (2), the Secretary shall not expend any appropriated Federal funds for the engineering, design, or construction of any museum established under this section.

''(2) The Secretary shall fund the operation and maintenance of the National Coast Guard Museum with nonappropriated and non-Federal funds to the maximum extent practicable. The priority use of Federal operation and maintenance funds should be to preserve and protect historic Coast Guard artifacts.

''(c) FUNDING PLAN.—Before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for constructing, operating, and maintaining such a museum, including—

''(1) estimated planning, engineering, design, construction, operation, and maintenance costs;

''(2) the extent to which appropriated, nonappropriated, and non-Federal funds will be used for such purposes, including the extent to which there is any shortfall in funding for engineering, design, or construction; and

''(3) a certification by the Inspector General of the department in which the Coast Guard is operating that the estimates provided pursuant to paragraphs (1) and (2) are reasonable and realistic.

''(d) AUTHORITY.—The Commandant may not establish a Coast Guard museum except as set forth in this section.''.

(b) CLERICAL AMENDMENT.—The chapter analysis at the beginning of chapter 5 of title 14, United States Code, is amended by adding at the end the following:

''98. National Coast Guard Museum.''.

SEC. 214. LIMITATION ON NUMBER OF COMMISSIONED OFFICERS.

Section 42 of title 14, United States Code, is amended—

(1) in subsection (a), by striking ''6,200'' and inserting ''6,700 in each fiscal year 2004, 2005, and 2006''; and

(2) in subsection (b), by striking ''commander 12.0; lieutenant commander 18.0'' and inserting ''commander 15.0; lieutenant commander 22.0''.

SEC. 215. REDISTRICTING NOTIFICATION REQUIREMENT.

The Commandant shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at least 180 days before—

(1) implementing any plan to reduce the number of, change the location of, or change the geographic area covered by any existing Coast Guard Districts; or

(2) permanently transferring more than 10 percent of the personnel or equipment from a district office where such personnel or equipment is based.

SEC. 216. REPORT ON SHOCK MITIGATION STANDARDS.

(a) REPORT REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall issue a report on the necessity of, and possible standards for, decking materials for Coast Guard vessels to mitigate the adverse effects on crew members from shock and vibration.

(b) RECOMMENDED STANDARDS.—The standards recommended in the report may—

(1) incorporate appropriate industry or manufacturing standards; and

(2) consider the weight and durability of decking material, the effects of repeated use and varying weather conditions, and the capability of decking material to lessen impact.

SEC. 217. RECOMMENDATIONS TO CONGRESS BY COMMANDANT OF THE COAST GUARD.

Section 93 of title 14, United States Code, is amended—

(1) in paragraph (w) by striking ''and'' after the semicolon at the end;

(2) in paragraph (x) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(y) after informing the Secretary, make such recommendations to the Congress relating to the Coast Guard as the Commandant considers appropriate.''.

SEC. 218. COAST GUARD EDUCATION LOAN REPAYMENT PROGRAM.

(a) PROGRAM AUTHORIZED.—Chapter 13 of title 14, United States Code, is amended by inserting after section 471 the following:

"§ 472. Education loan repayment program

''(a)(1) Subject to the provisions of this section, the Secretary may repay—

''(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

''(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

''(C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

''(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed on active duty as an enlisted member of the Coast Guard in a specialty specified by the Secretary.

''(b) The portion or amount of a loan that may be repaid under subsection (a) is 33⅓ percent or $1,500, whichever is greater, for each year of service.

''(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

''(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

''(e) The Secretary shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item relating to section 471 the following:

''472. Education loan repayment program.''.

SEC. 219. CONTINGENT EXPENSES.

Section 476 of title 14, United States Code, is amended—

(1) by striking ''$7,500'' and inserting ''$50,000''; and

(2) by striking the second sentence.

SEC. 220. RESERVE ADMIRALS.

(a) PRECEDENCE.—Section 725 of title 14, United States Code, is amended by adding at the end the following:

''(d) Notwithstanding any other law, a Reserve officer shall not lose precedence by reason of promotion to the grade of rear admiral or rear admiral (lower half), if the promotion is determined in accordance with a running mate system.

''(e) The Secretary shall adjust the date of rank of a Reserve officer so that no changes of precedence occur.''.

(b) PROMOTION.—Section 736(b) of title 14, United States Code, is amend to read as follows:

''(b) Notwithstanding any other provision of law and subject to subsection (c), if promotion of an inactive duty promotion list officer to the grade of rear admiral or rear admiral (lower half) is determined in accordance with a running mate system, a reserve officer, if acceptable to the President and the Senate, shall be promoted to the next higher grade no later than the date the officer's running mate is promoted.''.

(c) DATE OF APPOINTMENT.—Section 736(c) of title 14, United States Code, is amend by striking ''of subsection (a)''.

(d) MAXIMUM SERVICE.—Section 743 of title 14, United States Code, is amended to read as follows:

"§743. Rear admiral and rear admiral (lower half); maximum service in grade

''(a) Unless retained in or removed from an active status under any other law, a reserve rear admiral or rear admiral (lower half) shall be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes 4 years of service after the appointment of the officer to rear admiral (lower half).

''(b) Notwithstanding any other provision of law, if promotion of inactive duty promotion list officers to the grade of rear admiral is not determined in accordance with a running mate system, a Reserve officer serving in an active status in the grade of rear admiral (lower half) shall be promoted to the grade of rear admiral, if acceptable to the President and the Senate, on the date the officer has served 2 years in an active status in grade of rear admiral (lower half), or in the case of a vacancy occurring prior to having served 2 years in an active status, on the date the vacancy occurs, if the officer served at least 1 year in an active status in the grade of rear admiral (lower half).''.

SEC. 221. CONFIDENTIAL INVESTIGATIVE EXPENSES.

Section 658 of title 14, United States Code, is amended by striking ''$15,000 per annum'' and inserting ''$45,000 each fiscal year''.

SEC. 222. INNOVATIVE CONSTRUCTION ALTERNATIVES.

The Commandant of the Coast Guard may consult with the Office of Naval Research and other Federal agencies with research and development programs that may provide innovative construction alternatives for the Integrated Deepwater System.

SEC. 223. DELEGATION OF PORT SECURITY AUTHORITY.

The undesignated text following paragraph (b) of the second unnumbered paragraph of section 1 of title II of the Act of June 15, 1917 (chapter 30; 40 Stat. 220; 50 U.S.C. 191) is amended by adding at the beginning the following: ''The President may delegate the authority to issue such rules and regulations to

the Secretary of the department in which the Coast Guard is operating.''.

SEC. 224. FISHERIES ENFORCEMENT PLANS AND REPORTING.

(a) FISHERIES ENFORCEMENT PLANS.—In preparing the Coast Guard's annual fisheries enforcement plan, the Commandant of the Coast Guard shall consult with the Under Secretary of Commerce for Oceans and Atmosphere and with State and local enforcement authorities.

(b) FISHERY PATROLS.—Prior to undertaking fisheries patrols, the Commandant of the Coast Guard shall notify the Under Secretary of Commerce for Oceans and Atmosphere and appropriate State and local enforcement authorities of the projected dates for such patrols.

(c) ANNUAL SUMMARY.—The Commandant of the Coast Guard shall prepare and make available to the Under Secretary of Commerce for Oceans and Atmosphere, State and local enforcement entities, and other relevant stakeholders, an annual summary report of fisheries enforcement activities for the preceding year, including a summary of the number of patrols, law enforcement actions taken, and resource hours expended.

SEC. 225. USE OF COAST GUARD AND MILITARY CHILD DEVELOPMENT CENTERS.

The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, when operating other than as a service in the Navy, may agree to provide child care services to members of the armed forces, with reimbursement, in Coast Guard and military child development centers supported in whole or in part with appropriated funds. For purposes of military child development centers operated under the authority of subchapter II of chapter 88 of title 10, United States Code, the child of a member of the Coast Guard shall be considered the same as the child of a member of any of the other armed forces.

SEC. 226. TREATMENT OF PROPERTY OWNED BY AUXILIARY UNITS AND DEDICATED SOLELY FOR AUXILIARY USE.

Section 821 of title 14, United States Code, is amended by adding at the end the following:

''(d)(1) Except as provided in paragraph (2), personal property of the auxiliary shall not be considered property of the United States.

''(2) The Secretary may treat personal property of the auxiliary as property of the United States—

''(A) for the purposes of—

''(i) the statutes and matters referred to in paragraphs (1) through (6) of subsection (b); and

''(ii) section 641 of this title; and

''(B) as otherwise provided in this chapter.

''(3) The Secretary may reimburse the Auxiliary, and each organizational element and unit of the Auxiliary, for necessary expenses of operation, maintenance, and repair or replacement of personal property of the Auxiliary.

''(4) In this subsection, the term 'personal property of the Auxiliary' means motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment that is under the administrative jurisdiction of the Coast Guard Auxiliary or an organizational element or unit of the Auxiliary and that is used solely for the purposes described in this subsection.''.

TITLE III—NAVIGATION

SEC. 301. MARKING OF UNDERWATER WRECKS.

Section 15 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 409) is amended—

(1) by striking ''day and a lighted lantern'' in the second sentence inserting ''day and, unless otherwise granted a waiver by the Commandant of the Coast Guard, a light''; and

(2) by adding at the end ''The Commandant of the Coast Guard may waive the requirement to mark a wrecked vessel, raft, or other craft with a light at night if the Commandant determines that placing a light would be impractical and granting such a waiver would not create an undue hazard to navigation.''.

SEC. 302. USE OF ELECTRONIC DEVICES; COOPERATIVE AGREEMENTS.

Section 4(a) of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1223(a)) is amended by—

(1)(A) striking ''and'' after the semicolon at the end of paragraph (4);

(B) striking the period at the end of paragraph (5) and inserting ''; and''; and

(C) adding at the end the following:

''(6) may prohibit the use on vessels of electronic or other devices that interfere with communication and navigation equipment, except that such authority shall not apply to electronic or other devices certified to transmit in the maritime services by the Federal Communications Commission and used within the frequency bands 157.1875–157.4375 MHz and 161.7875–162.0375 MHz.''; and

(2) adding at the end the following:

''(e) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with public or private agencies, authorities, associations, institutions, corporations, organizations, or other persons to carry out the functions under subsection (a)(1).

''(2) A nongovernmental entity may not under this subsection carry out an inherently governmental function.

''(3) As used in this paragraph, the term 'inherently governmental function' means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.''.

SEC. 303. INLAND NAVIGATION RULES PROMULGATION AUTHORITY.

(a) REPEAL OF INLAND RULES.—Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001–38) is repealed.

(b) AUTHORITY TO ISSUE REGULATIONS.—Section 3 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001) is amended to read as follows:

''SEC. 3. INLAND NAVIGATION RULES.

''The Secretary of the Department in which the Coast Guard is operating may issue inland navigation regulations applicable to all vessels upon the inland waters of the United States and technical annexes that are as consistent as possible with the respective annexes to the International Regulations.''.

(c) EFFECTIVE DATE.—Subsection (a) is effective on the effective date of final regulations prescribed by the Secretary of the Department in which the Coast Guard is operating under section 3 of the Inland Navigation Rules Act of 1980 (33 U.S.C. 2001), as amended by this Act.

SEC. 304. SAINT LAWRENCE SEAWAY.

Section 3(2) of the Ports and Waterways Safety Act (33 U.S.C. 1222(2)) is amended by inserting '', except that 'Secretary' means the Secretary of Transportation with respect to the application of this Act to the Saint Lawrence Seaway'' after ''in which the Coast Guard is operating''.

TITLE IV—SHIPPING

SEC. 401. REPORTS FROM CHARTERERS.

Section 12120 of title 46, United States Code, is amended by striking ''owners and masters'' and inserting ''owners, masters, and charterers''.

SEC. 402. REMOVAL OF MANDATORY REVOCATION FOR PROVED DRUG CONVICTIONS IN SUSPENSION AND REVOCATION CASES.

Section 7704(b) of title 46, United States Code, is amended by inserting ''suspended or'' after ''shall be''.

SEC. 403. RECORDS OF MERCHANT MARINERS' DOCUMENTS.

Section 7319 of title 46, United States Code, is amended by striking the second sentence.

SEC. 404. EXEMPTION OF UNMANNED BARGES FROM CERTAIN CITIZENSHIP REQUIREMENTS.

(a) LIMITATION ON COMMAND.—Section 12110(d) of title 46, United States Code, is amended by inserting ''or an unmanned barge operating outside of the territorial waters of the United States,'' after ''recreational endorsement,''.

(b) PENALTY.—Section 12122(b)(6) of title 46, United States Code, is amended by inserting ''or an unmanned barge operating outside of the territorial waters of the United States,'' after ''recreational endorsement,''.

SEC. 405. COMPLIANCE WITH INTERNATIONAL SAFETY MANAGEMENT CODE.

(a) APPLICATION OF EXISTING LAW.—Section 3202(a) of title 46, United States Code, is amended to read as follows:

''(a) MANDATORY APPLICATION.—This chapter applies to a vessel that—

''(1)(A) is transporting more than 12 passengers described in section 2101(21)(A) of this title; or

''(B) is of at least 500 gross tons as measured under section 14302 of this title and is a tanker, freight vessel, bulk freight vessel, high speed freight vessel, or self-propelled mobile offshore drilling unit; and

''(2)(A) is engaged on a foreign voyage; or

''(B) is a foreign vessel departing from a place under the jurisdiction of the United States on a voyage, any part of which is on the high seas.''.

(b) COMPLIANCE OF REGULATIONS WITH INTERNATIONAL SAFETY MANAGEMENT CODE.—Section 3203(b) of title 46, United States Code, is amended by striking ''vessels engaged on a foreign voyage.'' and inserting ''vessels to which this chapter applies under section 3202(a) of this title.''.

SEC. 406. PENALTIES.

Section 4311(b) of title 46, United States Code, is amended to read as follows:

''(b)(1) A person violating section 4307(a)of this title is liable to the United States Government for a civil penalty of not more than $5,000, except that the maximum civil penalty may be not more than $250,000 for a related series of violations.

''(2) If the Secretary decides under section 4310(f) that a recreational vessel or associated equipment contains a defect related to safety or fails to comply with an applicable regulation and directs the manufacturer to provide the notifications specified in this chapter, any person, including a director, officer or executive employee of a corporation, who knowingly and willfully fails to comply with that order, may be fined not more than $10,000, imprisoned for not more than one year, or both.

''(3) When a corporation violates section 4307(a), or fails to comply with the Secretary's decision under section 4310(f), any director, officer, or executive employee of the corporation who knowingly and willfully ordered, or knowingly and willfully authorized, a violation is individually liable to the Government for a penalty under paragraphs (1) or (2) in addition to the corporation. However, the director, officer, or executive employee is not liable individually under this subsection if the director, officer, or executive employee can demonstrate by a preponderance of the evidence that—

''(A) the order or authorization was issued on the basis of a decision, in exercising reasonable and prudent judgment, that the defect or the nonconformity with standards and regulations constituting the violation would not cause or constitute a substantial risk of personal injury to the public; and

''(B) at the time of the order or authorization, the director, officer, or executive employee advised the Secretary in writing of acting under this subparagraph and subparagraph (A).''.

SEC. 407. REVISION OF TEMPORARY SUSPENSION CRITERIA IN DOCUMENT SUSPENSION AND REVOCATION CASES.

Section 7702(d) of title 46, United States Code, is amended—

(1) in paragraph (1) by striking ''if, when acting under the authority of that license, certificate, or document—'' and inserting ''if—'';

(2) in paragraph (1)(B)(i), by inserting '', while acting under the authority of that license, certificate, or document,'' after ''has'';

(3) by striking ''or'' after the semicolon at the end of paragraph (1)(B)(ii);

(4) by striking the period at the end of paragraph (1)(B)(iii) and inserting ''; or''; and

(5) by adding at the end of paragraph (1)(B) the following:

''(iv) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.''.

SEC. 408. REVISION OF BASES FOR DOCUMENT SUSPENSION AND REVOCATION CASES.

Section 7703 of title 46, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) by striking ''incompetence,''; and

(B) by striking the comma after ''misconduct'';

(2) by striking ''or'' after the semicolon at the end of paragraph (2);

(3) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(4) by adding at the end the following:

''(4) has committed an act of incompetence relating to the operation of a vessel; or

''(5) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.''.

SEC. 409. HOURS OF SERVICE ON TOWING VESSELS.

(a) REGULATIONS.—Section 8904 of title 46, United States Code, is amended by adding at the end of the following:

''(c) The Secretary may prescribe by regulation requirements for maximum hours of service (including recording and recordkeeping of that service) of individuals engaged on a towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding the sheer).''.

(b) DEMONSTRATION PROJECT.—Prior to prescribing regulations under this section the Secretary shall conduct and report to the Congress on the results of a demonstration project involving the implementation of Crew Endurance Management Systems on towing vessels. The report shall include a description of the public and private sector resources needed to enable implementation of Crew Endurance Management Systems on all United States-flag towing vessels.

SEC. 410. ELECTRONIC CHARTS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by inserting after section 4 the following:

''SEC. 4A. ELECTRONIC CHARTS.

''(a) SYSTEM REQUIREMENTS.—

''(1) REQUIREMENTS.—Subject to paragraph (2), the following vessels, while operating on the navigable waters of the United States, shall be equipped with and operate electronic charts under regulations prescribed by the Secretary of the department in which the Coast Guard is operating:

''(A) A self-propelled commercial vessel of at least 65 feet overall length.

''(B) A vessel carrying more than a number of passengers for hire determined by the Secretary.

''(C) A towing vessel of more than 26 feet in overall length and 600 horsepower.

''(D) Any other vessel for which the Secretary decides that electronic charts are necessary for the safe navigation of the vessel.

''(2) EXEMPTIONS AND WAIVERS.—The Secretary may—

''(A) exempt a vessel from paragraph (1), if the Secretary finds that electronic charts are not necessary for the safe navigation of the vessel on the waters on which the vessel operates; and

''(B) waive the application of paragraph (1) with respect to operation of vessels on navigable waters of the United States specified by the Secretary, if the Secretary finds that electronic charts are not needed for safe navigation on those waters.

''(b) REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall prescribe regulations implementing subsection (a) before January 1, 2007, including requirements for the operation and maintenance of the electronic charts required under subsection (a).''.

SEC. 411. PREVENTION OF DEPARTURE.

(a) IN GENERAL.—Section 3505 of title 46, United States Code, is amended to read as follows:

''§ 3505. Prevention of departure

''Notwithstanding section 3303 of this title, a foreign vessel carrying a citizen of the United States as a passenger or embarking passengers from a United States port may not depart from a United States port if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.''.

(b) CONFORMING AMENDMENT.—Section 3303 of title 46, United States Code, is amended by inserting ''and section 3505'' after ''chapter 37''.

SEC. 412. SERVICE OF FOREIGN NATIONALS FOR MARITIME EDUCATIONAL PURPOSES.

Section 8103(b)(1)(A) of title 46, United State Code, is amended to read as follows:

''(A) each unlicensed seaman must be—

''(i) a citizen of the United States;

''(ii) an alien lawfully admitted to the United States for permanent residence; or

''(iii) a foreign national who is enrolled in the United States Merchant Marine Academy.''.

SEC. 413. CLASSIFICATION SOCIETIES.

(a) IN GENERAL.—Section 3316 of title 46, United States Code, is amended by adding at the end the following:

''(c)(1) A classification society (including an employee or agent of that society) may not review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States unless—

''(A) the society has applied for approval under this subsection and the Secretary has reviewed and approved that society with respect to the conduct of that society under paragraph (2); or

''(B) the society is a full member of the International Association of Classification Societies.

''(2) The Secretary may approve a person for purposes of paragraph (1) only if the Secretary determines that—

''(A) the vessels surveyed by the person while acting as a classification society have an adequate safety record; and

''(B) the person has an adequate program to—

''(i) develop and implement safety standards for vessels surveyed by the person;

''(ii) make the safety records of the person available to the Secretary in an electronic format;

''(iii) provide the safety records of a vessel surveyed by the person to any other classification society that requests those records for the purpose of conducting a survey of the vessel; and

''(iv) request the safety records of a vessel the person will survey from any classification society that previously surveyed the vessel.''.

(b) APPLICATION.—Section 3316(c)(1) of title 46, United States Code, shall apply with respect to operation as a classification society on or after January 1, 2005.

SEC. 414. DRUG TESTING REPORTING.

(a) IN GENERAL.—Chapter 77 of title 46, United States Code, is amended by adding at the end:

''§ 7706. Drug testing reporting

''(a) RELEASE OF DRUG TEST RESULTS TO COAST GUARD.—Not later than 2 weeks after receiving from a Medical Review Officer a report of a verified positive drug test or verified test violation by a civilian employee of a Federal agency, an officer in the Public Health Services, or an officer in the National Oceanic and Atmospheric Administration Commissioned Officer Corps, who is employed in any capacity on board a vessel operated by the agency, the head of the agency shall release to the Commandant of the Coast Guard the report.

''(b) STANDARDS, PROCEDURES, AND REGULATIONS.—The head of a Federal agency shall carry out a release under subsection (a) in accordance with the standards, procedures, and regulations applicable to the disclosure and reporting to the Coast Guard of drug tests results and drug test records of individuals employed on vessels documented under the laws of the United States.

''(c) WAIVER.—Notwithstanding section 503(e) of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note), the report of a drug test of an employee may be released under this section without the prior written consent of the employee.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 77 of title 46, United States Code, is amended by adding at the end the following:

''7706. Drug testing reporting.''.

SEC. 415. INSPECTION OF TOWING VESSELS.

(a) VESSELS SUBJECT TO INSPECTION.—Section 3301 of title 46, United States Code, is amended by adding at the end the following:

''(15) towing vessels.''.

(b) SAFETY MANAGEMENT SYSTEM.—Section 3306 of chapter 33 of title 46, United States Code, is amended by adding at the end the following:

''(j) The Secretary may establish by regulation a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels.''.

SEC. 416. POTABLE WATER.

(a) IN GENERAL.—Section 3305(a) of title 46, United States Code, is amended—

(1) by redesignating paragraphs (4) and (5) in order as paragraphs (5) and (6); and

(2) by inserting after paragraph (3) the following:

''(4) has an adequate supply of potable water for drinking and washing by passengers and crew;''.

(b) ADEQUACY DETERMINATION.—Section 3305(a) of title 46, United States Code, as amended by subsection (a), is further amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively; and

(3) by adding at the end the following:

''(2) In determining the adequacy of the supply of potable water under paragraph (1)(D), the Secretary shall consider—

''(A) the size and type of vessel;

''(B) the number of passengers or crew on board;

''(C) the duration and routing of voyages; and

''(D) guidelines for potable water recommended by the Centers for Disease Control and Prevention and the Public Health Service.''.

SEC. 417. TRANSPORTATION OF PLATFORM JACKETS.

The thirteenth proviso (pertaining to transportation by launch barge) of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended to read as follows: ''Provided further, That the transportation of any platform jacket in or on a non-coastwise qualified launch barge, that was built before December 31, 2000, and has a launch capacity of 12,000 long tons or more, between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), shall not be deemed transportation subject to this section if the Secretary of Transportation makes a determination, in accordance

with procedures established pursuant to this proviso that a suitable coastwise-qualified vessel is not available for use in the transportation and, if needed, launch or installation of a platform jacket and; that the Secretary of Transportation shall adopt procedures implementing this proviso that are reasonably designed to provide timely information so as to maximize the use of coastwise qualified-vessels, which procedures shall, among other things, establish that for purposes of this proviso, a coastwise-qualified vessel shall be deemed to be not available only (1) if upon application by an owner or operator for the use of a non-coastwise qualified launch barge for transportation of a platform jacket under this section, which application shall include all relevant information, including engineering details and timing requirements, the Secretary promptly publishes a notice in the Federal Register describing the project and the platform jacket involved, advising that all relevant information reasonably needed to assess the transportation requirements for the platform jacket will be made available to interested parties upon request, and requesting that information on the availability of coastwise-qualified vessels be submitted within 30 days after publication of that notice; and (2) if either (A) no information is submitted to the Secretary within that 30 day period, or (B) although the owner or operator of a coastwise-qualified vessel submits information to the Secretary asserting that the owner or operator has a suitable coastwise-qualified vessel available for this transportation, the Secretary, within 90 days of the date on which the notice is first published determines that the coastwise-qualified vessel is not suitable or reasonably available for the transportation; and that, for the purposes of this proviso, the term 'coastwise-qualified vessel' means a vessel that has been issued a certificate of documentation with a coastwise endorsement under section 12106 of title 46, United States Code, and the term 'platform jacket' refers to a single physical component and includes any type of offshore exploration, development, or production structure or component thereof, including platform jackets, tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure), hull (including vertical legs and connecting pontoons or vertical cylinder), tower and base sections of a platform jacket, jacket structures, and deck modules (known as 'topsides').''.

SEC. 418. RENEWAL OF ADVISORY GROUPS.

(a) COMMERCIAL FISHING INDUSTRY VESSEL SAFETY ADVISORY COMMITTEE.—Section 4508(e)(1) of title 46, United States Code, is amended by striking ''of September 30, 2005'' and inserting ''on September 30, 2010''.

(b) HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.—Section 18 of the Coast Guard Authorization Act of 1991 (Public Law 102–241; 105 Stat. 2213) is amended—

(1) in subsection (b) by striking ''eighteen'' and inserting ''19'';

(2) by adding at the end of subsection (b) the following:

''(12) One member representing recreational boating interests.''; and

(3) in subsection (h) by striking ''September 30, 2005'' and inserting ''September 30, 2010''.

(c) LOWER MISSISSIPPI RIVER WATERWAY SAFETY ADVISORY COMMITTEE.—Section 19(g) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking ''September 30, 2005'' and inserting ''September 30, 2010''.

(d) GREAT LAKES PILOTAGE ADVISORY COMMITTEE.—Section 9307(f)(1) of title 46, United States Code, is amended by striking ''September 30, 2005'' and inserting ''September 30, 2010''.

(e) NAVIGATION SAFETY ADVISORY COUNCIL.—Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(d)) is amended by striking ''September 30, 2005'' and inserting ''September 30, 2010''.

(f) NATIONAL BOATING SAFETY ADVISORY COUNCIL.—Section 13110(e) of title 46, United States Code, is amended by striking ''September 30, 2005'' and inserting ''September 30, 2010''.

(g) TOWING SAFETY ADVISORY COMMITTEE.—Public Law 96–380 (33 U.S.C. 1231a) is amended in subsection (e) by striking ''September 30, 2005'' and inserting ''September 30, 2010''.

TITLE V—FEDERAL MARITIME COMMISSION

SEC. 501. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL MARITIME COMMISSION.

There are authorized to be appropriated to the Federal Maritime Commission—

(1) for fiscal year 2005, $19,500,000;

(2) for fiscal year 2006, $20,750,000;

(3) for fiscal year 2007, $21,500,000; and

(4) for fiscal year 2008, $22,575,000.

SEC. 502. REPORT ON OCEAN SHIPPING INFORMATION GATHERING EFFORTS.

The Federal Maritime Commission shall transmit to the Senate Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report within 90 days after the date of the enactment of this Act on the status of any agreements, or ongoing discussions with, other Federal, State, or local government agencies concerning the sharing of ocean shipping information for the purpose of assisting law enforcement or anti-terrorism efforts. The Commission shall include in the report recommendations on how the Commission's ocean shipping information could be better utilized by it and other Federal agencies to improve port security.

TITLE VI—MISCELLANEOUS

SEC. 601. INCREASE IN CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN BRIDGE STATUTES.

(a) GENERAL BRIDGE ACT OF 1906.—Section 5(b) of Act of March 23, 1906 (chapter 1130; 33 U.S.C. 495), popularly known as the General Bridge Act, is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

(b) DRAWBRIDGES.—Section 5(c) of the Act entitled ''An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved August 18, 1894 (33 U.S.C. 499(c)), is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

(c) ALTERATION, REMOVAL, OR REPAIR OF BRIDGES.—Section 18(c) of the Act entitled ''An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved March 3, 1899 (33 U.S.C. 502(c)) is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

(d) GENERAL BRIDGE ACT OF 1946.—Section 510(b) of the General Bridge Act of 1946 (33 U.S.C. 533(b)) is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

SEC. 602. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTERS.

(a) IN GENERAL.—The Commandant of the Coast Guard may convey all right, title, and interest of the United States in and to a vessel described in subsection (b) to the person designated in subsection (b) with respect to the vessel (in this section referred to as the ''recipient''), without consideration, if the person complies with the conditions under subsection (c).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The Coast Guard Cutter BRAMBLE, to be conveyed to the Port Huron Museum of Arts and History (a nonprofit corporation under the laws of the State of Michigan), located in Port Huron, Michigan.

(2) The Coast Guard Cutter PLANETREE, to be conveyed to Jewish Life (a nonprofit corporation under the laws of the State of California), located in Sherman Oaks, California.

(3) The Coast Guard Cutter SUNDEW, to be conveyed to Duluth Entertainment and Convention Center Authority (a nonprofit corporation under the laws of the State of Minnesota), located in Duluth, Minnesota.

(c) CONDITIONS.—As a condition of any conveyance of a vessel under subsection (a), the Commandant shall require the recipient—

(1) to agree—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use of the vessel by the Government under subparagraph (C);

(2) to have funds available that will be committed to operate and maintain the vessel conveyed in good working condition—

(A) in the form of cash, liquid assets, or a written loan commitment; and

(B) in an amount of at least $700,000; and

(3) to agree to any other conditions the Commandant considers appropriate.

(d) MAINTENANCE AND DELIVERY OF VESSEL.—Prior to conveyance of a vessel under this section, the Commandant may, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. The Commandant shall deliver a vessel conveyed under this section at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(e) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

SEC. 603. TONNAGE MEASUREMENT.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may apply section 8104(o)(2) of title 46, United States Code, to the vessels described in subsection (b) without regard to the tonnage of those vessels.

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The M/V BLUEFIN (United States official number 620431).

(2) The M/V COASTAL MERCHANT (United States official number 1038382).

(c) APPLICATION.—Subsection (a) shall not apply to a vessel described in subsection (b)—

(1) until the Secretary determines that the application of subsection (a) will not compromise safety; and

(2) on or after any date on which the Secretary determines that the vessel has undergone any major modification.

SEC. 604. OPERATION OF VESSEL STAD AMSTERDAM.

(a) IN GENERAL.—Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and the ruling by the Acting Director of the International Trade Compliance Division of the Customs Service on May 17, 2002 (Customs Bulletins and Decisions, Vol. 36, No. 23, June 5, 2002), the vessel STAD AMSTERDAM (International Maritime Organization number 9185554) shall be authorized to carry within United States waters and between ports or places in the United States individuals who are not directly and substantially connected with the operation, navigation, ownership, or business of the vessel, who are friends, guests, or employees of the owner of the vessel, and who are not actual or prospective customers for hire of the vessel.

(b) LIMITATION.—This section does not authorize the vessel STAD AMSTERDAM—

(1) to be used to carry individuals for a fare or to be chartered on a for hire basis in the coastwise trade; or

(2) to carry individuals described in subsection (a) within United States waters and between ports or places in the United States for more than 45 calendar days in any calendar year.

(c) REVOCATION.—The Secretary of the department in which the Coast Guard is operating shall revoke the authorization provided by subsection (a) if the Secretary determines that the STAD AMSTERDAM has been operated in violation of the limitations imposed by subsection (b).

SEC. 605. GREAT LAKES NATIONAL MARITIME ENHANCEMENT INSTITUTE.

(a) AUTHORITY TO DESIGNATE INSTITUTE.—The Secretary of Transportation may designate a National Maritime Enhancement Institute for the Great Lakes region under section 8 of the Act of October 13, 1989 (103 Stat. 694; 46 U.S.C. App. 1121–2). In making any decision on the designation of such an institute, the Secretary shall consider the unique characteristics of Great Lakes maritime industry and trade.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Secretary of Transportation shall conduct a study that—

(A) evaluates short sea shipping market opportunities on the Great Lakes, including the expanded use of freight ferries, improved mobility, and regional supply chain efficiency;

(B) evaluates markets for foreign trade between ports on the Great Lakes and draft-limited ports in Europe and Africa;

(C) evaluates the environmental benefits of waterborne transportation in the Great Lakes region;

(D) analyzes the effect on Great Lakes shipping of the tax imposed by section 4461(a) of the Internal Revenue Code of 1986;

(E) evaluates the state of shipbuilding and ship repair bases on the Great Lakes;

(F) evaluates opportunities for passenger vessel services on the Great Lakes;

(G) analyzes the origin-to-destination flow of freight cargo in the Great Lakes region that may be transported on vessels to relieve congestion in other modes of transportation;

(H) evaluates the economic viability of establishing transshipment facilities for oceangoing cargoes on the Great Lakes;

(I) evaluates the adequacy of the infrastructure in Great Lakes ports to meet the needs of marine commerce; and

(J) evaluates new vessel designs for domestic and international shipping on the Great Lakes.

(2) USE OF NATIONAL MARITIME ENHANCEMENT INSTITUTES.—In conducting the study required by paragraph (1), the Secretary may utilize the services of any recognized National Maritime Enhancement Institute.

(3) REPORTS.—The Secretary shall submit an annual report on the findings and conclusions of the study under this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(A) by not later than 1 year after the date of the enactment of this Act; and

(B) by not later than 1 year after the date of submission of the report under subparagraph (A).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $1,500,000 for each of fiscal years 2005 and 2006 to carry out paragraph (1).

SEC. 606. KOSS COVE.

(a) IN GENERAL.—Notwithstanding any other provision of law or existing policy, the cove described in subsection (b) shall be known and designated as ''Koss Cove'', in honor of the late Able Bodied Seaman Eric Steiner Koss of the National Oceanic and Atmospheric Administration vessel RAINIER who died in the performance of a nautical charting mission off the coast of Alaska.

(b) COVE DESCRIBED.—The cove referred to in subsection (a) is—

(1) adjacent to and southeast of Point Elrington, Alaska, and forms a portion of the southern coast of Elrington Island;

(2) ¾ mile across the mouth;

(3) centered at 59 degrees 56.1 minutes North, 148 degrees 14 minutes West; and

(4) 45 miles from Seward, Alaska.

(c) REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the cove described in subsection (b) is deemed to be a reference to Koss Cove.

SEC. 607. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) OCEAN LEADER (United States official number 679511).

(2) REVELATION (United States official number 1137565).

(3) W. N. RAGLAND (Washington State registration number WN5506NE).

(4) M/T MISS LINDA (United States official number 1140552).

SEC. 608. REQUIREMENTS FOR COASTWISE ENDORSEMENT.

(a) IN GENERAL.—Section 12106 of title 46, United States Code, is amended—

(1) by striking subsection (e)(1)(B) and inserting the following:

''(B) the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) meets the requirements of subsection (f);''; and

(2) by adding at the end the following:

''(f) OWNERSHIP CERTIFICATION REQUIREMENT.—

''(1) IN GENERAL.—A person meets the requirements of this subsection if that person transmits to the Secretary each year the certification required by paragraph (2) or (3) with respect to a vessel.

''(2) INVESTMENT CERTIFICATION.—To meet the certification requirement of this paragraph, a person shall certify that it—

''(A) is a leasing company, bank, or financial institution;

''(B) owns, or holds the beneficial interest in, the vessel solely as a passive investment;

''(C) does not operate any vessel for hire and is not an affiliate of any person who operates any vessel for hire; and

''(D) is independent from, and not an affiliate of, any charterer of the vessel or any other person who has the right, directly or indirectly, to control or direct the movement or use of the vessel.

''(3) CERTAIN TANK VESSELS.—

''(A) IN GENERAL.—To meet the certification requirement of this paragraph, a person shall certify that—

''(i) the aggregate book value of the vessels owned by such person and United States affiliates of such person does not exceed 10 percent of the aggregate book value of all assets owned by such person and its United States affiliates;

''(ii) not more than 10 percent of the aggregate revenues of such person and its United States affiliates is derived from the ownership, operation, or management of vessels;

''(iii) at least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by such person and its United States affiliates and documented under this section is qualified proprietary cargo;

''(iv) any cargo other than qualified proprietary cargo carried by all vessels owned by such person and its United States affiliates and documented under this section consists of oil, petroleum products, petrochemicals, or liquified natural gas;

''(v) no vessel owned by such person or any of its United States affiliates and documented under this section carries molten sulphur; and

''(vi) such person owned 1 or more vessels documented under subsection (e) of this section as of the date of enactment of the Coast Guard and Maritime Transportation Act of 2004.

''(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may make a certification under this paragraph only with respect to—

''(i) a tank vessel having a tonnage of not less than 6,000 gross tons, as measured under section 14502 of this title (or an alternative tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title); or

''(ii) a towing vessel associated with a non-self-propelled tank vessel that meets the requirements of clause (i), where the 2 vessels function as a single self-propelled vessel.

''(4) DEFINITIONS.—In this subsection:

''(A) AFFILIATE.—The term 'affiliate' means, with respect to any person, any other person that is—

''(i) directly or indirectly controlled by, under common control with, or controlling such person; or

''(ii) named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

''(B) CARGO.—The term 'cargo' does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of paragraph (3).

''(C) OIL.—The term 'oil' has the meaning given that term in section 2101(20) of this title.

''(D) PASSIVE INVESTMENT.—The term 'passive investment' means an investment in which neither the investor nor any affiliate of such investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

''(E) QUALIFIED PROPRIETARY CARGO.—The term 'qualified proprietary cargo' means—

''(i) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person who submits to the Secretary an application or annual certification under paragraph (3), or by an affiliate of such person, immediately before, during, or immediately after such cargo is carried in coastwise trade on a vessel owned by such person;

''(ii) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person who submits to the Secretary an application or an annual certification under paragraph (3), or by an affiliate of such person, but that is carried in coastwise trade by a vessel owned by such person and which is part of an arrangement in which vessels owned by

such person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by such person, or an affiliate of such person, is carried in coastwise trade on 1 or more other vessels, not owned by such person, or an affiliate of such person, if such other vessel or vessels are also part of the same arrangement;

''(iii) in the case of a towing vessel associated with a non-self-propelled tank vessel where the 2 vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person who owns both such towing vessel and the non-self-propelled tank vessel, or any United States affiliate of such person, immediately before, during, or immediately after such cargo is carried in coastwise trade on either of the 2 vessels; or

''(iv) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—

''(I) was delivered by the builder of such vessel to the owner of such vessel after December 31, 1999; and

''(II) was purchased by a person for the purpose, and with the reasonable expectation, of transporting on such vessel liquefied natural gas or unrefined petroleum beneficially owned by the owner of such vessel, or an affiliate of such owner, from Alaska to the continental United States.

''(F) UNITED STATES AFFILIATE.—The term 'United States affiliate' means, with respect to any person, an affiliate the principal place of business of which is located in the United States.''.

(b) TREATMENT OF OWNER OF CERTAIN VESSELS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a person shall be treated as a citizen of the United States under section 12102(a) of title 46, United States Code, section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), for purposes of issuance of a coastwise endorsement under section 12106(e) of title 46, United States Code (as that section was in effect on the day before the date of enactment of this Act), for a vessel owned by the person on the date of enactment of this Act, or any replacement vessel of a similar size and function, if the person—

(A) owned a vessel before January 1, 2001, that had a coastwise endorsement under section 12106(e) of title 46, United States Code; and

(B) as of the date of the enactment of this Act, derives substantially all of its revenue from leasing vessels engaged in the transportation or distribution of petroleum products and other cargo in Alaska.

(2) LIMITATION ON COASTWISE TRADE.—A vessel owned by a person described in paragraph (1) for which a coastwise endorsement is issued under section 12106(e) of title 46, United States Code, may be employed in the coastwise trade only within Alaska and in the coastwise trade to and from Alaska.

(3) TERMINATION.—The application of this subsection to a person described in paragraph (1) shall terminate if all of that person's vessels described in paragraph (1) are sold to a person eligible to document vessels under section 12106(a) of title 46, United States Code.

(c) APPLICATION TO CERTAIN CERTIFICATES.—

(1) IN GENERAL.—The amendments made by this section, and any regulations published after February 4, 2004, with respect to coastwise endorsements, shall not apply to a certificate of documentation, or renewal thereof, endorsed with a coastwise endorsement for a vessel under section 12106(e) of title 46, United States Code, or a replacement vessel of a similar size and function, that was issued prior to the date of enactment of this Act as long as the vessel is owned by the person named therein, or by a subsidiary or affiliate of that person, and the controlling interest in such owner has not been transferred to a person that was not an affiliate of such owner as of the date of enactment of this Act. Notwithstanding the preceding sentence, however, the amendments made by this section shall apply, beginning 3 years after the date of enactment of this Act, with respect to offshore supply vessels (as defined in section 2101(19) of title 46, United States Code, as that section was in effect on the date of enactment of this Act) with a certificate of documentation endorsed with a coastwise endorsement as of the date of enactment of this Act, and the Secretary of the Department in which the Coast Guard is operating shall revoke any such certificate if the vessel does not by then meet the requirements of section 12106(e) of title 46, United States Code, as amended by this section.

(2) REPLACEMENT VESSEL.—For the purposes of this subsection, ''replacement vessel'' means—

(A) a temporary replacement vessel for a period of not to exceed 180 days if the vessel described in paragraph (1) is unavailable due to an act of God or a marine casualty; or

(B) a permanent replacement vessel if—

(i) the vessel described in paragraph (1) is unavailable for more than 180 days due to an act of God or a marine casualty; or

(ii) a contract to purchase or construct such replacement vessel is executed not later than December 31, 2004.

(d) WAIVER.—The Secretary of Transportation shall waive or reduce the qualified proprietary cargo requirement of section 12106(f)(3)(A)(iii) of title 46, United States Code, for a vessel if the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) notifies the Secretary that circumstances beyond the direct control of such person or its affiliates prevent, or reasonably threaten to prevent, such person from satisfying such requirement, and the Secretary does not, with good cause, determine otherwise. The waiver or reduction shall apply during the period of time that such circumstances exist.

(e) REGULATIONS.—No later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall prescribe final regulations to carry out this section, including amendments made by this section to section 12106 of title 46, United States Code.

SEC. 609. CORRECTION OF REFERENCES TO NATIONAL DRIVER REGISTER.

Title 46, United States Code, is amended—

(1) in section 7302—

(A) by striking ''section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note)'' and inserting ''30305(b)(5) of title 49''; and

(B) by striking ''section 205(a)(3)(A) or (B) of that Act'' and inserting ''30304(a)(3)(A) or (B) of title 49'';

(2) in section 7702(d)(1)(B)(iii) by striking ''section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982'' and inserting ''section 30304(a)(3)(A) or (B) of title 49''; and

(3) in section 7703(3) by striking ''section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982'' and inserting ''section 30304(a)(3)(A) or (B) of title 49''.

SEC. 610. WATEREE RIVER.

For purposes of bridge administration, the portion of the Wateree River in the State of South Carolina, from a point 100 feet upstream of the railroad bridge located at approximately mile marker 10.0 to a point 100 feet downstream of such bridge, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 611. MERCHANT MARINERS' DOCUMENTS PILOT PROGRAM.

The Secretary of the department in which the Coast Guard is operating may conduct a pilot program to demonstrate methods to improve processes and procedures for issuing merchant mariners' documents.

SEC. 612. CONVEYANCE.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to Sentinel Island, Alaska, to the entity to which the Sentinel Island Light Station is conveyed under section 308(b) of the National Historic Preservation Act (16 U.S.C. 470w–7(b)).

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) LIMITATION.—The Secretary may not under this section convey—

(A) any historical artifact, including any lens or lantern, located on property conveyed under this section at or before the time of the conveyance; or

(B) any interest in submerged land.

(b) GENERAL TERMS AND CONDITIONS.—

(1) IN GENERAL.—Any conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Secretary may consider appropriate, including the reservation of easements and other rights on behalf of the United States.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, any conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property, at the option of the Secretary shall revert to the United States and be placed under the administrative control of the Secretary, if—

(A) the property, or any part of the property—

(i) ceases to be available and accessible to the public, on a reasonable basis, for educational, park, recreational, cultural, historic preservation, or other similar purposes specified for the property in the terms of conveyance;

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this section; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (4) established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary provides written notice to the owner that the property is needed for national security purposes.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—Any conveyance of property under this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed that are active aids to navigation shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant of the Coast Guard;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice

for the purpose of operating, maintaining, and inspecting aids to navigation and for the purpose of enforcing compliance with this subsection; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) MAINTENANCE OF PROPERTY.—

(A) IN GENERAL.—Subject to subparagraph (B), the owner of a property conveyed under this section shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(B) LIMITATION.—The owner of a property conveyed under this section is not required to maintain any active aids to navigation on the property, except private aids to navigation authorized under section 83 of title 14, United States Code.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) AIDS TO NAVIGATION.—The term ''aids to navigation'' means equipment used for navigation purposes, including a light, antenna, radio, sound signal, electronic navigation equipment, or other associated equipment that are operated or maintained by the United States.

(2) OWNER.—The term ''owner'' means, for property conveyed under this section, the person to which property is conveyed under subsection (a)(1), and any successor or assign of that person.

SEC. 613. BRIDGE ADMINISTRATION.

Section 325(b) of the Department of Transportation and Related Agencies Appropriations Act, 1983 (Pub. L. 97–369; 96 Stat. 1765) is amended by striking ''provides at least thirty feet of vertical clearance Columbia River datum and at least eighty feet of horizontal clearance, as'' and inserting ''is so''.

SEC. 614. SENSE OF CONGRESS REGARDING CARBON MONOXIDE AND WATERCRAFT.

It is the sense of the Congress that the Coast Guard should continue—

(1) to place a high priority on addressing the safety risks posed to boaters by elevated levels of carbon monoxide that are unique to watercraft; and

(2) to work with vessel and engine manufacturers, the American Boat & Yacht Council, other Federal agencies, and the entire boating community in order to determine the best ways to adequately address this public safety issue and minimize the number of tragic carbon monoxide-related boating deaths that occur each year.

SEC. 615. MITIGATION OF PENALTY DUE TO AVOIDANCE OF A CERTAIN CONDITION.

(a) TREATMENT OF VIOLATION.—For purposes of any administrative proceeding to consider mitigation of any civil penalty for a violation described in subsection (b), such violation is deemed to have been committed by reason of a safety concern.

(b) VIOLATION DESCRIBED.—A violation referred to in subsection (a) is any violation of the Act of June 19, 1886 (chapter 421; 46 App. U.S.C. 289), occurring before April 1, 2003, and consisting of operation of a passenger vessel in transporting passengers between the Port of New Orleans and another port on the Gulf of Mexico at a time when the master of the vessel determined that the vertical clearance on the Mississippi River at Chalmette, Louisiana, was insufficient to allow the safe return transport of passengers on that vessel to the Port of New Orleans.

(c) RELATED PENALTY AMOUNT.—Any civil penalty assessed for a violation of that Act by a vessel described in subsection (b), that was committed when that vessel was repositioning to the Port of New Orleans in July 2003, shall be mitigated to an amount not to exceed $100 per passenger.

SEC. 616. CERTAIN VESSELS TO BE TOUR VESSELS.

(a) VESSELS DEEMED TOUR VESSELS.—Notwithstanding any other law, a passenger vessel that is not less than 100 gross tons and not greater than 300 gross tons is deemed to be a tour vessel for the purpose of permit allocation regulations under section 3(h) of Public Law 91–383 (16 U.S.C. 1a–2(h)) and section 3 of the Act of August 25, 1916 (16 U.S.C. 3), with respect to vessel operations in Glacier Bay National Park and Preserve, Alaska (in this section referred to as ''Glacier Bay''), if the Secretary of the department in which the Coast Guard is operating determines that the vessel—

(1) has equipment installed that permits all graywater and blackwater to be stored on board for at least 24 hours;

(2) has a draft of not greater than 15 feet;

(3) has propulsion equipment of not greater than 5,000 horsepower; and

(4) is documented under the laws of the United States.

(b) REALLOCATION OF PERMITS.—

(1) REALLOCATION REQUIRED.—Subject to paragraph (2), the Secretary of the Interior, upon application by the operator of a passenger vessel deemed to be a tour vessel under subsection (a), shall reallocate to that vessel any available tour vessel concession permit not used by another vessel, if at the time of application that permit is not sought by a tour vessel of less than 100 gross tons.

(2) LIMITATIONS.—No more than three passenger vessels that are deemed to be a tour vessel under subsection (a) may hold a tour vessel concession permit at any given time, and no more than one such vessel may enter Glacier Bay on any particular date.

(c) COMPLIANCE WITH VESSEL REQUIREMENTS.—

(1) REQUIREMENT TO COMPLY.—Except as otherwise provided in this section, a vessel reallocated a tour vessel concession permit under this section shall comply with all regulations and requirements for Glacier Bay applicable to vessels of at least 100 gross tons.

(2) REVOCATION OF PERMIT.—The Secretary of the Interior may revoke a tour vessel concession permit reallocated to a vessel under this section if that vessel—

(A) discharges graywater or blackwater in Glacier Bay; or

(B) violates a vessel operating requirement for Glacier Bay that applies to vessels that are at least 100 gross tons, including restrictions pertaining to speed, route, and closed waters.

(d) TREATMENT OF ENTRIES INTO GLACIER BAY.—An entry into Glacier Bay by a vessel reallocated a tour vessel concession permit under this section shall count against the daily vessel quota and seasonal-use days applicable to entries by tour vessels and shall not count against the daily vessel quota or seasonal-use days of any other class of vessel.

SEC. 617. SENSE OF CONGRESS REGARDING TIMELY REVIEW AND ADJUSTMENT OF GREAT LAKES PILOTAGE RATES.

It is the sense of the Congress that the Secretary of the department in which the Coast Guard is operating should, on a timely basis, review and adjust the rates payable under part 401 of title 46, Code of Federal Regulations, for services performed by United States registered pilots on the Great Lakes.

SEC. 618. WESTLAKE CHEMICAL BARGE DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for each of the following vessels:

(1) Barge WCAO–101 (United States official number 506677).

(2) Barge WCAO–102 (United States official number 506851).

(3) Barge WCAO–103 (United States official number 506852).

(4) Barge WCAO–104 (United States official number 507172).

(5) Barge WCAO–105 (United States official number 507173).

(6) Barge WCAO–106 (United States official number 620514).

(7) Barge WCAO–107 (United States official number 620515).

(8) Barge WCAO–108 (United States official number 620516).

(9) Barge WCAO–3002 (United States official number 295147).

(10) Barge WCAO–3004 (United States official number 517396).

SEC. 619. CORRECTION TO DEFINITION.

Paragraph (4) of section 2 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173) is amended by striking subparagraph (G) and inserting the following:

''(G) The Coast Guard.''.

SEC. 620. LORAN-C.

There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN-C system, for capital expenses related to LORAN-C navigation infrastructure, $25,000,000 for fiscal year 2005. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the Department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

SEC. 621. DEEPWATER REPORT.

(a) REPORT.—No later than 180 days after enactment of this Act, the Coast Guard shall provide a written report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives with respect to performance under the first term of the Integrated Deepwater System contract.

(b) CONTENTS.—The report shall include the following:

(1) An analysis of how well the prime contractor has met the two key performance goals of operational effectiveness and minimizing total ownership costs.

(2) A description of the measures implemented by the prime contractor to meet these goals and how these measures have been or will be applied for subcontracts awarded during the 5-year term of the contract, as well as criteria used by the Coast Guard to assess the contractor's performance against these goals.

(3) To the extent available, performance and cost comparisons of alternatives examined in implementing the contract.

(4) A detailed description of the measures that the Coast Guard has taken to implement the recommendations of the General Accounting Office's March 2004 report on the Deepwater program (including the development of measurable award fee criteria, improvements to integrated product teams, and a plan for ensuring competition of subcontracts).

(5) A description of any anticipated changes to the mix of legacy and replacement assets over the life of the program, including Coast Guard infrastructure and human capital needs for integrating such assets, and a timetable and estimated costs for maintaining each legacy asset and introducing each replacement asset over the life of the contract, including a comparison to any previous estimates of such costs on an asset-specific basis.

SEC. 622. JUDICIAL REVIEW OF NATIONAL TRANSPORTATION SAFETY BOARD FINAL ORDERS.

Section 1153 of title 49, United States Code, is amended by adding at the end the following:

''(d) COMMANDANT SEEKING JUDICIAL REVIEW OF MARITIME MATTERS.—If the Commandant of

the Coast Guard decides that an order of the Board issued pursuant to a review of a Coast Guard action under section 1133 of this title will have an adverse impact on maritime safety or security, the Commandant may obtain judicial review of the order under subsection (a). The Commandant, in the official capacity of the Commandant, shall be a party to the judicial review proceedings.''.

SEC. 623. INTERIM AUTHORITY FOR DRY BULK CARGO RESIDUE DISPOSAL.

(a) EXTENSION OF INTERIM AUTHORITY.—The Secretary of the Department in which the Coast Guard is operating shall continue to implement and enforce United States Coast Guard 1997 Enforcement Policy for Cargo Residues on the Great Lakes (hereinafter in this section referred to as the ''Policy'') or revisions thereto, in accordance with that policy, for the purpose of regulating incidental discharges from vessels of residues of dry bulk cargo into the waters of the Great Lakes under the jurisdiction of the United States, until the earlier of—

(1) the date regulations are promulgated under subsection (b) for the regulation of incidental discharges from vessels of dry bulk cargo residue into the waters of the Great Lakes under the jurisdiction of the United States; or

(2) September 30, 2008.

(b) PERMANENT AUTHORITY.—Notwithstanding any other law, the Commandant of the Coast Guard may promulgate regulations governing the discharge of dry bulk cargo residue on the Great Lakes.

(c) ENVIRONMENTAL ASSESSMENT.—No later than 90 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall commence the environmental assessment necessary to promulgate the regulations under subsection (b).

SEC. 624. SMALL PASSENGER VESSEL REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall study and report to the Congress regarding measures that should be taken to increase the likelihood of survival of passengers on small passenger vessels who may be in the water resulting from the capsizing of, sinking of, or other marine casualty involving the small passenger vessel. The study shall include a review of the adequacy of existing measures—

(1) to keep the passengers out of the water, including inflatable life rafts and other out-of-the-water survival crafts;

(2) to protect individuals from hypothermia and cold shock in water having a temperature of less than 68 degrees Fahrenheit;

(3) for safe egress of passengers wearing personal flotation devices; and

(4) for the enforcement efforts and degree of compliance regarding the 1996 amendments to the Small Passenger Vessel Regulations (part 185 of title 46, Code of Federal Regulations) requiring the master of a small passenger vessel to require passengers to wear personal flotation devices when possible hazardous conditions exist including—

(A) when transiting hazardous bars or inlets;

(B) during severe weather;

(C) in the event of flooding, fire, or other events that may call for evacuation; and

(D) when the vessel is being towed, except during the towing of a non-self-propelled vessel under normal operating conditions.

(b) CONTENTS.—The report under this section shall include—

(1) a section regarding the efforts the Coast Guard has undertaken to enforce the regulations described in subsection (a)(4);

(2) a section detailing compliance with these regulations, to include the number of vessels and masters cited for violations of those regulations for fiscal years 1998 through 2003;

(3) a section detailing the number and types of marine casualties that occurred in fiscal years 1998 through 2003 that included violations of those regulations; and

(4) a section providing recommendation on improving compliance with, and possible modifications to, those regulations.

SEC. 625. CONVEYANCE OF MOTOR LIFEBOAT.

(a) IN GENERAL.—The Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to the Coast Guard 44-foot Motor Lifeboat Vessel #44345 formerly assigned to the Group Grand Haven Command, to the city of Ludington, Michigan, without consideration, if the recipient complies with the conditions under subsection (b).

(b) CONDITIONS.—As a condition of any conveyance of a vessel under subsection (a), the Commandant shall require the recipient to—

(1) agree—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use of the vessel by the Government under subparagraph (C);

(2) have funds available that will be committed to operate and maintain the vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment; and

(3) agree to any other conditions the Commandant considers appropriate.

(c) MAINTENANCE AND DELIVERY OF VESSEL.—Before conveying a vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. The Commandant shall deliver a vessel conveyed under this section at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

(d) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

SEC. 626. STUDY ON ROUTING MEASURES.

The Secretary of the department in which the Coast Guard is operating—

(1) shall cooperate with the Administrator of the National Oceanic and Atmospheric Administration in analyzing potential vessel routing measures for reducing vessel strikes of North Atlantic Right Whales, as described in the notice published at pages 30857 through 30861 of volume 69 of the Federal Register; and

(2) within 18 months after the date of the enactment of this Act, shall provide a final report of its analysis to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 627. CONVEYANCE OF LIGHT STATIONS.

Section 308(c) of the National Historic Preservation Act (16 U.S.C. 470w–7(c)) is amended by adding at the end the following:

''(4) LIGHT STATIONS ORIGINALLY CONVEYED UNDER OTHER AUTHORITY.—Upon receiving notice of an executed or intended conveyance by an owner who—

''(A) received from the Federal Government under authority other than this Act an historic light station in which the United States retains a reversionary or other interest; and

''(B) is conveying it to another person by sale, gift, or any other manner,

the Secretary shall review the terms of the executed or proposed conveyance to ensure that any new owner is capable of or is complying with any and all conditions of the original conveyance. The Secretary may require the parties to the conveyance and relevant Federal agencies to provide such information as is necessary to complete this review. If the Secretary determines that the new owner has not or is unable to comply with those conditions, the Secretary shall immediately advise the Administrator, who shall invoke any reversionary interest or take such other action as may be necessary to protect the interests of the United States.''.

SEC. 628. WAIVER.

The Secretary of the department in which the Coast Guard is operating may waive the application of section 2101(21) of title 46, United States Code, with respect to one of two adult chaperones who do not meet the requirements of subparagraph (A)(i), (ii), or (iii) of such section on board each vessel owned or chartered by the Florida National High Adventure Sea Base program of the Boy Scouts of America, if the Secretary determines that such a waiver will not compromise safety.

SEC. 629. APPROVAL OF MODULAR ACCOMMODATION UNITS FOR LIVING QUARTERS.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall approve the use of a modular accommodation unit on a floating offshore facility to provide accommodations for up to 12 individuals, if —

(1) the unit is approximately 12 feet in length and 40 feet in width;

(2) before March 31, 2002—

(A) the Secretary approved use of the unit to provide accommodations on such a facility; and

(B) the unit was used to provide such accommodations; and

(3) the Secretary determines that use of the unit under the approval will not compromise safety.

(b) APPLICATION.—The approval by the Secretary under this section shall apply for the 5-year period beginning on the date of the enactment of this Act.

TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

SEC. 701. VESSEL RESPONSE PLANS FOR NONTANK VESSELS OVER 400 GROSS TONS.

(a) NONTANK VESSEL DEFINED.—Section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) by striking ''and'' after the semicolon in paragraph (24)(B);

(2) by striking ''threat.'' in paragraph (25) and inserting ''threat; and''; and

(3) by adding at the end the following:

''(26) 'nontank vessel' means a self-propelled vessel of 400 gross tons as measured under section 14302 of title 46, United States Code, or greater, other than a tank vessel, that carries oil of any kind as fuel for main propulsion and that—

''(A) is a vessel of the United States; or

''(B) operates on the navigable waters of the United States.''.

(b) AMENDMENTS TO REQUIRE RESPONSE PLANS.—Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended—

(1) in paragraph (5) in the heading by inserting '', NONTANK VESSEL,'' after ''VESSEL'';

(2) in paragraph (5)(A)—

(A) by inserting: ''(i)'' after ''(A)''; and

(B) by adding at the end the following:

''(ii) The President shall also issue regulations which require an owner or operator of a nontank vessel to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil.'';

(3) in paragraph (5)(B), in the matter preceding clause (i), by inserting '', nontank vessels,'' after ''vessels'';

(4) in paragraph (5)(B), by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following:

''(ii) A nontank vessel.'';

(5) in paragraph (5)(D)—

(A) by inserting '', nontank vessel,'' after ''vessel'';

(B) by striking ''and'' after the semicolon at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting ''; and''; and

(D) by adding after clause (iv) the following:

''(v) in the case of a plan for a nontank vessel, consider any applicable State-mandated response plan in effect on the date of the enactment of the Coast Guard and Maritime Transportation Act of 2004 and ensure consistency to the extent practicable.'';

(6) by inserting ''non-tank vessel,'' in paragraph (5)(E) after ''vessel,'' each place it appears;

(7) in paragraph (5)(F)—

(A) by inserting ''non-tank vessel,'' after ''vessel,'';

(B) by striking ''vessel or'' and inserting ''vessel, non-tank vessel, or'';

(8) in paragraph (5)(G) by inserting ''nontank vessel,'' after ''vessel,'';

(9) in paragraph (5)(H) by inserting ''and nontank vessel'' after ''each tank vessel;

(10) in paragraph (6) in the matter preceding subparagraph (A) by striking ''Not later than 2 years after the date of enactment of this section, the President shall require—'' and inserting ''The President may require—'';

(11) in paragraph (6)(B) by inserting '', and nontank vessels carrying oil of any kind as fuel for main propulsion,'' after ''cargo''; and

(12) in paragraph (7) by inserting '', nontank vessel,'' after ''vessel''.

(c) IMPLEMENTATION DATE.—No later than one year after the date of enactment of this Act, the owner or operator of a nontank vessel (as defined section 311(j)(9) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(9), as amended by this section) shall prepare and submit a vessel response plan for such vessel.

(d) ADDITION OF NOXIOUS LIQUID SUBSTANCES TO THE LIST OF HAZARDOUS SUBSTANCES FOR WHICH THE COAST GUARD MAY REQUIRE A RESPONSE PLAN.—Section 311(j)(5) of the Federal Water Pollution Control Act (33 U.S.C.1321(j)(5)) is further amended—

(1) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively;

(2) by inserting after subparagraph (A) the following:

''(B) The Secretary of the Department in which the Coast Guard is operating may issue regulations which require an owner or operator of a tank vessel, a non-tank vessel, or a facility described in subparagraph (C) that transfers noxious liquid substances in bulk to or from a vessel to prepare and submit to the Secretary a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of a noxious liquid substance that is not designated as a hazardous substance or regulated as oil in any other law or regulation. For purposes of this paragraph, the term 'noxious liquid substance' has the same meaning when that term is used in the MARPOL Protocol described in section 2(a)(3) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).'';

(3) by striking ''subparagraph (B)'' in subparagraph (A) and inserting ''subparagraph (C)'';

(4) by striking ''subparagraph (A)'' in subparagraph (C), as redesignated, and inserting ''subparagraphs (A) and (B)''; and

(5) by striking ''subparagraph (D),'' in clause (i) of subparagraph (F), as redesignated, and inserting ''subparagraph (E),''.

SEC. 702. REQUIREMENTS FOR TANK LEVEL AND PRESSURE MONITORING DEVICES.

(a) REQUIREMENTS.—Section 4110 of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note) is amended—

(1) in subsection (a), by striking ''Not later than 1 year after the date of the enactment of this Act, the Secretary shall'' and inserting ''The Secretary may''; and

(2) in subsection (b)—

(A) by striking ''Not later than 1 year after the date of the enactment of this Act, the Secretary shall'' and inserting ''No sooner than 1 year after the Secretary prescribes regulations under subsection (a), the Secretary may''; and

(B) by striking ''the standards'' and inserting ''any standards''.

(b) STUDY.—

(1) STUDY REQUIREMENT.—The Secretary of the department in which the Coast Guard is operating shall conduct a study analyzing the costs and benefits of methods other than those described in subsections (a) and (b) of section 4110 of the Oil Pollution Act of 1990 for effectively detecting the loss of oil from oil cargo tanks. The study may include technologies, monitoring procedures, and other methods.

(2) INPUT.—In conducting the study, the Secretary may seek input from Federal agencies, industry, and other entities.

(3) REPORT.—The Secretary shall submit a report on the findings and conclusions of the study to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives by not later than 180 days after the date of the enactment of this Act.

SEC. 703. LIABILITY AND COST RECOVERY.

(a) DEFINITION OF OWNER OR OPERATOR.—Section 1001(26) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(26)) is amended to read as follows:

''(26) 'owner or operator'—

''(A) means—

''(i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

''(ii) in the case of an onshore or offshore facility, any person owning or operating such facility;

''(iii) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

''(iv) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at such facility immediately beforehand;

''(v) notwithstanding subparagraph (B)(i), and in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including for purposes of liability under section 1002, any State or local government that has caused or contributed to a discharge or substantial threat of a discharge of oil from a vessel or facility ownership or control of which was acquired involuntarily through—

''(I) seizure or otherwise in connection with law enforcement activity;

''(II) bankruptcy;

''(III) tax delinquency;

''(IV) abandonment; or

''(V) other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

''(vi) notwithstanding subparagraph (B)(ii), a person that is a lender and that holds indicia of ownership primarily to protect a security interest in a vessel or facility if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, the person—

''(I) exercises decision making control over the environmental compliance related to the vessel or facility, such that the person has undertaken responsibility for oil handling or disposal practices related to the vessel or facility; or

''(II) exercises control at a level comparable to that of a manager of the vessel or facility, such that the person has assumed or manifested responsibility—

''(aa) for the overall management of the vessel or facility encompassing day-to-day decision making with respect to environmental compliance; or

''(bb) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance; and

''(B) does not include—

''(i) A unit of state or local government that acquired ownership or control of a vessel or facility involuntarily through—

''(I) seizure or otherwise in connection with law enforcement activity;

''(II) bankruptcy;

''(III) tax delinquency;

''(IV) abandonment; or

''(V) other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

''(ii) a person that is a lender that does not participate in management of a vessel or facility, but holds indicia of ownership primarily to protect the security interest of the person in the vessel or facility; or

''(iii) a person that is a lender that did not participate in management of a vessel or facility prior to foreclosure, notwithstanding that the person—

''(I) forecloses on the vessel or facility; and

''(II) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains business activities, winds up operations, undertakes a removal action under section 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, with respect to the vessel or facility, or takes any other measure to preserve, protect, or prepare the vessel or facility prior to sale or disposition,

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements;''.

(b) OTHER DEFINITIONS.—Section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701) is amended by striking ''and'' after the semicolon at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting a semicolon, and by adding at the end the following:

''(38) 'participate in management'—

''(A)(i) means actually participating in the management or operational affairs of a vessel or facility; and

''(ii) does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations; and

''(B) does not include—

''(i) performing an act or failing to act prior to the time at which a security interest is created in a vessel or facility;

''(ii) holding a security interest or abandoning or releasing a security interest;

''(iii) including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, warranty, or other term or condition that relates to environmental compliance;

''(iv) monitoring or enforcing the terms and conditions of the extension of credit or security interest;

''(v) monitoring or undertaking one or more inspections of the vessel or facility;

''(vi) requiring a removal action or other lawful means of addressing a discharge or substantial threat of a discharge of oil in connection

with the vessel or facility prior to, during, or on the expiration of the term of the extension of credit;

''(vii) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

''(viii) restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance;

''(ix) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement; or

''(x) conducting a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan,

if such actions do not rise to the level of participating in management under subparagraph (A) of this paragraph and paragraph (26)(A)(vi);

''(39) 'extension of credit' has the meaning provided in section 101(20)(G)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(i));

''(40) 'financial or administrative function' has the meaning provided in section 101(20)(G)(ii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(ii));

''(41) 'foreclosure' and 'foreclose' each has the meaning provided in section 101(20)(G)(iii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iii));

''(42) 'lender' has the meaning provided in section 101(20)(G)(iv) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iv));

''(43) 'operational function' has the meaning provided in section 101(20)(G)(v) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(v)); and

''(44) 'security interest' has the meaning provided in section 101(20)(G)(vi) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(vi)).''.

(c) DEFINITION OF CONTRACTUAL RELATIONSHIP.—Section 1003 of the Oil Pollution Act of 1990 (33 U.S.C. 2703) is amended by adding at the end the following:

''(d) DEFINITION OF CONTRACTUAL RELATIONSHIP.—

''(1) IN GENERAL.—For purposes of subsection (a)(3) the term 'contractual relationship' includes, but is not limited to, land contracts, deeds, easements, leases, or other instruments transferring title or possession, unless—

''(A) the real property on which the facility concerned is located was acquired by the responsible party after the placement of the oil on, in, or at the real property on which the facility concerned is located;

''(B) one or more of the circumstances described in subparagraph (A), (B), or (C) of paragraph (2) is established by the responsible party by a preponderance of the evidence; and

''(C) the responsible party complies with paragraph (3).

''(2) REQUIRED CIRCUMSTANCE.—The circumstances referred to in paragraph (1)(B) are the following:

''(A) At the time the responsible party acquired the real property on which the facility is located the responsible party did not know and had no reason to know that oil that is the subject of the discharge or substantial threat of discharge was located on, in, or at the facility.

''(B) The responsible party is a government entity that acquired the facility—

''(i) by escheat;

''(ii) through any other involuntary transfer or acquisition; or

''(iii) through the exercise of eminent domain authority by purchase or condemnation.

''(C) The responsible party acquired the facility by inheritance or bequest.

''(3) ADDITIONAL REQUIREMENTS.—For purposes of paragraph (1)(C), the responsible party must establish by a preponderance of the evidence that the responsible party—

''(A) has satisfied the requirements of section 1003(a)(3)(A) and (B);

''(B) has provided full cooperation, assistance, and facility access to the persons that are authorized to conduct removal actions, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial removal action;

''(C) is in compliance with any land use restrictions established or relied on in connection with the removal action; and

''(D) has not impeded the effectiveness or integrity of any institutional control employed in connection with the removal action.

''(4) REASON TO KNOW.—

''(A) APPROPRIATE INQUIRIES.—To establish that the responsible party had no reason to know of the matter described in paragraph (2)(A), the responsible party must demonstrate to a court that—

''(i) on or before the date on which the responsible party acquired the real property on which the facility is located, the responsible party carried out all appropriate inquiries, as provided in subparagraphs (B) and (D), into the previous ownership and uses of the real property on which the facility is located in accordance with generally accepted good commercial and customary standards and practices; and

''(ii) the responsible party took reasonable steps to—

''(I) stop any continuing discharge;

''(II) prevent any substantial threat of discharge; and

''(III) prevent or limit any human, environmental, or natural resource exposure to any previously discharged oil.

''(B) REGULATIONS ESTABLISHING STANDARDS AND PRACTICES.—Not later than 2 years after the date of the enactment of this paragraph, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under subparagraph (A).

''(C) CRITERIA.—In promulgating regulations that establish the standards and practices referred to in subparagraph (B), the Secretary shall include in such standards and practices provisions regarding each of the following:

''(i) The results of an inquiry by an environmental professional.

''(ii) Interviews with past and present owners, operators, and occupants of the facility and the real property on which the facility is located for the purpose of gathering information regarding the potential for oil at the facility and on the real property on which the facility is located.

''(iii) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property on which the facility is located since the property was first developed.

''(iv) Searches for recorded environmental cleanup liens against the facility and the real property on which the facility is located that are filed under Federal, State, or local law.

''(v) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and waste handling, generation, treatment, disposal, and spill records, concerning oil at or near the facility and on the real property on which the facility is located.

''(vi) Visual inspections of the facility, the real property on which the facility is located, and adjoining properties.

''(vii) Specialized knowledge or experience on the part of the responsible party.

''(viii) The relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property.

''(ix) Commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located.

''(x) The degree of obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located, and the ability to detect the oil by appropriate investigation.

''(D) INTERIM STANDARDS AND PRACTICES.—

''(i) REAL PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to real property purchased before May 31, 1997, in making a determination with respect to a responsible party described in subparagraph (A), a court shall take into account—

''(I) any specialized knowledge or experience on the part of the responsible party;

''(II) the relationship of the purchase price to the value of the facility and the real property on which the facility is located, if the oil was not at the facility or on the real property;

''(III) commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located;

''(IV) the obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located; and

''(V) the ability of the responsible party to detect oil by appropriate inspection.

''(ii) REAL PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to real property purchased on or after May 31, 1997, until the Secretary promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as 'Standard E1527–97', entitled 'Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process', shall satisfy the requirements in subparagraph (A).

''(E) SITE INSPECTION AND TITLE SEARCH.—In the case of real property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, inspection and title search of the facility and the real property on which the facility is located that reveal no basis for further investigation shall be considered to satisfy the requirements of this paragraph.

''(5) PREVIOUS OWNER OR OPERATOR.—Nothing in this paragraph or in section 1003(a)(3) shall diminish the liability of any previous owner or operator of such facility who would otherwise be liable under this Act. Notwithstanding this paragraph, if a responsible party obtained actual knowledge of the discharge or substantial threat of discharge of oil at such facility when the responsible party owned the facility and then subsequently transferred ownership of the facility or the real property on which the facility is located to another person without disclosing such knowledge, the responsible party shall be treated as liable under 1002(a) and no defense under section 1003(a) shall be available to such responsible party.

''(6) LIMITATION ON DEFENSE.—Nothing in this paragraph shall affect the liability under this Act of a responsible party who, by any act or omission, caused or contributed to the discharge or substantial threat of discharge of oil which is the subject of the action relating to the facility.''.

SEC. 704. OIL SPILL RECOVERY INSTITUTE.

Section 5006 of the Oil Pollution Act of 1990 (33 U.S.C. 2736) is amended—

(1) in the first subsection (c), as added by section 1102(b)(4) of Public Law 104–324 (110 Stat. 3965), by striking ''with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1996,'' and inserting ''October 1, 2012''; and

(2) by redesignating the second subsection (c) as subsection (d).

SEC. 705. ALTERNATIVES.

Section 4115(e)(3) of the Oil Pollution Act of 1990 (46 U.S.C. 3703a note) is amended to read as follows:

''(3) No later than one year after the date of enactment of the Coast Guard and Maritime Transportation Act of 2004, the Secretary shall, taking into account the recommendations contained in the report by the Marine Board of the National Research Council entitled 'Environmental Performance of Tanker Design in Collision and Grounding' and dated 2001, establish and publish an environmental equivalency evaluation index (including the methodology to develop that index) to assess overall outflow performance due to collisions and groundings for double hull tank vessels and alternative hull designs.''.

SEC. 706. AUTHORITY TO SETTLE.

Section 1015 of the Oil Pollution Act of 1990 (33 U.S.C. 2715) is amended by adding at the end the following:

''(d) AUTHORITY TO SETTLE.—The head of any department or agency responsible for recovering amounts for which a person is liable under this title may consider, compromise, and settle a claim for such amounts, including such costs paid from the Fund, if the claim has not been referred to the Attorney General. In any case in which the total amount to be recovered may exceed $500,000 (excluding interest), a claim may be compromised and settled under the preceding sentence only with the prior written approval of the Attorney General.''.

SEC. 707. REPORT ON IMPLEMENTATION OF THE OIL POLLUTION ACT OF 1990.

No later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall provide a written report to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that shall include the following:

(1) The status of the levels of funds currently in the Oil Spill Liability Trust Fund and projections for levels of funds over the next 5 years, including a detailed accounting of expenditures of funds from the Oil Spill Liability Trust Fund for each of fiscal years 2000 through 2004 by all agencies that receive such funds.

(2) The domestic and international implications of changing the phase-out date for single hull vessels pursuant to section 3703a of title 46, United States Code, from 2015 to 2010.

(3) The costs and benefits of requiring vessel monitoring systems on tank vessels used to transport oil or other hazardous cargo, and of using additional aids to navigation, such as RACONs.

(4) A summary of the extent to which the response costs and damages for oil spill incidents have exceeded the liability limits established in section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704), and a description of the steps that the Coast Guard has taken or plans to take to implement subsection (d)(4) of that section.

(5) A summary of manning, inspection, and other safety issues for tank barges and towing vessels used in connection with them, including—

(A) a description of applicable Federal regulations, guidelines, and other policies;

(B) a record of infractions of applicable requirements described in subparagraph (A) over the past 10 years;

(C) an analysis of oil spill data over the past 10 years, comparing the number and size of oil spills from tank barges with those from tanker vessels of a similar size; and

(D) recommendations on areas of possible improvements to existing regulations, guidelines and policies with respect to tank barges and towing vessels.

SEC. 708. LOANS FOR FISHERMEN AND AQUACULTURE PRODUCERS IMPACTED BY OIL SPILLS.

(a) INTEREST; PARTIAL PAYMENT OF CLAIMS.—Section 1013 of the Oil Pollution Act of 1990 (33 U.S.C. 2713) is amended by adding at the end the following:

''(f) LOAN PROGRAM.—

''(1) IN GENERAL.—The President shall establish a loan program under the Fund to provide interim assistance to fishermen and aquaculture producer claimants during the claims procedure.

''(2) ELIGIBILITY FOR LOAN.—A loan may be made under paragraph (1) only to a fisherman or aquaculture producer that—

''(A) has incurred damages for which claims are authorized under section 1002;

''(B) has made a claim pursuant to this section that is pending; and

''(C) has not received an interim payment under section 1005(a) for the amount of the claim, or part thereof, that is pending.

''(3) TERMS AND CONDITIONS OF LOANS.—A loan awarded under paragraph (1)—

''(A) shall have flexible terms, as determined by the President;

''(B) shall be for a period ending on the later of—

''(i) the date that is 5 years after the date on which the loan is made; or

''(ii) the date on which the fisherman or aquaculture producer receives payment for the claim to which the loan relates under the procedure established by subsections (a) through (e) of this section; and

''(C) shall be at a low interest rate, as determined by the President.''.

(b) USES OF THE FUND.—Section 1012(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)) is amended—

(1) by striking ''Act.'' in paragraph (5)(C) and inserting ''Act; and''; and

(2) by adding at the end the following:

''(6) the making of loans pursuant to the program established under section 1013(f).''.

(c) STUDY.—Not later than 270 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Administrator of the Environmental Protection Agency, shall submit to the Congress a study that contains—

(1) an assessment of the effectiveness of the claims procedures and emergency response programs under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) concerning claims filed by, and emergency responses carried out to protect the interests of, fishermen and aquaculture producers; and

(2) any legislative or other recommendations to improve the procedures and programs referred to in paragraph (1).

TITLE VIII—MARITIME TRANSPORTATION SECURITY

SEC. 801. ENFORCEMENT.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by adding at the end the following:

''§ 70118. Firearms, arrests, and seizure of property

''Subject to guidelines approved by the Secretary, members of the Coast Guard may, in the performance of official duties—

''(1) carry a firearm; and

''(2) while at a facility—

''(A) make an arrest without warrant for any offense against the United States committed in their presence; and

''(B) seize property as otherwise provided by law.

''§ 70119. Enforcement by State and local officers

''(a) IN GENERAL.—Any State or local government law enforcement officer who has authority to enforce State criminal laws may make an arrest for violation of a security zone regulation prescribed under section 1 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 191) or security or safety zone regulation under section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) or a safety zone regulation prescribed under section 10(d) of the Deepwater Port Act of 1974 (33 U.S.C. 1509(d)) by a Coast Guard official authorized by law to prescribe such regulations, if—

''(1) such violation is a felony; and

''(2) the officer has reasonable grounds to believe that the person to be arrested has committed or is committing such violation.

''(b) OTHER POWERS NOT AFFECTED.—The provisions of this section are in addition to any power conferred by law to such officers. This section shall not be construed as a limitation of any power conferred by law to such officers, or any other officer of the United States or any State. This section does not grant to such officers any powers not authorized by the law of the State in which those officers are employed.''.

(b) CLERICAL AMENDMENT.—The chapter analysis at the beginning of chapter 701 of title 46, United States Code, is amended by adding at the end the following:

''70118. Enforcement.
''70119. Enforcement by State and local officers.''.

SEC. 802. IN REM LIABILITY FOR CIVIL PENALTIES AND COSTS.

(a) AMENDMENTS TO TITLE 46, UNITED STATES CODE.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating section 70117 as 70119; and

(2) by inserting after section 70116 the following:

''§ 70117. In rem liability for civil penalties and certain costs

''(a) CIVIL PENALTIES.—Any vessel operated in violation of this chapter or any regulations prescribed under this chapter shall be liable in rem for any civil penalty assessed pursuant to section 70120 for such violation, and may be proceeded against for such liability in the United States district court for any district in which the vessel may be found.

''(b) REIMBURSABLE COSTS OF SERVICE PROVIDERS.—A vessel shall be liable in rem for the reimbursable costs incurred by any service provider related to implementation and enforcement of this chapter and arising from a violation by the operator of the vessel of this chapter or any regulations prescribed under this chapter, and may be proceeded against for such liability in the United States district court for any district in which such vessel may be found.

''(c) DEFINITIONS.—In this subsection—

''(1) the term 'reimbursable costs' means costs incurred by any service provider acting in conformity with a lawful order of the Federal government or in conformity with the instructions of the vessel operator; and

''(2) the term 'service provider' means any port authority, facility or terminal operator, shipping agent, Federal, State, or local government agency, or other person to whom the management of the vessel at the port of supply is entrusted, for—

''(A) services rendered to or in relation to vessel crew on board the vessel, or in transit to or from the vessel, including accommodation, detention, transportation, and medical expenses; and

''(B) required handling of cargo or other items on board the vessel.

''§ 70118. Withholding of clearance

''(a) REFUSAL OR REVOCATION OF CLEARANCE.—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty under section 70119, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70120, the Secretary may, with respect to such vessel, refuse or revoke any

clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

''(b) CLEARANCE UPON FILING OF BOND OR OTHER SURETY.—The Secretary may require the filing of a bond or other surety as a condition of granting clearance refused or revoked under this subsection.''.

(b) ACT OF JUNE 15, 1917.—Section 2 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 192), is amended—

(1) in subsection (c) by striking ''Act'' each place it appears and inserting ''title''; and

(2) by adding at the end the following:

''(d) IN REM LIABILITY.—Any vessel that is used in violation of this title, or of any regulation issued under this title, shall be liable in rem for any civil penalty assessed pursuant to subsection (c) and may be proceeded against in the United States district court for any district in which such vessel may be found.

''(e) WITHHOLDING OF CLEARANCE.—

''(1) IN GENERAL.—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under this section, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

''(2) CLEARANCE UPON FILING OF BOND OR OTHER SURETY.—The Secretary may require the filing of a bond or other surety as a condition of granting clearance refused or revoked under this subsection.''.

(c) CLERICAL AMENDMENT.—The chapter analysis at the beginning of chapter 701 of title 46, United States Code, is amended by striking the last item and inserting the following:

''70117. In rem liability for civil penalties and certain costs.

''70118. Enforcement by injunction or withholding of clearance.

''70119. Civil penalty''.

SEC. 803. MARITIME INFORMATION.

(a) MARITIME INTELLIGENCE.—Section 70113(a) of title 46, United States Code, is amended by adding at the end the following: ''The system may include a vessel risk profiling component that assigns incoming vessels a terrorism risk rating.''.

(b) VESSEL TRACKING SYSTEM.—Section 70115 of title 46, United States Code, is amended in the first sentence by striking ''may'' and inserting ''shall, consistent with international treaties, conventions, and agreements to which the United States is a party,''.

(c) MARITIME INFORMATION.—Within 90 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives containing a plan for the implementation of section 70113 of title 46, United States Code. The plan shall—

(1) identify Federal agencies with maritime information relating to vessels, crew, passengers, cargo, and cargo shippers, those agencies' maritime information collection and analysis activities, and the resources devoted to those activities;

(2) establish a lead agency within the Department of Homeland Security to coordinate the efforts of other Department agencies in the collection of maritime information and to identify and avoid unwanted redundancy in those efforts;

(3) identify redundancy in the collection and analysis of maritime information by agencies within the department in which the Coast Guard is operating;

(4) establish a timeline for coordinating the collection of maritime information among agencies within the department in which the Coast Guard is operating;

(5) include recommendations on co-locating agency personnel in order to maximize expertise, minimize costs, and avoid redundancy in both the collection and analysis of maritime information;

(6) establish a timeline for the incorporation of information on vessel movements derived through the implementation of sections 70114 and 70115 of title 46, United States Code, into the system for collecting and analyzing maritime information;

(7) include recommendations on educating Federal officials on the identification of security risks posed through commercial maritime transportation operations;

(8) include an assessment of the availability and expertise of private sector maritime information resources;

(9) include recommendations on how private sector maritime information resources could be utilized to analyze maritime security risks;

(10) include recommendations on how to disseminate information collected and analyzed through Federal maritime security coordinators, including the manner and extent to which State, local, and private security personnel should be utilized, which should be developed after consideration by the Secretary of the need for nondisclosure of sensitive security information; and

(11) include recommendations on the need for and how the department could help support a maritime information sharing and analysis center for the purpose of collecting and disseminating real-time or near real-time information to and from public and private entities, along with recommendations on the appropriate levels of funding to help disseminate maritime security information to the private sector.

(d) LIMITATION ON ESTABLISHMENT OF LEAD AGENCY.—The Secretary may not establish a lead agency within the Department of Homeland Security to coordinate the efforts of other Department agencies in the collection of maritime information, until at least 90 days after the plan under subsection (c) is submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 804. MARITIME TRANSPORTATION SECURITY GRANTS.

(a) GRANT PROGRAM.—Section 70107(a) of title 46, United States Code, is amended to read as follows:

''(a) IN GENERAL.—The Secretary shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and facility security plans among port authorities, facility operators, and State and local government agencies required to provide port security services. Before awarding a grant under the program, the Secretary shall provide for review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administrator. In administering the grant program, the Secretary shall take into account national economic and strategic defense concerns.''.

(b) SECRETARY ADMINISTERING.—Section 70107 of title 46, United States Code, is amended—

(1) by striking ''Secretary of Transportation'' each place it appears and inserting ''Secretary'';

(2) by striking ''Department of Transportation'' each place it appears and inserting ''department in which the Coast Guard is operating''.

(c) EFFECTIVE DATE.—Subsections (a) and (b)—

(1) shall take effect October 1, 2004; and

(2) shall not affect any grant made before that date.

(d) REPORT ON DESIGN OF MARITIME TRANSPORTATION SECURITY GRANT PROGRAM.—Within 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of House of Representatives on the design of the maritime transportation security grant program established under section 70107(a) of title 46, United States Code. In the report, the Secretary shall include recommendations on—

(1) whether the grant program should be discretionary or formula-based and the reasons for the recommendation;

(2) requirements for ensuring that Federal funds will not be substituted for grantee funds;

(3) targeting requirements to ensure that funding is directed in a manner that considers—

(A) national economic and strategic defense concerns; and

(B) the fiscal capacity of the recipients to fund facility security plan requirements without grant funds; and

(4) matching requirements to ensure that Federal funds provide an incentive to grantees for the investment of their own funds in the improvements financed in part by Federal funds provided under the program.

SEC. 805. SECURITY ASSESSMENT OF WATERS UNDER THE JURISDICTION OF THE UNITED STATES.

Not later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall—

(1) conduct a vulnerability assessment under section 70102(b) of title 46, United States Code, of the waters under the jurisdiction of the United States that are adjacent to nuclear facilities that may be damaged by a transportation security incident as defined in section 70101 (6) of title 46, United States Code;

(2) coordinate with the appropriate Federal agencies in preparing the vulnerability assessment required under paragraph (1); and

(3) submit the vulnerability assessments required under paragraph (1) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 806. MEMBERSHIP OF AREA MARITIME SECURITY ADVISORY COMMITTEES.

Section 70112(b) of title 46, United States Code, is amended by adding at the end to following:

''(5) The membership of an Area Maritime Security Advisory Committee shall include representatives of the port industry, terminal operators, port labor organizations, and other users of the port areas.''.

SEC. 807. JOINT OPERATIONAL CENTERS FOR PORT SECURITY.

The Commandant of the Coast Guard shall report to the Congress, within 180 days after the date of the enactment of this Act, on the implementation and use of joint operational centers for port security at certain United States seaports. The report shall—

(1) compare and contrast the composition and operational characteristics of existing joint operational centers for port security, including those in Norfolk, Virginia, Charleston, South Carolina, and San Diego, California;

(2) examine the use of such centers to implement—

(A) the plans developed under section 70103 of title 46, United States Code;

(B) maritime intelligence activities under section 70113 of title 46, United States Code;

(C) short and long range vessel tracking under sections 70114 and 70115 of title 46, United States Code; and

(D) secure transportation systems under section 70116 of title 46, United States Code; and

(3) estimate the number, location and costs of such centers necessary to implement the activities authorized under sections 70103, 701113, 70114, 70115, and 70116 of title 46, United States Code.

SEC. 808. INVESTIGATIONS.

(a) IN GENERAL.—Section 70107 of title 46, United States Code, is amended by striking subsection (i) and inserting the following:

''(i) INVESTIGATIONS.—

''(1) IN GENERAL.—The Secretary shall conduct investigations, fund pilot programs, and award grants, to examine or develop—

''(A) methods or programs to increase the ability to target for inspection vessels, cargo, crewmembers, or passengers that will arrive or have arrived at any port or place in the United States;

''(B) equipment to detect accurately explosives, chemical, or biological agents that could be used in a transportation security incident against the United States;

''(C) equipment to detect accurately nuclear or radiological materials, including scintillation-based detection equipment capable of signalling the presence of nuclear or radiological materials;

''(D) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including sensors that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit that information to the appropriate law enforcement authorities;

''(E) tools, including the use of satellite tracking systems, to increase the awareness of maritime areas and to identify potential transportation security incidents that could have an impact on facilities, vessels, and infrastructure on or adjacent to navigable waterways, including underwater access;

''(F) tools to mitigate the consequences of a transportation security incident on, adjacent to, or under navigable waters of the United States, including sensor equipment, and other tools to help coordinate effective response to a transportation security incident;

''(G) applications to apply existing technologies from other areas or industries to increase overall port security;

''(H) improved container design, including blast-resistant containers; and

''(I) methods to improve security and sustainability of port facilities in the event of a maritime transportation security incident, including specialized inspection facilities.

''(2) IMPLEMENTATION OF TECHNOLOGY.—

''(A) IN GENERAL.—In conjunction with ongoing efforts to improve security at United States ports, the Secretary may conduct pilot projects at United States ports to test the effectiveness and applicability of new port security projects, including—

''(i) testing of new detection and screening technologies;

''(ii) projects to protect United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access; and

''(iii) tools for responding to a transportation security incident at United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access.

''(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $35,000,000 for each of fiscal years 2005 through 2009 to carry out this subsection.

''(3) NATIONAL PORT SECURITY CENTERS.—

''(A) IN GENERAL.—The Secretary may make grants or enter into cooperative agreements with eligible nonprofit institutions of higher learning to conduct investigations in collaboration with ports and the maritime transportation industry focused on enhancing security of the Nation's ports in accordance with this subsection through National Port Security Centers.

''(B) APPLICATIONS.—To be eligible to receive a grant under this paragraph, a nonprofit institution of higher learning, or a consortium of such institutions, shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

''(C) COMPETITIVE SELECTION PROCESS.—The Secretary shall select grant recipients under this paragraph through a competitive process on the basis of the following criteria:

''(i) Whether the applicant can demonstrate that personnel, laboratory, and organizational resources will be available to the applicant to carry out the investigations authorized in this paragraph.

''(ii) The applicant's capability to provide leadership in making national and regional contributions to the solution of immediate and long-range port and maritime transportation security and risk mitigation problems.

''(iii) Whether the applicant can demonstrate that is has an established, nationally recognized program in disciplines that contribute directly to maritime transportation safety and education.

''(iv) Whether the applicant's investigations will involve major United States ports on the East Coast, the Gulf Coast, and the West Coast, and Federal agencies and other entities with expertise in port and maritime transportation.

''(v) Whether the applicant has a strategic plan for carrying out the proposed investigations under the grant.

''(4) ADMINISTRATIVE PROVISIONS.—

''(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary shall coordinate with other Federal agencies to ensure the grant will not duplicate work already being conducted with Federal funding.

''(B) ACCOUNTING.—The Secretary shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly accounted for, and that amounts not used for such purposes and amounts not expended are recovered.

''(C) RECORDKEEPING.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the department in which the Coast Guard is operating and the Secretary for audit and examination.

''(5) ANNUAL REVIEW AND REPORT.—The Inspector General of the department in which the Coast Guard is operating shall annually review the programs established under this subsection to ensure that the expenditures and obligations of funds are consistent with the purposes for which they are provided, and report the findings to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.''.

SEC. 809. VESSEL AND INTERMODAL SECURITY REPORTS.

(a) IN GENERAL.—Within 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit the reports and plan required under subsections (b), (c), (e), (f), and (j) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) REPORT REGARDING SECURITY INSPECTION OF VESSELS AND VESSEL-BORNE CARGO CONTAINERS ENTERING THE UNITED STATES.—

(1) REQUIREMENT.—The Secretary shall prepare a report regarding the numbers and types of vessels and vessel-borne cargo containers that enter the United States in a year.

(2) CONTENTS.—The report shall include the following:

(A) A section regarding security inspection of vessels that includes the following:

(i) A complete breakdown of the numbers and types of vessels that entered the United States in the most recent 1-year period for which information is available.

(ii) The cost incurred by the Federal Government in inspecting such vessels in such 1-year period, including specification and comparison of such cost for each type of vessel.

(iii) An estimate of the per-vessel cost that would be incurred by the Federal Government in inspecting each type of vessel that enters the United States each year, including costs for personnel, vessels, equipment, and funds.

(iv) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting all vessels that enter the United States each year, including costs for personnel, vessels, equipment, and funds.

(B) A section regarding security inspection of containers that includes the following:

(i) A complete breakdown of the numbers and types of vessel-borne cargo containers that entered the United States in the most recent 1-year period for which information is available, including specification of the number of 1 TEU containers and the number of 2 TEU containers.

(ii) The cost incurred by the Federal Government in inspecting such containers in such 1-year period, including specification and comparison of such cost for a 1 TEU container and for a 2 TEU container, and the number of each inspected.

(iii) An estimate of the per-container cost that would be incurred by the Federal Government in inspecting each type of vessel-borne container that enters the United States each year, including costs for personnel, vessels, and equipment.

(iv) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting, and where allowed by international agreement, inspecting in a foreign port, all vessel-borne containers that enter the United States each year, including costs for personnel, vessels, and equipment.

(c) PLAN FOR IMPLEMENTING SECURE SYSTEMS OF TRANSPORTATION.—The Secretary shall prepare a plan for the implementation of section 70116 of title 46, United States Code. The plan shall—

(1) include a timeline for establishing standards and procedures pursuant to section 70116(b) of title 46, United States Code;

(2) provide a preliminary assessment of resources necessary to evaluate and certify secure systems of transportation, and the resources necessary to validate that the secure systems of transportation are operating in compliance with the certification requirements;

(3) contain an analysis of whether establishing a voluntary user fee to fund the certification of private secure systems of transportation, paid for by the person applying for certification, would enhance cargo security;

(4) contain an analysis of the need for and feasibility of establishing a system to inspect, monitor, and track intermodal shipping containers within the United States; and

(5) contain an analysis of the need for and feasibility of developing international standards for secure systems of transportation, including recommendations, that includes an examination of working with appropriate international organizations to develop standards to enhance the physical security of shipping containers consistent with section 70116 of title 46, United States Code.

(d) INSPECTOR GENERAL IMPLEMENTATION REPORT.—One year after the date on which the plan under subsection (c) is submitted to the Congress, the Inspector General of the department in which the Coast Guard is operating shall transmit a report evaluating the progress made by the department in implementing the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(e) REPORT ON RADIATION DETECTORS.—The Secretary shall prepare a report on progress in the installation of a system of radiation detection at all major United States seaports, and a timeline and expected completion date for the system. In the report, the Secretary shall include a preliminary analysis of any issues related to the installation or efficacy of the radiation detection equipment, as well as a cost estimate for completing installation of the system.

(f) REPORT ON NONINTRUSIVE INSPECTION AT FOREIGN PORTS.—The Secretary shall prepare a report—

(1) on whether and to what extent foreign seaports have been willing to utilize nonintrusive

screening equipment at their ports to screen cargo, including the number of cargo containers that have been screened at foreign seaports, and the ports where they were screened;

(2) indicating which foreign ports may be willing to utilize nonintrusive screening equipment for cargo exported for import into the United States; and

(3) indicating ways to increase the effectiveness of the United States Government's targeting and screening activities outside the United States and to what extent additional resources and program changes will be necessary to maximize scrutiny of cargo in foreign seaports that is destined for the United States.

(g) EVALUATION OF CARGO INSPECTION TARGETING SYSTEM FOR INTERNATIONAL INTERMODAL CARGO CONTAINERS.—Within 180 days after the date of the enactment of this Act and annually thereafter, the Inspector General of the department in which the Coast Guard is operating shall prepare a report that includes an assessment of—

(1) the effectiveness of the current tracking system to determine whether it is adequate to prevent international intermodal containers from being used for purposes of terrorism;

(2) the sources of information, and the quality of the information at the time of reporting, used by the system to determine whether targeting information is collected from the best and most credible sources and evaluate data sources to determine information gaps and weaknesses;

(3) the targeting system for reporting and analyzing inspection statistics, as well as testing effectiveness;

(4) the competence and training of employees operating the system to determine whether they are sufficiently capable to detect potential terrorist threats; and

(5) whether the system is an effective system to detect potential acts of terrorism and whether additional steps need to be taken in order to remedy deficiencies in targeting international intermodal containers for inspection.

(h) ACTION REPORT.—If the Inspector General of the department in which the Coast Guard is operating determines in any of the reports prepared under subsection (g) that the targeting system is insufficiently effective as a means of detecting potential acts of terrorism utilizing international intermodal containers, then the Secretary of the department in which the Coast Guard is operating shall, within 90 days, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure House of Representatives on what actions will be taken to correct deficiencies identified in the Inspector General Report.

(i) COMPLIANCE WITH SECURITY STANDARDS ESTABLISHED PURSUANT TO MARITIME TRANSPORTATION SECURITY PLANS.—Within 180 days after the date of the enactment of this Act and annually thereafter, the Secretary of the department in which the Coast Guard is operating shall prepare a report on compliance and steps taken to ensure compliance by ports, terminals, vessel operators, and shippers with security standards established pursuant to section 70103 of title 46, United States Code. The reports shall also include a summary of security standards established pursuant to such section during the previous year. The Secretary shall submit the reports to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(j) EMPTY CONTAINERS.—The Secretary of the department in which the Coast Guard is operating shall prepare a report on the practice and policies in place at United States ports to secure shipment of empty containers and trailers. The Secretary shall include in the report recommendations with respect to whether additional Federal actions are necessary to ensure the safe and secure delivery of cargo and to prevent potential acts of terrorism involving such containers and trailers.

(k) REPORT AND PLAN FORMATS.—The Secretary and the Inspector General of the department in which the Coast Guard is operating may submit any plan or report required by this section in both classified and redacted formats, if the Secretary determines that it is appropriate or necessary.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill, insert the following: ''An Act to authorize appropriations for the Coast Guard for fiscal year 2005, to amend various laws administered by the Coast Guard, and for other purposes.''.

And the Senate agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendments, and modifications committed to conference:

DON YOUNG,
HOWARD COBLE,
JOHN J. DUNCAN, Jr.,
PETE HOEKSTRA,
FRANK LOBIONDO,
ROB SIMMONS,
MARIO DIAZ-BALART,
JAMES L. OBERSTAR,
BOB FILNER,
TIMOTHY BISHOP,
NICK LAMPSON,

For consideration of the House bill and Senate amendments, and modifications committed to conference:

CHRIS COX,
BENNIE G. THOMPSON,
Managers on the Part of the House.

JOHN MCCAIN,
TED STEVENS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
OLYMPIA SNOWE,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
JOHN BREAUX,
RON WYDEN,

From the Committee on Environment and Public Works:

JIM INHOFE,
JIM JEFFORDS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R 2443), to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Section 1. Short Title.

Section 1 of the House bill states that the Act may be referred to as the ''Coast Guard and Maritime Transportation Act of 2003.''

Section 1 of the Senate amendment states the Act may be cited as the ''Coast Guard Authorization Act of 2004.''

The Conference substitute adopts the House bill with an amendment.

Section 1 of the conference agreement states the Act may be cited as the ''Coast Guard and Maritime Transportation Act of 2004.''

TITLE I—AUTHORIZATION

Section 101. Authorization of Appropriations

Section 101 of the House bill authorizes funds for the Coast Guard in fiscal year 2004.

Section 101 of the Senate amendment is similar to the House provision except that the Senate provision authorizes funds for fiscal years 2004 and 2005 and contains different authorization levels than those that are included in the House bill.

The Conference substitute authorizes the following amounts for fiscal year 2005:

Operating Expenses	$5,404,000,000
Research, Development Testing and Evaluation	24,200,000
Retired Pay	1,085,000,000
Environmental Compliance And Restoration	17,000,000
Alterations to Bridges	19,650,000
Acquisition, Construction And Improvement	1,500,000,000
Rescue 21	161,000,000
Integrated Deepwater System	1,100,000,000
Coast Guard Reserve	117,000,000

The conference included $5,404,300,000 for the Coast Guard's operating expenses. This represents an increase of fourteen percent over FY 2004 levels. This includes over $300 million in authorizations for port security over the FY 2005 budget request, including an additional $40 million for expedited implementation of the Automatic Identification Systems requirements. It also includes over $100 million to cover the increases in operating tempo that the Coast Guard has experienced over the past few years, so that the traditional core missions of the Coast Guard, such as search and rescue of mariners in distress and protection of our living marine resources, are not compromised.

Currently, the only Coast Guard HITRON squadron is based in Jacksonville, Florida. Since the program's inception in 1999, HITRON helicopters have successfully interdicted cocaine that had a value of more than $4 billion. The Interagency Assessment of Cocaine Movement estimated that 544 Metric Tons of Cocaine departed South America for the United States in 2002. Of this total, 46% (250 Metric Tons) was estimated to flow through the Eastern Pacific. The Conferees believes that leasing additional squadron of HITRON helicopters and deploying these helicopters to the West Coast will help stem the flow of cocaine and other illegal shipments into the West Coast of the United States and provide RT–MSST anti-terrorist protection. Therefore the conferees recommend that the Coast Guard establish a West Coast HITRON squadron. The authorization levels provided in H.R. 2443 provide sufficient funds in the operating expense account to lease these additional assets.

The conferees authorize a significant increase for Acquisition, Construction and Improvements over the Administration request, and the Fiscal Year 2004 appropriated level. The conferees recommend that an amount of this increase go toward reducing the current $54,000,000 Fiscal Year 2005 unfunded shore facilities requirements list.

Section 102. Authorized Levels of Military Strength and Training

Section 102 of the House bill authorizes a Coast Guard end-of-year strength of 45,500

active duty military personnel for Fiscal Year 2004. This level includes the increases proposed by the Administration. At the end of Fiscal Year 2003, 37,000 active duty personnel were serving in the Coast Guard. This section also authorizes average military training student loads for Fiscal Year 2004 as follows:

Training	*Student years*
Recruit/Special	2,500
Flight	125
Professional	350
Officer Acquisition	1,200

Section 102 of the Senate amendment is identical to the House bill.

The conference substitute adopts the House provision, as amended to include 2005 levels.

TITLE II—COAST GUARD MANAGEMENT

Section 201. Long-Term Leases

Section 201 of the House bill allows the Commandant to enter into leases of up to 20 years for Coast Guard property with (1) the Coast Guard Academy Alumni Association to construct an Alumni visitor facility at the Coast Guard Academy; and (2) non-Federal entities to carry out cooperative agreements under Section 4 (e) of the Ports and Waterways Safety Act. Current law limits such leases to no more than five years.

Paragraph (3) of Section 302 of the Senate amendment is similar to the House provision, but would allow 20–year leases between the Coast Guard and non-Federal entities.

The conference substitute adopts the House provision.

Section 202. Nonappropriated Fund Instrumentalities

Section 202 of the House bill provides authority for Coast Guard exchanges and morale, welfare, and recreation systems (MWR) to enter into contracts or other agreements with another department, agency, or instrumentality of the Coast Guard or another Federal agency to provide goods and services beneficial to the efficient management and operation of the exchange and MWR systems.

Section 209 of the Senate amendment is similar to the House provision.

The conference substitute adopts the House provision.

This section provides Coast Guard Exchanges parity with Department of Defense non-appropriated fund instrumentalities (10 U.S.C. 2482a).

Section 203. Term of Enlistments

Section 203 of the House bill authorizes the Commandant of the Coast Guard to accept original enlistments for other than full years, and reenlistments for any term of years and months from two years to six years.

Section 207 of the Senate amendment is similar to the House provision.

The conference substitute adopts the Senate amendment.

This will make Coast Guard enlistments consistent with Department of Defense enlistments. The Coast Guard will gain greater billet alignment between commands and assignments during transfer seasons, and greater flexibility in maintaining force readiness.

Section 204. Enlisted Member Critical Skill Training Bonus

Section 204 of the House bill authorizes the Coast Guard to offer an incentive bonus to encourage enlisted members to enter certain critical skill specialties.

Section 201 of the Senate amendment is similar to the House provision.

The conference substitute adopts the House provision.

The Coast Guard currently has authority to offer enlistment bonuses (37 U.S.C. 309) and retention bonuses (37 U.S.C. 323), but does not have authority to offer a bonus to a member who voluntarily enters a specialty school to gain training in a critical skill. This proposal authorizes such a bonus to enlisted members who complete training in a skill designated as critical, provided at least four years of obligated active service remain on the member's enlistment at the time the training is completed. The Coast Guard has shortages of enlisted members on active duty in certain critical skills, such as Electricians Mate, Electronics Technician, Food Service Specialist, Machinery Technician, Storekeeper, and Telecommunications Specialist. Most of these skills result in assignments to ships, where being a junior enlisted Coast Guardsman is often very difficult due to working conditions and time spent at sea. Therefore, the Coast Guard has difficulty in encouraging junior enlisted personnel to seek out these specialties. The authority to provide an incentive bonus to enlisted members will assist in curtailing the shortages in certain critical skills.

Sec. 205 Indemnity for Disabling Vessels Liable to Seizure or Examination

Section 205 of the House bill eliminates the requirement to fire a warning shot as a condition precedent to indemnification under 14 U.S.C. 637, when use of a warning shot is not practical.

Section 312 of the Senate amendment is similar to the House bill and includes a report mandating the submission of information regarding the location, circumstances and consequences surrounding the use of any disabling firing.

The conference substitution adopts the House provision amended by the addition of the report included in the Senate amendment.

Under 14 U.S.C. 89, the Coast Guard is authorized to board, examine, and search vessels to detect violations of U.S. law. It may use ''all necessary force to compel compliance'', including the use of disabling fire to stop a vessel that refuses to comply with a lawful order to stop. 14 U.S.C. 637 indemnifies government personnel operating from Coast Guard vessels or aircraft and Naval vessels with Coast Guard members assigned from damages resulting from the use of disabling fire. Under current law the indemnity applies only if a warning shot is given prior to the use of disabling fire. In some instances, it may be dangerous or impracticable to fire warning shots. Warning shots are generally fired near, but not at, a noncompliant vessel, so they may pose a risk to others if used in congested waters or near shore. Disabling fire is specifically targeted at a particular vessel so it does not present a risk to others.

Section 206. Administrative, Collection, and Enforcement Costs for Certain Fees and Charges

Section 206 of the House bill amends section 664 of title 14 to better coordinate the statutory provisions governing fees and charges currently levied by the Coast Guard for services furnished under subtitle H of title 46 and under title 14, United States Code.

The Senate amendment does not contain a comparable provision.

The conference substitute adopts the House provision.

Under current law, there are three statutes pursuant to which the Coast Guard collects user fees for its services. The Independent Offices Appropriations Act of 1951, 31 U.S.C. 9701, applies general user fee authority to the entire Federal Government, including the Coast Guard. Also, under 46 U.S.C. 2110, the Secretary is required to establish user fees for services provided under subtitle 11 of title 46, United States Code (primarily marine safety activities, e.g., inspection of certain vessels; licensing, certification, and documentation of personnel, etc.). Finally, section 664 of title 14, United States Code, provides authority for the Coast Guard to establish user fees for goods and services it provides. This proposal does not establish a new user fee or seek to authorize the collection of any amounts in excess of the full (direct and indirect) costs of providing a given service for which the fee is being charged.

Currently, the Secretary is authorized to recover appropriate collection and enforcement costs associated with delinquent payments of the fees and charges associated with services provided under subtitle II of title 46, but not under section 664 of title 14. This section will make parallel the provisions applicable to title 46 and title 14 user fees collection. This section authorizes the Secretary to recover appropriate collection and enforcement costs associated with delinquent payments of fees and charges authorized under title 14, and allows other Federal, State, local, or private entities to collect such a fee or charge. These authorities already exist for title 46 fees and charges.

Finally, this section amends title 14, to define what constitutes the costs of collecting a fee or charge, so that it explicitly includes reasonable administrative, personnel, contract, equipment, supply, training, and travel expenses related to administration, management, and oversight of user fees authorized by law. Importantly, this will include the compilation and analysis of cost and user data. In recent years, both Congress and the Executive Branch have sought to obtain such data from Federal agencies on a recurring basis.

Section 207. Expansion of Coast Guard Housing Authorities

Section 207 of the House bill provides the Coast Guard with the same direct loan authority for the acquisition and construction of housing currently available to the Department of Defense, allows the Commandant to make differential lease payments, if necessary, to encourage private construction of Coast Guard housing, and allows for multiple demonstration projects to be conducted at any Coast Guard installation in Alaska.

Section 203 of the Senate amendment is similar to the House provisions except that it does not include language that would grant the Secretary of the department in which the Coast Guard is operating to enter into limited partnerships with eligible entities, establish additional demonstration projects in Alaska, or the ability to make differential lease payments.

The conference substitute adopts the House provision.

In 1996, Congress enacted a broad set of authorities for the Department of Defense to use in its Military Housing Privatization Initiative. The existing Coast Guard housing authorities are more limited. Section 687(g) of title 14 authorizes a demonstration project in Kodiak, Alaska to acquire or construct military family or unaccompanied housing through contracts with Alaska-based small business concerns qualified under the Small Business Administration's section 8(a) program. Section 207 allows for more than one demonstration project, and allows the projects to be conducted at any Coast Guard installation in Alaska.

Section 208. Requirement for Constructive Credit

Section 208 of the House bill reduces the amount of mandatory constructive credit granted to a Reserve Law Specialist upon designation or assignment to one year from the current level of three years. This section will allow the Coast Guard to consider the officer's education and experience, potential

career opportunities, and service needs to determine appropriate credit.

Section 208 of the Senate amendment is substantively the same as the House provision.

The Conference substitute adopts the Senate amendment.

Section 209. Maximum Ages for Retention in an Active Status

Section 209 of the House bill changes the mandatory age at which a Reserve officer is transferred to the Retired Reserve from sixty-two years of age to sixty years of age and would change the mandatory age at which a Reserve officer (other than those eligible for retirement or a Reserve rear admiral or rear admiral (lower half)) shall be discharged from sixty-two years of age to sixty years of age. It aligns Coast Guard Reserve officers' maximum retention age with that of other armed services Reserve officers, and also codifies the longstanding Coast Guard policy to remove Reserve officers from active status at age sixty.

Section 206 of the Senate amendment is substantively the same as the House provision.

The Conference substitute adopts the House provision.

Section 210. Travel Card Management

Sec. 210 of the House bill authorizes the Coast Guard to use pay offsets to recover delinquent amounts owed by military members and civilian employees who hold Federal contractor-issued travel charge cards.

Sec. 210 of the Senate amendment is a substantively similar provision.

The Conference substitute adopts the Senate amendment.

This section would authorize the Coast Guard to disburse travel reimbursement directly to the issuer of a contractor-issued travel charge card and would allow the Coast Guard to withhold pay from Coast Guard personnel who have delinquent travel charge cards accounts. This provision is similar to authority granted to the Department of Defense in 1999.

Section 211. Coast Guard Fellows and Detailees

Sec. 211 of the House Bill provides statutory authority for a Coast Guard Congressional Fellowship Program, adopts the restrictions contained in the House Ethics Manual and prohibits all Coast Guard Fellows from engaging in duties that will result in any direct or indirect benefit to the Coast Guard, other than broadening the fellow's knowledge.

The Senate amendment does not contain a comparable provision.

The Conference substitute requires the Coast Guard, in consultation with the Attorney General, to report on its existing standards with regards to Congressional detailees and compare those standards to other Federal agency detailees and to make any recommendations, if necessary, to ensure against conflicts of interest and issues of separation of powers.

Section 212. Long-Term Lease of Special Use Real Property

Section 212 of the House bill allows the Coast Guard to enter into a lease of up to 20 years for a new facility constructed by Muskegon County that meets criteria established by the Commandant.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that authorizes the Secretary to enter into long-term leases for up to 20 years for special use real property for the purposes of carrying out Coast Guard aviation, maritime and navigation missions other than general purpose office and storage space.

Currently, the Coast Guard's general leasing authority is limited to the current fiscal year. This proposal would provide the Coast Guard with the authority to lease special use real property, including unimproved or vacant land, for terms not to exceed 20 years. This 20-year limitation is consistent with the Coast Guard's current authority to lease real property for navigation and consistent with the Coast Guard's current authority to lease real property for navigation and communications systems sites. The Coast Guard would use this expanded leasing authority to acquire leasehold interests in non-Federally-owned lands in those instances when the landowner is unwilling or unable (e.g. in the case of a municipality limited by state law or local ordinance) to convey the property's title to the United States. Such leasehold interests would be acquired for direct support of Coast Guard missions, such as sites for small boat stations, air search and rescue stations, or helicopter landing pads. Opportunities for the Coast Guard to enter into long-term leases have arisen at a variety of facilities over the past several years, such as Muskegon County, Michigan, which has been discussing the possible lease of a facility constructed by the County at Muskegon County Airport as an air search and rescue station; station buildings in Carquinez and Morro Bay, California; a pier and cutter support team building in Cordova, Alaska; and other facilities throughout the country.

The Conferees expect the Coast Guard to use this new authority judiciously and in the best interest of the United States. Additionally, the Conferees direct the Coast Guard to report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives 30 days prior to entering into any long-term lease utilizing this authority detailing the circumstances of the lease and the Coast Guard's requirements leading to this lease.

Section 213. National Coast Guard Museum

Section 213 of the House bill allows the Coast Guard to establish a National Coast Guard Museum to be located in New London, Connecticut. The House provision also prohibits the spending of Federal funds for planning, engineering, design, construction, operation or maintenance of the Museum, and mandates the submission of an operation and maintenance plan to Congress before the Museum is established.

Section 409 of the Senate amendment allows for the establishment of a National Coast Guard Museum to be located in New London, Connecticut or a location of comparable historic connection to the Coast Guard. The Senate provision contains no prohibition of Federal funds for Museum construction and activities and mandates the submission of an operation and maintenance plan to Congress before the Museum is established.

The Conference substitute adopts a provision that authorizes the Commandant of the Coast Guard to establish a National Coast Guard Museum to be located in New London, Connecticut at, or in close proximity to, the Coast Guard Academy. The provision restricts the Coast Guard from expending federally appropriated funds for engineering, design or construction costs. The provision also requires that the Museum be supported with nonappropriated, nonfederal funds to the greatest extent possible, and establishes the preservation and protection of historic artifacts as the priority use for Federal funds. Before the establishment of any museum under this section, the Commandant is required to submit to Congress a plan for constructing, operating and maintaining such a museum. Such plan is to include a discussion of any shortfall of funds for engineering, design or construction. The provision prohibits the Commandant from establishing a national Coast Guard museum other than under this section.

The Conferees do not consider the conduct of academic programs relating to the curriculum of the Coast Guard Academy, the Coast Guard leadership Program or other Coast Guard programs that utilize the collections, artifacts and facilities of the Museum to be operation and maintenance activities of the Museum. Therefore, such programs are not subject to the limitation on operation and maintenance funding.

Section 214. Limitation on Number of Commissioned Officers

Section 214 of the House bill provides a temporary increase in the authorized cap on Coast Guard officers to 6,700 for fiscal year 2004.

Section 202 of the Senate amendment would permanently increase the authorized cap on Coast Guard officers to 7,100 and authorizes an increase in the percentage of Commanders and Lieutenant Commanders to 15 and 22 percent, respectively.

The Conference substitute adopts a provision that will temporarily increase the authorized cap on Coast Guard officers to 6,700 officers for the fiscal years 2004, 2005 and 2006 and authorizes an increase in the percentage of Commanders and Lieutenant Commanders to 15 and 22 percent, respectively.

Currently, the overall number of officers cannot exceed 6,200. Increased homeland security requirements, however, are expected to drive up the officer needs of the Coast Guard by 17 percent. With a current officer corps of approximately 5,600 officers, an additional 900 officers for homeland security missions will require a change to the officer ceiling in section 42 of title 14, United States Code. The Coast Guard budget proposes to convert 78 billets from military to civilian positions in each of fiscal years 2003 and 2004. Conferees urge the Coast Guard to accelerate the conversion of those jobs that are not required for military purposes to civilian positions. This conversion will provide for increased continuity in positions and decrease the need for additional officer billets in the future.

This section will meet the short-term needs of the Coast Guard in addressing changes necessitated by increased responsibilities related to homeland security missions. The Coast Guard has assured the Conferees that the Service does not intend to increase the officer Corps beyond the authorized level before the end of Fiscal Year 2006.

Section 215. Redistricting Notification Requirement

Section 215 of the House bill requires the Commandant to notify the Committee at least 180 days before implementing a plan to change the boundaries of Coast Guard districts, or before shifting more than 10 percent of the personnel or equipment from the station where they are based.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision amended by adding the Committee on Commerce, Science, and Transportation of the Senate as a committee to be notified before such redistricting action occurs and by amending the language to define an action requiring notification under this section as a permanent transfer of a percentage of personnel or equipment away from a District Office to which they were previously assigned.

The conferees understand the Department of Homeland Security is undertaking efforts to comply with Section 706 of the Homeland Security Act and create a plan for the consolidation and co-location of agency regional offices. The conferees remain concerned of

the impact this will have on the Cost Guard's mission-based district organization.

The conferees note that Coast Guard districts are currently organized to take into account the interrelated nature of specific riverine, estuarine, and other marine systems. The districts are arranged to address predominate missions and threats which confront specific marine systems. In addition, the service has built an extensive system of secure communications at these offices from which they control the wide range of Coast Guard operations. Arbitrarily dividing up the current district structure to comport with the conveniences of other Department of Homeland Security agencies could severely undermine the Coast Guard's mission effectiveness.

Section 216. Report on Shock Mitigation Standards

Section 217 of the House bill requires the Secretary to establish shock mitigation standards for boat decking material on Coast Guard vessels.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision which requires the Commandant of the Coast Guard to report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the necessity of and possible standards for decking material in order to mitigate adverse effects of shock and vibration of Coast Guard vessels on crew members.

Section 217. Recommendations to Congress by Commandant of the Coast Guard

Section 219 of the House bill authorizes the Commandant of the Coast Guard to make recommendations to the Congress without the direction and guidance of the Administration.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

Section 218. Coast Guard Education Loan Repayment Program

Section 221 of the House Bill allows the Secretary to repay certain loans incurred by active enlisted members of the Coast Guard for purposes of higher education.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

This section would allow the Secretary to repay a portion of certain higher education loans incurred by active enlisted members of the Coast Guard. The amount of repayment is limited to 33⅓% of the loan or $1,500 per year of service by the enlisted member.

Section 219. Contingent Expenses

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that increases the funding level authorized for Coast Guard contingent expenses to an amount of $50,000 per fiscal year.

These funds are used by the Service for representational and reception purposes. The current authorized level is $7,500 and has not been increased since being established in 1949.

Section 220. Reserve Admirals

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that clarifies language that outlines the maximum term of service in active status for reserve rear admirals of the Coast Guard to ensure that reserve officers may serve a full four-year term at that position.

Section 221. Confidential Investigative Expenses

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that increases the funding level authorized for Coast Guard confidential investigative expenses to an amount of $45,000 per fiscal year.

The current authorized amount is $15,000 and has not been increased since being established in 1974.

Section 222. Innovative Construction Alternatives

The House bill does not contain a comparable provision.

Section 407 of the Senate amendment authorizes the Commandant of the Coast Guard to consult with the Office of Naval Research and other Federal agencies with research and development programs that may provide innovative construction alternatives for the Integrated Deepwater System.

The Conference substitute adopts the Senate provision.

Section 223. Delegation of Port Security Authority

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that authorizes the President to delegate the authority to issue rules and regulations under 50 U.S.C. 191 to the Secretary of the department in which the Coast Guard is operating. 50 U.S.C. 191 allows for the emergency regulation of vessels in time of national emergency.

Section 224. Fisheries Enforcement Plans and Reporting

The House bill does not contain a comparable provision.

Section 321 of the Senate amendment would require the Coast Guard and National Oceanic and Atmospheric Administration to improve their consultations with each other and with State and local authorities in setting priorities for and coordinating the enforcement of fisheries laws and regulations.

The Conference substitute adopts the Senate provision, as amended.

Section 225. Use of Coast Guard and Military Child Development Centers

The House bill does not contain a comparable provision.

Section 211 of the Senate amendment would allow the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating to agree to provide day care services without requiring reimbursement. It also would provide children of Coast Guard members the same access as children of DOD members to DOD child care facilities.

The Conference substitute adopts the Senate provision as amended, to require mutual reimbursement for use of each other's centers.

Section 226. Property Owned by Auxiliary Units and Dedicated Solely for Auxiliary Use

The House bill does not contain a comparable provision.

Section 204 of the Senate amendment allows for the treatment of real and personal property owned by a unit of the Coast Guard Auxiliary to be considered as Federal property for purposes of liability.

The Conference substitute adopts the Senate provision with an amendment.

This section would state that real and personal property owned by a unit of the Coast Guard Auxiliary shall be considered Federal property for liability purposes at all times unless the property is being used outside the scope of the Auxiliary mission. This section also allows the Secretary of the department in which the Coast Guard is operating to reimburse the Auxiliary for operation, maintenance, repair, or replacement of Auxiliary property when it is being used exclusively for Auxiliary business.

TITLE III—NAVIGATION

Section 301. Marking of Underwater Wrecks

Section 301 of the House bill gives the Commandant of the Coast Guard discretion in the manner in which a sunken vessel is to be marked for purposes of navigation.

Section 301 of the Senate amendment is a similar provision.

The Conference substitute adopts the Senate amendment that grants the Commandant of the Coast Guard discretion to permit a sunken wreck to be marked without using a lighted buoy if the Commandant determines that placing a light would be impractical and granting such a waiver would not create an undue hazard to navigation.

Under current law, the owner or operator of a vessel wrecked and sunk in a navigable channel must immediately mark it with a ''buoy or beacon during the day and a lighted lantern at night'', and maintain the marker until the wreck is removed. In navigable channels on the Western Rivers, use of a lighted aid to mark a wreck is generally not practicable due to the fast current and floating debris common in those rivers. Lighted aids, which are larger and heavier than unlighted markers, tend to submerge in the fast current, and are pushed off station by the force of the current on debris snagged by the aid. It is largely for this reason that of the over 10,000 buoys positioned by the Coast Guard to mark navigable channels on the Western Rivers, only 12 are seasonal lighted buoys, and those are limited to pooled waters behind dams where current is not a factor. Mariners operating vessels on these rivers are accustomed to navigating with unlighted buoys. Due to the failure of owners/operators to mark their wrecked vessels, the Coast Guard currently performs much of this type of marking. The Coast Guard generally uses unlighted buoys for this purpose.

Section 302. Use of Electronic Devices; Cooperative Agreements

Section 302 of the House bill amends the Ports and Waterways Safety Act (33 U.S.C. 1223) (PWSA) to authorize the Secretary to prohibit the use on the bridge of vessels of certain electric and electronic devices that interfere with communications or navigation equipment. This section also amends the PWSA to authorize the Commandant to enter into cooperative agreements with non-Federal entities to carry out Ports and Waterways Safety Act vessel operating requirements, including vessel traffic services.

Section 302 of the Senate amendment would authorize the Secretary to prohibit the use of certain electronic devices that could interfere with shipboard navigation or communications systems. It also would authorize the Secretary to enter into partnerships and cooperative ventures with non-Federal entities to carry out Ports and Waterways Safety Act vessel operating requirements, including vessel traffic services, and would allow longer-term, 20-year leases between the Coast Guard and such partners. The Senate provision also exempts from the prohibition electronic or other devices that use a certain portion of the spectrum currently owned by a private entity.

The Conference substitute adopts the House provision with a slight clarification

that the use of electronic or other devices that interfere with a vessel's communication or navigation equipment is prohibited aboard vessels, but restricts the Secretary from using this authority with respect to electronic or other devices certified to transmit in the maritime services by the Federal Communications Commission and used within the frequency bands 157.1875–157.4375 MHz and 161.7875–162.0375 MHz.

With the increased reliance on Geographic Positioning Systems (GPS), interference to GPS receivers could become a significant problem, especially when GPS is integrated with automatic heading control and dynamic positioning systems that control the navigation and movement of the vessel. Interference has been known to cause GPS systems to generate false positions. A slight position ''error'' may cause enough of a heading change to run a ship aground.

Section 303. Inland Navigation Rules Promulgation Authority

Section 303 of the House bill proposes to remove the Inland Navigation Rules from 33 U.S.C. 2001 if the Secretary promulgates Inland Navigation Rules through a regulatory proceeding. The statutory rules remain in effect until such regulations become effective.

Section 314 of the Senate amendment contains a similar provision.

The Conference substitute adopts the House provision.

This change allows for future changes to the Inland Navigation Rules through the regulatory process without the need for statutory changes.

Section 304. Saint Lawrence Seaway

The House bill contains no similar provision.

The Senate bill contains no similar provision.

The conference substitute maintains the role of the Secretary of Transportation in carrying out the Ports and Waterways Safety Act as it relates to the Saint Lawrence Seaway.

TITLE IV—SHIPPING

Section 401. Reports From Charterers

Section 401 of the House bill gives the Secretary the authority to require reports from vessel charterers to ensure compliance with laws governing vessels engaged in coastwise trade and fisheries. Under current law, the Secretary may require reports from vessel owners and masters.

Section 303 of the Senate amendment includes an identical provision.

The Conference substitute adopts the House provision.

Section 402. Removal of Mandatory Revocation for Proved Drug Convictions in Suspension and Revocation Cases

Section 402 of the House bill would remove the automatic requirement to suspend a merchant mariner's credentials in every document suspension and revocation case involving a drug conviction, thereby giving the Coast Guard Administrative Law Judge additional discretion in appropriate cases involving minor offenses.

Section 306 of the Senate amendment contains an identical provision under a different heading.

The Conference substitute adopts the Senate provision.

Under current law, a merchant mariner's credential (MMC) must be revoked if the credential holder is convicted of violating a State or Federal drug law, or found to use, or be addicted to, a dangerous drug. However, if evidence of proof of cure is provided, the credential 15 of a drug user or addict need not be revoked. No option other than revocation is provided for a drug offense conviction.

In 1994, the Coast Guard began using Settlement Agreements to resolve suspension and revocation cases without a hearing. These have been particularly successful in cases involving drug use where the Administrative Law Judge (ALJ) need not revoke credentials if the holder provides satisfactory proof of cure. The Coast Guard seeks the discretion to suspend a mariner's credentials in dangerous drug law conviction cases. Use of that discretion will allow the use of Settlement Agreements to resolve cases involving minor drug convictions. The Coast Guard believes that granting ALJ's discretion to approve settlement agreements will improve the administration of the MMC program by removing the requirement for a hearing and revocation in every case involving a drug conviction. This will allow minor cases to be settled quickly leaving resources available to focus on more serious cases.

Section 403. Records of Merchant Mariner Documents

Section 403 of the House bill strikes the prohibition on ''general or public inspection'' of merchant mariners' documents (MMDs).

Section 307 of the Senate amendment contains a substantively similar provision.

The Conference substitute adopts the Senate provision.

Striking this prohibition will bring merchant mariners' documents (MMDs) under the record protection and release policies of the Privacy Act, 5 U.S.C. 552a, and Freedom of Information Act (FOIA), 5 U.S.C. 552. Since no similar prohibition exists for merchant mariners' licenses, or certificates, this change provides equal treatment for all merchant mariners' credentials. With this change, release of information regarding all credentials will be governed by the Privacy Act and FOIA.

The prohibition against ''general or public inspection'' of MMDs was enacted decades before the Privacy Act and FOIA. The prohibition denies access to MMDs even to individuals with legitimate reasons for accessing that information. Even a request to verify a mariner's qualifications is refused by the National Maritime Center (NMC). NMC cannot confirm to an employer that a mariner is documented. The prohibition prevents family members and historians seeking information about deceased mariners, even upon presentation of a valid death certificate, from receiving information.

Section 404. Exemption of Unmanned Barges From Certain Citizenship Requirements

Section 404 of the House bill exempts unmanned barges from the requirement that all documented vessels be under the command of a citizen of the United States unless those vessels are engaged in a coastwise voyage.

Section 308 of the Senate amendment is a similar provision.

The Conference substitute adopts the Senate provision.

When an unmanned U.S. barge is in service with a tug or other vessel not under the operational control of a U.S. citizen, the current requirement places an administrative burden on the barge operator that results in no practical benefit.

To comply with the U.S. citizen-in-command requirement, a U.S. citizen deckhand is sometimes designated as the ''barge master'' on the towing vessel, so that the unmanned barge will be ''under the command of'' a U.S. citizen. This solution is an artificial one that lends no real value, since the ''barge master'' is not in command as a practical matter, having no control over the tug. Rather, it is the master of the tug who has control of both the tug and the barge, and makes the decisions concerning navigation, crew hiring and firing, discipline, and compliance with laws and regulations. Designating a U.S. citizen ''barge master'' on board the tug does not confer decision making authority on that citizen, but it could burden that person with the consequences of the tug operator's actions.

Under current law, an unmanned barge not under command of a U.S. citizen is subject to seizure and forfeiture. Strict enforcement of this requirement would effectively prohibit owners of U.S. documented barges from bareboat chartering their vessels to foreign interests. To comply with existing law, a U.S. citizen would have to be aboard any foreign tug that tows a bareboat chartered U.S. barge and be designated as in command of that barge. Lighter Aboard Ship (LASH) barges discharged in foreign ports cannot comply with this requirement unless the vessel carrying the LASH barges also carries at least one U.S. citizen who would leave the LASH carrier to accompany the barges when discharged.

Section 405. Compliance With International Safety Management Code

Section 405 of the House bill requires foreign flag vessels departing and returning to the same U.S. port, or returning to another port under the jurisdiction of the United States, to comply with the International Safety Management (ISM) Code when any part of the voyage occurs on the high seas.

Section 316 of the Senate amendment contains a similar provision.

The Conference substitute adopts the House provision.

This section would require foreign flagged vessels on ''voyages to nowhere'' to comply with the ISM Code. It would amend section 3201 of title 46 to require foreign flagged vessels departing and returning to the same U.S. port, or returning to another port under the jurisdiction of the U.S., to comply with the ISM Code when any part of the voyage occurs on the high seas.

Section 406. Penalties

Section 406 of the House bill increases the maximum civil administrative penalty for violations of Federal recreational boat safety regulations from $2,000 to a maximum of $5,000, and increases the maximum for a related series of violations from $100,000 to $250,000. Current law applies these penalties for wrongful manufacture or sale. This section also applies the penalties to wrongful labeling and failure to notify of a recall.

Section 310 of the Senate amendment follows the House provision in increasing civil penalties. The Senate provision also adds a criminal penalty provision for knowing and willful violations of section 4307(a).

The Conference substitute adopts the civil penalties provision and establishes criminal penalties for willful and knowing violation of section 4310 (f). Section 4310 (f) allows the Secretary to require a recall of a recreational vessel or associated equipment.

Section 407. Revision of Temporary Suspension Criteria in Document Suspension and Revocation Cases

Section 407 of the House bill corrects a drafting error, and allows the Coast Guard to temporarily suspend or revoke a merchant mariner's credentials (MMCs) if the mariner has been convicted of certain National Driver Register Act (NDRA) offenses.

Section 304 of the Senate amendment contains a similar provision.

The Conference substitute largely adopts the Senate provision and further describes conditions that would allow the Secretary to temporarily suspend an MMC.

Under current law, an MMC could only be suspended or revoked for an NDRA conviction if the mariner was acting under the authority of the credential when the NDRA violation occurred. Since there are no reasonable scenarios under which a mariner will

commit a motor vehicle-related offense while on board ship, this section restores the intent of the provision to allow suspension or revocation after a conviction for operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance, or a traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways.

Current law allows for longer-term suspension or revocation of the MMC as a result of an NDRA suspension after a suspension and revocation hearing. The provision amended by this section only deals with temporary suspensions or revocations of no more than 45 days prior to a hearing. This section also provides authority to temporarily suspend an MMC if the holder threatens the security of a vessel or the port.

Section 408. Revision of Bases for Document Suspension and Revocation Cases

Section 408 of the House bill allows the Coast Guard to suspend or revoke a merchant mariner's credentials (MMC) if the mariner commits an act of incompetence whether or not the mariner is acting under the authority of the MMC at the time the act occurs.

Section 305 of the Senate amendment contains a similar provision.

The Conference substitute adopts the Senate provision, and further defines circumstances under which the Secretary of the department in which the Coast Guard is operating may suspend or revoke merchant mariner's credentials.

Under current law, the Coast Guard can only undertake suspension and revocation proceedings if the mariner commits an act of incompetence while acting under the authority of the MMC. The section allows an MMC to be revoked whenever the mariner commits an act of incompetence related to the operation of a vessel. The section also adds security threat as a basis for which the Secretary may suspend or revoke an MMC.

Section 409. Hours of Service on Towing Vessels

Section 409 of the House bill grants the Secretary of the department in which the Coast Guard is operating the authority to prescribe maximum hours of service for individuals engaged on a towing vessel that is required to have a licensed operator under section 8904 of title 46, United States Code. However, before prescribing those regulations, the Secretary is required to conduct and report to Congress on the results of a demonstration project involving the implementation of Crew Endurance Management Systems on these vessels.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

In September 2001, a towing vessel struck a bridge at South Padre Island, TX. The bridge collapsed, and 5 people died when their cars or trucks went into the water. On May 26, 2002, a towing vessel struck the I–40 highway bridge over the Arkansas River at Webber Falls, OK. The bridge collapsed, and 14 people died when their cars or trucks went into the Arkansas River.

As a result of these accidents, the Coast Guard and the American Waterways Operators established a Joint Working Group to examine the statistics of bridge allisions and measures that could be taken to help prevent these types of casualties. The study used a database of 2,692 bridge allision cases between 1992–2001. One of the recommendations of the working group's May, 2003 report is to "require the implementation of Crew Endurance Management Systems (CEMS) throughout the towing industry as a means of improving decision making fitness. In addition, on June 1, 1999, the National Transportation Safety Board issued Recommendation M–99–1 to the Coast Guard that stated the Coast Guard should "Establish within 2 years scientifically based hours-of-service regulations that set limits on hours of service, provide 19 predictable work and rest schedules, and consider circadian rhythms and human sleep and rest requirements.". This section would give the Coast Guard the legal authority to implement these recommendations.

The Conferees expect that the Secretary will carefully evaluate the results of the demonstration project prior to determining the need to establish maximum hours of service regulations as permitted under subsection (a). Prior to promulgating any such regulations, the Conferees also expect that the Secretary will evaluate the costs and benefits of establishing maximum hours of service requirements on towing vessels. This evaluation should include a review of Coast Guard casualty data to determine whether there is statistical evidence to support the need for new hours of service regulations.

Section 410. Electronic Charts

Section 410 of the House bill requires shipboard automatic identification systems to include electronic charts and related display.

Section 324 of the Senate amendment would require the Coast Guard, in consultation with NOAA, to report on the costs of completing Electronic Navigation Charts for the existing suite of NOAA charts, the costs and benefits of requiring electronic navigation systems on vessels, and a description of international standards in this area.

The conference substitute requires certain vessels to be equipped with and be able to operate electronic charts.

The section applies to self propelled commercial vessels of at least 65 feet in length, vessels carrying more passengers than an amount prescribed by the Secretary, a towing vessel of more than 26 feet in length and 600 horsepower, and any other vessel for which the Secretary decides that electronic charts are necessary for the safe navigation of the vessel. On September 22, 1993, at about 2:45 a.m. the towing vessel *Mauvilla* and its barges became lost in the fog and struck and displaced the Big Bayou Canot railroad bridge near Mobile, Alabama. Later that night the Amtrak train, Sunset Limited, derailed as it went over the bridge and fell into the water killing 42 passengers and 5 crewmembers. The Conferees believe that electronic charts tied to a Global Positioning Satellite receiver will help prevent accidents such as this in the future. The conferees recognize that vector electronic charts may not be available for all of the navigable waters of the United States. However, the Secretary may allow a vessel operator to use raster electronic charts until vector charts become available for those waters.

This section also allows the Secretary to waive the requirement for a vessel to be equipped with an electronic chart system if the Secretary finds that an electronic chart and related display is not necessary for the safe operation of a vessel or class of vessels on the waters on which those vessels operate. If the vessel is also required to have an Automatic identification system (AIS) on board the vessel under section 70114 of title 46, United States Code, the Conferees believe that the Secretary should require the AIS system information to be integrated with the electronic chart display.

Section 411. Prevention of Departure

Section 411 of the House bill allows the Coast Guard to conduct examinations to ensure that a passenger vessel calling on a U.S. port complies with the International Convention for the Safety of Life at Sea (SOLAS) so long as a U.S. citizen passenger is aboard.

Section 315 of the Senate amendment contains a similar provision.

The Conference substitute adopts the Senate provision with a clarifying amendment.

Current law authorizes the Secretary to prevent a foreign passenger vessel from departing a U.S. port, with passengers who are embarked at that port, if the Secretary finds that the vessel does not comply with the standards stated in (SOLAS). However, the statute does not provide a similar authority to the Secretary regarding control of a foreign passenger vessel that may have embarked passengers from a nearby foreign port and is conducting a voyage to a U.S. port. The result of this distinction is that a foreign vessel embarking U.S. passengers from a neighboring country such as Canada or a Caribbean country and calling on U.S. ports would not be subject to the same detailed examination as a foreign passenger vessel embarking passengers from a U.S. port conducting a similar voyage. Without the ability to conduct such an examination, it is difficult for the Coast Guard to assure that such vessels are in compliance with SOLAS regulations.

Section 412. Service of Foreign Nationals for Maritime Educational Purposes

Section 412 of the House bill would allow foreign nationals enrolled at the United States Merchant Marine Academy to operate aboard a vessel as an unlicensed seaman for purposes of fulfilling educational requirements for graduation from the Academy.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

Section 413. Classification Societies

Section 413 of the House bill prohibits a classification society from operating in interstate or foreign commerce without the review of the society's activities and subsequent approval of the Secretary of the department in which the Coast Guard is operating. The section also outlines criteria which must be met in the determination of the Secretary before a society receives the Secretary's approval.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that prohibits a classification society from reviewing or certifying the construction, repair, or alteration of a vessel while in the United States unless the society has applied for and received approval from the Secretary of the department in which the Coast Guard is operating or the society is a full member of the International Association of Classification Societies. The provision also outlines criteria which must be met in the determination of the Secretary before a society receives the Secretary's approval.

Section 414. Drug Testing Reporting

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that requires Federal agencies to submit results of positive drug tests and verified test violations from civilian and certain uniformed personnel employed aboard Federally-operated vessels to the Coast Guard.

Section 415. Inspection of Towing Vessels

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adds towing vessels, as defined in section 2101 of title 46, United States Code, as a class of vessels that are subject to safety inspections under chapter 33 of that title. Section 3306 of title 46 details the items that are to be regulated

under the chapter to secure the safety of individuals and property on board the vessel. This includes design, construction, alteration and repair of the superstructures, hulls, fittings, equipment appliances, propulsion equipment, machinery, lifesaving equipment, firefighting equipment, and vessel stores and other supplies of a dangerous nature.

The Coast Guard may prescribe different standards for towing vessels than for other types of inspected vessels. Similarly, the Coast Guard can prescribe different standards for the various types of towing vessels based on size, horsepower, type of operation, area of operation. For example, the Coast Guard can prescribe different standards with regard to propulsion machinery and hulls for a towing vessel pushing barges down the Mississippi River than for vessels that provide towing assistance for recreational vessels.

New section 3306(j) of title 46, United States Code, authorizes the Secretary of the department in which the Coast Guard is operating to establish by regulation a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels. Safety management systems allow the Coast Guard to oversee the maintenance and repair of vessel equipment and ship systems subject to inspection through an approved safety management plan that includes maintenance schedules and system tests. The Coast Guard may enforce the plan through audits of the vessel's logs and vessel operator's records rather than having to directly oversee the repair or maintenance work conducted on a particular piece of equipment or ship system.

Section 416. Potable Water

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that requires vessels subject to inspection by the Coast Guard to have an adequate supply of potable water for drinking and washing.

Section 417. Transportation of Platform Jackets

The House bill does not contain a comparable provision.

Section 406 of the Senate amendment would make a technical clarification to a provision under the MTSA that allows the use of foreign launch barges in certain offshore construction.

The Conference substitute amends the thirteenth proviso (pertaining to transportation by launch barge) to allow previously non-qualified launch barges built before December 31, 2000 and has a launch capacity of at least 12,000 gross tons to participate in the coastwise trade under certain conditions.

Section 418. Renewal of Advisory Groups

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision, which reauthorizes several safety advisory committees through September 30, 2010.

TITLE V—FEDERAL MARITIME COMMISSION

Section 501. Authorization of Appropriations for Federal Maritime Commission

Section 501 of the House bill authorizes appropriations for the Federal Maritime Commission for Fiscal Year 2004.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that authorizes appropriations for the Federal Maritime Commission for each of the Fiscal Years 2005 through 2008.

Section 502. Report on Ocean Shipping Information Gathering Efforts

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that requires the Chairman of the Federal Maritime Commission to submit a report to Congress regarding the sharing of ocean shipping information with Federal, State, and local government agencies to assist law enforcement and anti-terrorism efforts.

TITLE VI—MISCELLANEOUS

Section 601. Increase in Civil Penalties for Violations of Certain Bridge Statutes

Section 601 of the House bill increases the civil penalties for bridge violations under the Rivers and Harbors Appropriations Act of August 18, 1894; the Rivers and Harbors Appropriations Act of March 3, 1899; the Bridge Act of 1906; and the General Bridge Act of 1946 to a maximum of $25,000 per-day per-violation. This section phases in that increase over 5 years.

Section 309 of the Senate amendment also increases the civil penalties for bridge violations to a maximum of $25,000 per-day, per-violation upon enactment of the Act.

The Conference substitute adopts the House provision.

Bridges constructed across the navigable waters of the United States are considered obstructions to navigation and must provide for the reasonable needs of navigation. Civil penalties for 20 potential bridge statute violations range in amounts from $220 to $1,100 per day and involve matters such as failure to install and keep bridge lights and other signals in working order; unreasonable delay in operating a draw opening after signal; and failure to give timely notice of construction or modification events affecting navigation. Vessel owners and operators are also subject to penalties—for example, for signaling a drawbridge to open for a nonstructural vessel appurtenance unessential to navigation or easily lowered.

The Coast Guard maintains that current civil penalties for violations of bridge laws and regulations are insufficient to effectively discourage violations. Current law sets the civil penalty at a maximum $1,000 per-day per-violation with each day a violation continued constituting a separate offense. With the minor adjustments allowed under the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, the maximum civil penalty is now $1,100 per-day per violation.

Section 602. Conveyance of Decommissioned Coast Guard Cutters

Section 602 of the House bill directs the Commandant of the Coast Guard to convey three decommissioned Coast Guard vessels for historical display purposes to nonprofit corporations in Port Huron, Michigan, Sherman Oaks, California, and Duluth, Minnesota, respectively.

Section 403 of the Senate amendment contains a similar provision, but makes the transfer of the vessels discretionary.

The Conference substitute adopts the Senate provision.

As a condition of conveyance, the recipients must agree that the vessel (1) will be used for education and historical display purposes; (2) must not be used for commercial transportation; and (3) will be made available to the United States Government if needed in time of war or national emergency. The recipient must also agree to hold the government harmless for claims arising from exposure to hazardous materials.

Section 603. Tonnage Measurement

Section 603 of the House bill deems the motor vessel *Bluefin* to be 488 gross tons and the motor vessel *Coastal Merchant* to be 493 gross tons, as measured under regulations prescribed under section 14502 of title 46, United States Code, for purposes of applying the optional regulatory measurement under section 14305 of title 46, United States Code.

The Senate amendment does not contain a comparable provision.

The Conference substitute authorizes the Secretary of the department in which the Coast Guard to apply section 8104(o) of title 46, United States Code, to the vessels M/V *Bluefin* and M/V *Coastal Merchant* unless such application would compromise safety.

Section 604. Operation of Vessel ''Stad Amsterdam''

Section 604 of the House bill authorizes the vessel *Stad Amsterdam* to carry non-paying guests within U.S. waters and between ports and places in the U.S. These are individuals who are not directly and substantially connected with the operation, navigation, ownership, or business of the vessel, who are friends, guests, or employees of the owner of the vessel, and who are not actual or prospective customers for hire of the vessel.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision similar to the House provision, but limits the authorization to 45 calendar days per year and requires the Secretary to revoke the authorization if the terms of the authorization are not adhered to.

This section does not authorize the vessel to carry individuals for a fare or to be chartered on a for-hire basis in the coastwise trade. In fact, this section prohibits *Stad Amsterdam* from being ''used to carry individuals for a fare or to be chartered on a for-hire basis in the coastwise trade.'' This means that the owners may not solicit or accept payment for the carriage of friends, guests, and employees in U.S. domestic waters.

Existing law requires that vessels carrying passengers for hire in the coastwise trade be U.S. built, U.S. manned, U.S. owned, and U.S. documented. Prior to 2002, the U.S. Customs Service ruled that non-paying guests of the owner or operator were not considered passengers. Therefore, vessels carrying non-paying guests in U.S. coastal waters did not have to meet domestic build, crew, ownership, and documentation requirements. In June 2002, Customs ruled that individuals be ''considered passengers unless they are directly and substantially connected with the operation, navigation, ownership, or business of the vessel.'' This section applies the earlier Customs ruling to non-paying guests on the *Stad Amsterdam*.

Section 605. Great Lakes Regional National Maritime Enhancement Institute

Section 605 of the House bill authorizes $5 million to be appropriated to the Secretary of Transportation in each of the Fiscal Years 2004 through 2008 to study cargo transportation on the Great Lakes.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that authorizes the Secretary of Transportation to designate a National Maritime Enhancement Institute in the Great Lakes region. The provision also requires the Secretary to conduct a study a number of issues related to marine cargo transportation in the Great Lakes and to report the result on this study to Congress. The study is to be completed within two years of the enactment of the Act and $1.5 million is authorized to be appropriated to the Secretary of Transportation for each of fiscal years 2005 and 2006.

Section 606. Koss Cove

Section 607 of the House bill designates a cove lying off the southern coast of

Erlington Island in Alaska as ''Koss Cove'', in honor of the late Able Bodied Seaman Eric Steiner Koss. Seaman Koss served aboard the National Oceanic and Atmospheric Administration vessel *Rainier*, and died in the performance of a nautical charting mission in this cove.

Section 404 of the Senate amendment contains a similar provision.

The Conference substitute adopts the House provision.

Section 607. Miscellaneous Certificates of Inspection

Section 608 of the House bill section provides coastwise trade endorsements for two U.S.-flag, U.S. owned, and U.S. built vessels, the *Ocean Leader* and the *Revelation*.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision with an amendment that provides coastwise trade endorsements for two additional vessels, the *Miss Linda*, and the *Ragland*.

Section 608. Requirements for Coastwise Endorsement

Section 609 of the House bill requires the Secretary of the department in which the Coast Guard is operating to implement final regulations to carry out section 12106(e) of title 46, United States Code, regarding lease financing by foreign entities of vessels intended to be used in the coastwise trade.

The Senate amendment does not contain a comparable provision.

The Conference substitute requires that foreign owners of U.S.-built vessels engaged in the coastwise trade annually certify that the owner is a financial institution without any active interest in the operation of the vessel or any affiliation with a parent company, subsidiary or other affiliate that operates vessels for hire or has the ability to directly or indirectly control or direct the use of any vessel.

The substitute exempts certain vessels that carry predominantly proprietary cargo (defined as petroleum-derived products) and vessels owned by one entity engaged in the transportation and distribution of petroleum products in Alaska from these requirements.

The substitute allows vessels that had been procured by lease financing under the Coast Guard's pre-February 4, 2004 policy to maintain their coastwise endorsements for the life of the vessel. Replacement vessels for such vessels may receive a coastwise endorsement if replacement is due to an act of God or a marine casualty, or if a contract to build such a replacement vessel is entered into prior to December, 31, 2004. Offshore supply vessels procured by lease financing under the Coast Guard's pre-February 4, 2004 policy may maintain their coastwise endorsement for 3 years after the date of enactment of this Act.

Section 609. Correction of References to National Driver Register

Section 614 of the House bill makes technical corrections to the National Driver Register Act of 1982 (23 U.S.C. 401 note).

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

Section 610. Wateree River

Section 615 of the House bill designates a portion of the Wateree River in the state of South Carolina stretching from 100 feet upstream of the railroad bridge located at approximately mile marker 10.0 to a point 100 feet downstream of the bridge to be non-navigable waters for purposes of bridge administration.

Section 405 of the Senate amendment contains a similar provision.

The Conference substitute adopts the House provision.

Section 611. Merchant Mariners' Documents Demonstration Program

Section 616 of the House bill authorizes the Secretary of the department in which the Coast Guard is operating to establish a pilot program in the 17th Coast Guard District to improve processing and procedures for issuing merchant mariners' documents. The provision directs the Secretary to consult with the Secretary of the Air Force so that any such demonstration program will implement some of the measures currently in place in the Air Force program.

The Senate amendment does not contain a comparable provision.

The Conference substitute authorizes the Secretary to establish a merchant mariner documents technology demonstration program.

In carrying out any pilot project under this section, the Conferees expect the Secretary to give particular consideration to the distances that must be traveled between areas in which mariners work and processing offices. The Conferees also expect the Secretary to consider the seasonal nature of work done in those areas. Clearly the greatest benefits to be derived from automated documents processing would come in areas where the distance to and from work sites is the greatest, and the duration of the work the shortest. Any pilot project should demonstrate methods to improve processing and procedures for issuing merchant mariners' documents. The Conferees encourage the Secretary to consult with the Secretary of the Air Force regarding the efficiency and effectiveness of the content management technology and information management tools that are currently used by the Department of the Air Force in the Air Force Publishing Directorate.

Section 612. Conveyance

Section 617 of the House bill conveys the light station built on Sentinel Island, Alaska and the surrounding land to the Gastineau Channel Historical Society of Juneau, Alaska. Under terms of the conveyance all navigational aids on the island and all property must be maintained in working condition by the Society.

The Senate amendment does not contain a comparable provision.

The Conference substitute directs the Secretary of the department in which the Coast Guard is operating to convey Sentinel Island to the entity that receives ownership of the light station through the competitive process outlined by the National Historic Lighthouse Preservation Act (16 U.S.C. 470w–7). The provision retains the terms of conveyance that were included in the original House provision.

Section 613. Bridge Administration

Section 619 of the House bill repeals section 325 of Public Law 97–369 (96 Stat. 1785) which prohibits approval of any project or action which would interfere with the reasonable needs of navigation on the Columbia Slough, Oregon.

Section 408 of the Senate amendment is a substantively similar provision which removes the prohibition of approval of any such project by amending the statute rather than repealing it.

The Conference substitute adopts the Senate provision.

Section 614. Sense of the Congress Regarding Carbon Monoxide and Watercraft

Section 620 of the House bill expresses the sense of the Congress that the Coast Guard should continue to place a high priority on addressing the safety risks posed to boaters by elevated levels of carbon monoxide unique to watercraft, and work with vessel and engine manufacturers, the American Boat & Yacht Council, other Federal agencies, and the entire boating community in order to determine the best ways to minimize the number of carbon monoxide-related boating deaths occurring each year.

The Senate amendment does not contain a comparable amendment.

The Conference substitute adopts the House provision.

Section 615. Mitigation of Penalty Due to Avoidance of a Certain Condition

Section 624 of the House bill deems for penalty mitigation purposes a certain violation of Federal law owing to avoidance of a specified hazardous condition involving power lines across the Mississippi River at Chalmette, Louisiana, to have been committed by reason of a safety concern.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that deems for penalty mitigation purposes a certain violation of Federal law owing to avoidance of a specified condition involving the lack of vertical clearance due to water height on the Mississippi River at Chalmette, Louisiana, to have been committed by reason of a safety concern. The provision also mitigates the penalty assessed for a violation incurred while the vessel in question was repositioned to the Port of New Orleans, Louisiana to an amount not more than $100 per passenger.

Section 616. Certain Vessels to be Tour Vessels

Section 625 of the House bill deems the passenger vessel *Empress of the North* as a tour vessel for purposes of certain regulations with respect to vessel operations in Glacier Bay National Park and Preserve, Alaska.

The Senate amendment does not contain a comparable provision.

The Conference substitute allows for a vessel over 100 gross tons, but no larger than 300 gross tons, to be deemed a tour vessel, solely for purposes of permit allocations, if it meets certain criteria. Such vessels would only be eligible for existing permits for operating in Glacier Bay, and only if a vessel under 100 gross tons is not seeking the permit. Up to three vessels that meet these criteria are eligible for such permits, but only one such vessel can enter Glacier Bay on a given day. Finally, the provision makes it clear that all other regulations that apply to vessels of at least 100 gross tons still apply to these vessels, including restrictions pertaining to speed, route and closed waters.

Section 617. Sense of Congress Regarding Timely Review and Adjustment of Great Lakes Pilotage Fees

Section 626 of the House bill expresses the sense of the Congress that the CG Secretary should, on a timely basis, review, and adjust the pilotage rates payable for services performed by U.S. registered pilots on the Great Lakes.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision. The conferees urge the Coast Guard to review and adjust (if appropriate) these rates on an annual basis as provided in the Coast Guard regulations.

Section 618. Westlake Chemical Barge Documentation

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute authorizes U.S. built, U.S. manned, U.S. owned barges to operate in the coastwise trade.

Section 619. Correction to Definition

The House bill does not contain a comparable provision.

Section 311 of the Senate amendment makes a technical correction to the reference to the Coast Guard in a list of defined federal law enforcement agencies included in Pubic Law 107–173.

The Conference substitute adopts the Senate provision.

Section 620. LORAN-C

The House bill does not contain a comparable provision.

Section 402 of the Senate amendment authorizes DOT to transfer $25 million in FY 2004 from the FAA to the Coast Guard for recapitalization of the LORAN-C radio navigation system.

The Conference substitute adopts the Senate provision, as amended to provide an authorization for 2005.

Section 621. Deepwater Report

The House bill does not contain a comparable provision.

Section 322 of the Senate amendment would require the CG to provide a report on the performance of the prime contractor under the first five-year term of the contract for the Integrated Deepwater Program.

The Conference substitute adopts the Senate provision, as amended to require additional information to be included in the report, such as any anticipated changes in the mix of legacy and replacement assets over the life of the program, and projected costs. As part of this report, the Conferees understand that the Coast Guard will provide a revised Integrated Deepwater Systems Program plan, including any planned changes related to the replacement of legacy assets with new assets and associated costs. The Conferees also expect the report to discuss the Coast Guard's intentions with respect to replacement of the engines on its HU–25 aircraft, and expect the Coast Guard to notify the Committee on Commerce, Science and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House at least 30 days prior to expending any funds to replace the engines on its HU–25 aircraft, or develop plans to replace such engines.

Section 622. Judicial Review of National Transportation Safety Board Final Orders

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute allows the Commandant of the Coast Guard to seek a judicial review of an order of the Board issued pursuant to a review of a Coast Guard action if it will have an adverse impact on maritime safety or security.

Section 623. Interim Authority for Dry Bulk Cargo Residue Disposal

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute extends the interim authority of the Coast Guard to issue regulations regarding dry bulk cargo residue through not later than September 30, 2008.

The current program was developed with the input of a broad range of stakeholders, including experts from the maritime industry, government, and the scientific community. A recent study for the Coast Guard has recommended that the current policy be continued in part because that policy is specific, limiting cargo sweepings to certain areas of the Great Lakes while prohibiting discharges in environmentally sensitive areas such as fish spawning areas. Most important, the current program limits cargo sweepings to small amounts of non-toxic, non hazardous materials. In administering the program, the Coast Guard has considered and balanced the needs of environmental protection and maritime commerce.

On January 13, 2004 the Coast Guard announced its intention to conduct an environmental assessment of the current policy and then proceed to a permanent regulatory program. [69 Fed Reg 1994] The substitute directs that the current policy serve as the basis for an environmental assessment that will begin within 90 days of enactment, authorizes any necessary regulatory proceeding, and sets the foundation for the establishment of a permanent system. It is expected that the current program will be made permanent or replaced with an alternative regime that appropriately balances the needs of maritime commerce and environmental protection by no later than September 30, 2008.

Section 624. Small Passenger Vessel Safety

The House bill does not contain a comparable provision.

Section 323 of the Senate amendment would require the Coast Guard to provide a report on compliance with small passenger vessel regulations, including recommendations for improvement.

The Conference substitute adopts the Senate provision with minor amendments.

Section 625. Conveyance of Motor Lifeboat

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that allows the Coast Guard to transfer a 44′ motor lifeboat to the city of Ludington, Michigan for historical purposes.

Section 626. Study of Routing Measures

The House bill does not contain a comparable provision.

Section 325 of the Senate amendment would require the Coast Guard to carry out studies of routing measures to reduce ship strikes of North Atlantic Right Whales.

The Conference substitute adopts a provision that is similar to the Senate provision. It directs the Coast Guard to cooperate with NOAA in carrying out analyses of routing measures to reduce ship strikes of North Atlantic Right Whales. The Coast Guard has an important role to play in such analyses, due to its mandates and expertise with respect to such studies. The bill requires that the Coast Guard provide a report with its final analysis to Congress no later than 18 months following enactment of this Act.

Section 627. Conveyance of Lighthouses

The House bill does not contain a comparable provision.

Section 401 of the Senate amendment would require the Secretary of the Interior to monitor any already executed or proposed lighthouse conveyance, and take any steps necessary to protect the United States' reversionary interest.

The Conference substitute adopts a similar provision to the Senate provision, which was amended to make technical changes.

Section 628. Waiver

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute authorizes the Secretary to waive the application of the definition of ''passenger'' for one of two adult chaperones aboard vessels owned or chartered by the Boy Scouts of America at its Florida National High Adventure Sea base program provided that the Secretary determines that such a waiver does not compromise safety.

Section 629. Approval of Modular Accommodation Units for Living Quarters

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute requires the Secretary of the department in which the Coast Guard is operating to approve for a period of five years modular accommodation units on floating offshore facilities that had previously been approved using incorrect criteria, provided that the use of these units will not compromise safety.

TITLE VII—AMENDMENTS RELATING TO THE OIL POLLUTION ACT OF 1990

Section 701. Vessel Response Plans

Section 701 of the House bill would require any vessel over 400 gross tons that carries oil, including as bunkers, to submit a pollution response plan.

Section 317 of the Senate amendment is a similar provision.

The Conference substitute adopts the House provision, as amended to make technical changes.

Section 702. Tank Level and Pressure Monitors

Section 702 of the House bill would amend the Oil Pollution Act of 1990 to make issuance of regulations concerning tank level and pressure monitoring (TLPM) devices discretionary vice mandatory.

Section 318 of the Senate amendment is a similar provision, which includes a report on alternative technologies.

The Conference substitute adopts the Senate provision.

Section 703. Liability and Cost Recovery

Section 703 of the House bill clarifies the liability waiver provisions for certain innocent parties. First, state and local governments are not considered liable as owners or operators if they acquired ownership of the property involuntarily and have not caused or contributed to a discharge or a substantial threat of a discharge of oil. Second, financial institutions are not owners or operators either if they hold indicia of ownership primarily to protect their security interest and do not participate in management of the property, or if they did not participate in management of the property prior to foreclosure and seek to divest the property at the earliest practicable, commercially reasonable time. Finally, subsequent innocent purchasers are not liable if they acquired the property after the placement of the oil on, in or at the real property, and either are a government entity that acquired the property through the exercise of eminent domain authority or through an involuntary transfer or acquisition, acquired the property by inheritance or bequest, or did not know or have reason to know about the oil after having conducted all appropriate inquiries.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision as amended to make technical changes.

The purpose of this section is to provide to innocent purchasers, municipalities and lenders the same protection against liability from oil discharges under the Oil Pollution Act of 1990 as are provided for such entities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended. To the extent that differences in the language exist, these are either technical in nature or were necessary to fit with the terminology used in the Oil Pollution Act.

Section 704. Oil Spill Recovery Institute

Section 704 of the House bill authorizes funding to the Oil Spill Recovery Institute (currently authorized through 2012) until one year after it is determined that oil and gas exploration, development, and production in Alaska have ceased.

The Senate amendment does not contain a comparable provision.

The Conference substitute makes technical corrections to the Oil Spill Recovery Institute's current authorization.

Section 705. Alternatives

Section 705 of the House bill would require within 1 year of the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish and publish an environmental equivalency evaluation index to assess outflow performance due to collisions and groundings for double hull tank vessels and alternative hull designs. The Secretary shall take into account the recommendations in the NRC Marine Board report entitled 'Environmental Performance of Tanker Design in Collision and Grounding' dated 2001.

The Senate amendment does not contain a comparable provision.

The Conference Substitute adopts the House provision.

Section 706. Authority to Settle

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision which authorizes the head of any department or agency responsible for recovering amounts for which a person is liable under this title may consider, compromise, and settle a claim for such amounts from the Oil Spill Liability Trust Fund, if the claim has not been referred to the Attorney General and does not exceed $500,000.

Section 707. Report on Implementation of the Oil Pollution Act of 1990

The House bill does not contain a comparable provision.

Section 319 of the Senate amendment would require the Coast Guard to provide a report to Congress with respect to a number of recent issues arising from implementation of the Oil Pollution Act (OPA) of 1990.

The Conference Substitute adopts the Senate provision, as amended to make technical changes.

Section 708. Loans for Fishermen and Aquaculture Producers Impacted by Oil Spills

The House amendment does not contain a comparable provision.

Section 320 of the Senate amendment would allow the use of the Oil Spill Liability Trust Fund to provide loans to qualified fishermen and aquaculture producers who have been impacted by an oil spill, until such time as adequate interim payments are made under the Act, or in the event that no interim payments are made.

The Conference substitute adopts the Senate provision.

TITLE VIII

Section 801. Enforcement

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adds a new section to Chapter 701 of title 46, United States Code, to provide express authority to carry a firearm, to seize property, and to make an arrest while at a maritime facility under guidelines to be approved by the Secretary and the Attorney General. The provision would also allow State and local law enforcement personnel to make warrantless arrests for felony violations of duly promulgated Coast Guard security zone regulations.

The conferees understand the need to clarify the Coast Guard's law enforcement authority while conducting onshore port security operations and have authorized members of the Coast Guard to make arrests and seize property while conducting port security operations at facilities defined under section 70101 of title 46. The conferees do not intend this section to authorize members of the Coast Guard to use this authority while in transit to or from such facilities. The conferees fully expect that before this authority is used, the Coast Guard will properly train all service members who could use this authority in the execution of their duties.

Section 802. In Rem Liability for Civil Penalties

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference establishes in rem liability for any vessel used to violate regulations issued under the authorization of the Maritime Transportation Security Act in order to recover financial penalties assessed following such violations, and certain costs related to compliance with lawfully issued orders. The substitute authorizes the Captain of the Port to withhold clearance of any vessel if the owner or operators are suspected to be subject to a financial penalty resulting from violations of port security violations. The substitute also allows clearance to be granted upon the filing of a surety bond.

Section 803. Maritime Information

Section 618 of the House bill authorizes funds to the Secretary of the department in which the Coast Guard is operating to implement a system to collect, integrate, and analyze information regarding vessels operating on or inbound to U.S. waters and to implement a long range automatic vessel tracking system for all vessels operating in U.S. waters.

The Senate amendment does not contain a comparable provision.

The Conference substitute requires the Secretary to develop a long-range vessel tracking system consistent with international treaties, conventions, and agreements to which the United States is a party, and allows the Secretary to acquire vessel risk profiling data from the private sector. It also requires the Secretary to develop a plan to improve the collection, collaboration, 37 coordination, dissemination and use of maritime information by Federal agencies. The Secretary is required to submit this plan to Congressional committees.

In considering its recommendations under subsection (b), the conferees encourage the Department to be aware of the important role played by existing non-profit maritime associations in the collection and dissemination of maritime information and encourage the Department to work with maritime exchanges to build upon and improve communications with the private sector.

Section 804. Maritime Security Transportation Grants

Section 622 of the House bill transfers authority for the port security grant program from the Secretary of Transportation, acting through the Maritime Administration, to the Secretary of the Department of Homeland Security, acting through the Commandant of the Coast Guard. Section 627 of the House bill directs the Secretary of Transportation, in making grants for implementation of security plans, to give priority to otherwise eligible projects concerning implementation of security plans with respect to public transportation systems.

The Senate amendment does not contain a comparable section.

The Conference substitute adopts, in lieu of sections 622 and 627 of the House bill, a provision that directs the Secretary to establish a grant program for implementation of the Area Maritime Transportation Security Plans and Facility Security Plans that will be reviewed by the Federal Maritime Security Coordinator and the Maritime Administration prior to a grant being awarded. In addition, the Secretary is required to transmit a report and provide recommendations for the grant process.

Section 805. Security Assessments of Waters under the Jurisdiction of the United States

Section 623 of the House bill directs the Secretary of the department in which the Coast Guard is operating to conduct a vulnerability assessment of the navigable waters adjacent to Indian Point Energy Center in Westchester County, New York and to report on that assessment to specified congressional committees.

The Senate amendment does not contain a comparable provision.

The Conference substitute directs the Secretary to conduct vulnerability assessments of waters adjacent to nuclear facilities in the United States. The conferees do not intend this section to require the Coast Guard to conduct vulnerability assessments of nuclear facilities. The conferees understand the Federal agencies with oversight of such facilities are conducting such assessments.

Section 806. Membership of Area Maritime Security Advisory Committees

Section 414 of the House bill requires Area Maritime Security Advisory Committees to include members from the port industry, terminal operators, port labor organizations, and other users of port areas.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

Section 807. Joint Operations Center for Port Security

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute requires the Secretary to submit a report to Congressional committees of jurisdiction regarding the establishment of joint operational centers for port security, and an estimate of the number, location and costs of such centers that would be necessary to implement port security measures outlined in the Marine Transportation Security Act of 2002.

Section 808. Investigations

Section 606 of the House bill authorizes the Secretary of Transportation to carry out an Agile Port and Intelligent Border Security National Demonstration Project under agreement with the Center for the Commercial Deployment of Transportation Technologies.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that directs the Secretary of the department in which the Coast Guard is operating to conduct certain investigations and pilot projects to enhance the security at American ports. The section authorizes an amount of $35 million for each of the next four fiscal years to award grants and to fund programs that would investigate or demonstrate methods of improving port security. The provision also authorizes the Secretary to establish National Port Security Centers at colleges and universities to conduct these investigations and requires the Secretary to submit to Congress a report annually to ensure that funds authorized under this section are used to support investigations and pilot programs outlined in this section. In awarding grants and funding pilot programs, the Committee encourages the Secretary to focus funding authorized to implement this section on research and development of technologies that maximize security while minimizing the disruption of maritime transportation and commerce.

Section 809. Vessel and Intermodal Security Reports

Section 610 of the House bill requires the Secretary of the department in which the Coast 39 Guard is operating to provide Congress with a report that will provide a complete breakdown of the number and types of cargo containers and vessels that enter the United States each year, and the cost incurred to conduct security inspections on those containers and vessels.

The Senate amendment does not contain a similar provision.

The Conference substitute adopts the House provision with an amendment that requires the Secretary and the Inspector General of the department in which the Coast Guard is operating to submit a number of reports, plans, evaluations, and take actions regarding the security of marine intermodal transportation, specifically the security of cargo containers.

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendments, and modifications committed to conference:

DON YOUNG,
HOWARD COBLE,
JOHN J. DUNCAN, Jr.,
PETE HOEKSTRA,
FRANK L. BIONDO,
ROB SIMMONS,
MARIO DIAZ-BALART,
JAMES L. OBERSTAR,
BOB FILNER,
TIMOTHY BISHOP,
NICK LAMPSON.

For consideration of the House bill and Senate amendments, and modifications committed to conference:

CHRIS COX,
BENNIE G. THOMPSON,
Managers on the Part of the House.

JOHN MCCAIN,
TED STEVENS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
OLYMPIA SNOWE,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
JOHN BREAUX,
RON WYDEN,
JIM INHOFE,
JIM JEFFORDS,
Managers on the Part of the Senate.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4613, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight, July 20, 2004, to file a conference report on the bill (H.R. 4613) making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

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

There was no objection.

GENERAL LEAVE

Mr. FRELINGHUYSEN. 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 H.R. 4850, and that I may include tabular material on the same.

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

There was no objection.

□ 1500

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore (Mr. SWEENEY). Pursuant to House Resolution 724 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4850.

□ 1500

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 consideration of the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District 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. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FRELINGHUYSEN).

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

Mr. Chairman, I am pleased to present the fiscal year 2005 District of Columbia appropriations bill. This bill passed out of full committee on July 14.

The bill before us totals $560 million in Federal funds and $8.2 billion in local funds. Within this total, the District expects to receive approximately $1.9 billion in Federal grant funds.

The bill is the product of hard work by every member of the Subcommittee on the District of Columbia. I personally want to thank each of them for their input into the bill. I especially want to thank my ranking member, the gentleman from Pennsylvania (Mr. FATTAH), for his advice, counsel, and support in the development of this bill. I enjoyed working with him on behalf of the city of Washington.

The subcommittee held hearings and visited many local sites, including the District of Columbia public schools and charter schools, and police and fire department facilities, to name just a few. We developed this bill with the input from members of the subcommittee, other House Members, the Mayor and city council, and interested citizens.

I believe that this bill continues Congress's commitment to our Nation's Capital. As with every piece of legislation, there are many deserving projects that could not be accommodated within our funding allocation, but this is a balanced and equitable bill, a bill that everyone can and should support.

I am pleased to note that the District of Columbia continues to make significant progress in improving both its financial and program management. This is the seventh balanced budget the District has submitted to Congress for review; and, once again, the District received a clean audit from the city's independent auditors. The city also had a recent upgrading in its bond rating by Moody's Investors Service to an A rating, and this is the first time the city has received an A rating from all three of the major rating agencies. It should be remembered that it was not long ago that the city's credit rating was the lowest of the low. Mayor Williams and the city council should be commended for their actions.

After detailed review of the budget, the bill continues the Federal commitment began in 1997 for funding the District of Columbia courts as well as the Defender Services and the Court Services and the Defender Supervision Agency and the Public Defender Service. The bill also provides $118.9 million for other high-priority District and congressional programs projects.

Among these: $25.6 million for the recently authorized and very successful resident tuition support program; $15 million for emergency planning and security costs; $10 million for the District of Columbia Water and Sewer Authority to continue the combined sewer overflow project; $3 million for continued work on the Anacostia Waterfront Initiative; as well as $7 million for the capital development in the District to complete construction of a multi-agency unified communications center, which benefits police, fire, EMS, and other city agencies; $6 million for a new public library learning center initiative; and $5 million for foster care improvement.

At the city's request, the bill also changes the city's reserve requirement from 7 to 6 percent. This change frees up additional resources, provides the city with more flexibility in balancing its budget, and does so without impacting the city's favorable bond rating.

As I noted earlier, the District has accomplished much, but still more needs to be done. We are particularly troubled by some of the more intractable problems facing the District that seem to revolve around its children. If this bill has a theme, it is to continue to make sure to help the children of the District of Columbia. To help address this issue, this bill also includes $5 million for the recently established foster care improvement program, additional money for family literacy, and $6 million for the new library/learning center initiative subject to a 1-to-1 match by the District.

Over the past year, we visited many of the city's schools, and I can tell my colleagues from personal observation

there is a real need to improve student and teacher performance. In these visits, I was struck by the very poor physical condition of some of the District's schools and by the lack of resources available to students, especially in their school libraries. This is a new initiative, and it is designed to enhance and restore District of Columbia elementary school libraries as fully functioning learning centers and, in doing so, bring together local, Federal, and potentially private resources. This initiative, when implemented, will enhance our ability to provide critical educational resources the city's children deserve in order to receive a quality education.

This bill also fully funds the school improvement program authorized last year. This bill maintains the three-pronged commitment made last year to both the District schools, the District of Columbia charter schools, and $14 million for opportunity scholarships for students in underachieving schools. This three-pronged approach is designed to improve academic performance, while promoting school choice and more potential parent involvement.

Mr. Chairman, this bill also retains the general provisions from last year's bill, which are the same as the President's request.

Mr. Chairman, I believe it is important to move this bill through the appropriations process as quickly as possible so as to allow the District to spend its own funds to operate the programs and projects in the bill at the beginning of the fiscal year in October.

Let me personally thank the gentlewoman from the District of Columbia (Ms. NORTON) for her comments earlier in the day during the debate on the D.C. rule. She is an incredible leader of this city, and it has been a pleasure to work with her. I do appreciate her cooperation by not offering an amendment, because I know in her heart she continues to be a principal advocate on behalf of the city, and I am grateful for her support and her action in that regard.

To summarize, Mr. Chairman, the bill we have before us is a fiscally responsible, balanced bill that deserves bipartisan support. It was not done alone. The gentleman from Pennsylvania (Mr. FATTAH) and I count on some key people. I would like to thank them for helping to put this bill together. The subcommittee led by our clerk, Joel Kaplan, Martha Foley, and Clelia Alvarado for their professional work on the bill. I also want to thank Nancy Fox from my staff and Michelle Anderson-Lee from the gentleman from Pennsylvania's (Mr. FATTAH) staff for their hard work.

At this point I will include for the RECORD a table detailing the various accounts included in the bill.

District of Columbia Appropriations Bill - FY 2005 (H.R. 4850)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I					
FEDERAL FUNDS					
Federal payment for Resident Tuition Support	16,900	17,000	25,600	+8,700	+8,600
Federal payment for Emergency Planning and Security Costs in the District of Columbia	10,935	15,000	15,000	+4,065	---
Federal payment to the District of Columbia Courts	166,775	228,069	202,110	+35,335	-25,959
Defender Services in District of Columbia Courts	31,811	41,500	41,500	+9,689	---
Federal payment to the Court Services and Offender Supervision Agency for the District of Columbia	167,441	187,490	183,490	+16,049	-4,000
Federal payment to the District of Columbia Water and Sewer Authority	29,823	10,000	10,000	-19,823	---
Federal payment for Hospital Bioterrorism Preparedness in the District of Columbia	7,456	---	---	-7,456	---
Federal payment for the Anacostia Waterfront Initiative /1	4,971	3,000	3,000	-1,971	---
Federal payment to the Criminal Justice Coordinating Council	1,292	1,300	1,300	+8	---
Federal payment for the Unified Communications Center	---	7,000	---	---	-7,000
Federal payment for the D.C. Fire and Emergency Medical Services Department	---	10,000	---	---	-10,000
Federal payment for Capital Development in the District of Columbia /2	8,102	---	7,000	-1,102	+7,000
Federal payment for Public School Facilities	4,473	---	---	-4,473	---
Federal payment for Public School Libraries	---	---	6,000	+6,000	+6,000
Federal payment for the Family Literacy Program	1,988	---	1,000	-988	+1,000
Federal payment for Transportation Assistance	3,479	---	---	-3,479	---
Federal payment for Foster Care Improvements in the District of Columbia	13,917	---	5,000	-8,917	+5,000
Federal Payment to the Office of the Chief Financial Officer of the District of Columbia	32,159	---	19,000	-13,159	+19,000
Federal Payment for emergency personnel cross training	497	---	---	-497	---
Federal payment for School Improvement	39,764	40,000	40,000	+236	---
Total, Federal funds to the District of Columbia	541,783	560,359	560,000	+18,217	-359

1/ Funds are for the Anacostia Riverwalk and Trail construction.

2/ Funds are for the Unified Communications Center construction

DISTRICT OF COLUMBIA FUNDS					
Operating Expenses					
Governmental direction and support	(284,415)	(416,069)	(416,069)	(+131,654)	---
Economic development and regulation	(276,647)	(334,745)	(334,745)	(+58,098)	---
Public safety and justice	(745,958)	(797,423)	(797,423)	(+51,465)	---
Public education system	(1,157,841)	(1,223,424)	(1,223,424)	(+65,583)	---
Human support services	(2,360,067)	(2,533,825)	(2,533,825)	(+173,758)	---
Public Works	(327,046)	(331,936)	(331,936)	(+4,890)	---
Reserve	---	---	---	---	---
Cash Reserve	(50,000)	(50,000)	(50,000)	---	---
Repayment of Loans and Interest	(311,504)	(347,700)	(347,700)	(+36,196)	---
Repayment of General Fund Recovery Debt	---	---	---	---	---
Payment of Interest on Short-Term Borrowing	(3,000)	(4,000)	(4,000)	(+1,000)	---
Certificates of Participation	(4,911)	(11,252)	(11,252)	(+6,341)	---
Settlements and Judgments	(22,522)	(20,270)	(20,270)	(-2,252)	---
Wilson Building	(3,704)	(3,633)	(3,633)	(-71)	---
Workforce Investments	(22,308)	(38,114)	(38,114)	(+15,806)	---
Non-Departmental Agency	(19,639)	(13,946)	(13,946)	(-5,693)	---
Equipment Lease Operating	---	(23,109)	(23,109)	(+23,109)	---
Pay-As-You-Go Capital	(11,267)	(6,531)	(6,531)	(-4,736)	---
Pay-As-You-Go Capital Contingency	---	(43,137)	(43,137)	(+43,137)	---
Tax Increment Financing Program	(1,940)	---	---	(-1,940)	---
Medicaid Disallowance	(57,000)	---	---	(-57,000)	---
Emergency Planning and Security Costs	---	---	---	---	---

District of Columbia Appropriations Bill - FY 2005 (H.R. 4850)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
Total, operating expenses, general fund	(5,659,769)	(6,199,114)	(6,199,114)	(+539,345)	---
Enterprise and Other Funds					
Water and Sewer Authority	(259,095)	(275,289)	(275,289)	(+16,194)	---
Washington Aqueduct	(55,553)	(47,972)	(47,972)	(-7,581)	---
Stormwater Permit Compliance enterprise fund	(3,501)	(3,792)	(3,792)	(+291)	---
Lottery and Charitable Games enterprise fund	(242,755)	(247,000)	(247,000)	(+4,245)	---
Sports and Entertainment Commission	(13,979)	(7,322)	(7,322)	(-6,657)	---
District of Columbia Retirement Board	(13,895)	(15,277)	(15,277)	(+1,382)	---
Washington Convention Center enterprise fund	(69,742)	(77,176)	(77,176)	(+7,434)	---
National Capital Revitalization Corporation	(7,849)	(7,849)	(7,849)	---	---
University of the District of Columbia	---	(85,102)	(85,102)	(+85,102)	---
D.C. Personal Trust Fund	---	(953)	(953)	(+953)	---
D.C. Public Library Trust Fund	---	(17)	(17)	(+17)	---
Unemployment Compensation Fund	---	(180,000)	(180,000)	(+180,000)	---
Total, Enterprise Funds	(666,369)	(947,749)	(947,749)	(+281,380)	---
Total, operating expenses	(6,326,138)	(7,146,863)	(7,146,863)	(+820,725)	---
Capital Outlay					
General fund	(904,913)	(725,886)	(725,886)	(-179,027)	---
Water and Sewer Fund	(229,807)	(371,040)	(371,040)	(+141,233)	---
Total, Capital Outlay	(1,134,720)	(1,096,926)	(1,096,926)	(-37,794)	---
Total, District of Columbia funds	(7,460,858)	(8,243,789)	(8,243,789)	(+782,931)	---
Grand total:					
Federal Funds to the District of Columbia	541,783	560,359	560,000	+18,217	-359
District of Columbia funds	(7,460,858)	(8,243,789)	(8,243,789)	(+782,931)	---

District of Columbia Appropriations Bill - FY 2005 (H.R. 4850)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
CONGRESSIONAL BUDGET RECAP					
Across-the-board reduction (P.L 108-199)	---	---	---	---	---
Scorekeeping adjustments:					
TBD	---	---	---	---	---
Total, adjustments	---	---	---	---	---
Total (including adjustments)	541,783	560,359	560,000	+18,217	-359
Amounts in this bill	(541,783)	(560,359)	(560,000)	(+18,217)	(-359)
Scorekeeping adjustments	---	---	---	---	---
Prior year outlays	---	---	---	---	---
RECAP BY FUNCTION					
Mandatory	---	---	---	---	---
General purpose discretionary	541,783	560,359	560,000	+18,217	-359
Prior year outlays	---	---	---	---	---
Total, discretionary	541,783	560,359	560,000	+18,217	-359
DISCRETIONARY 302(b) ALLOCATION					
General purpose discretionary	541,783	560,359	560,000	+18,217	-359
General purpose 302(b) allocation	---	560,000	560,000	+560,000	---
Over/under allocation	---	---	---	---	---

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

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

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

Mr. FATTAH. Mr. Chairman, I thank the chairman of the subcommittee, who has done a yeoman's job in working and providing leadership to the Congress on the critical issues facing the District. A great Nation indeed requires us to have a capital that is responsive in both substance and symbol to the Nation and to the world, and the chairman has worked long and hard with his staff on this bill. I would accept his comments as my own opening comments on the bill, because I think it puts into perspective the approach that he has taken, which is that we have worked in a bipartisan fashion; and I think we have a product that is worthy of unanimous support here in the House as we move this bill through the process.

I join with him again, although I will not name them all, in complimenting the staff who have really done a great job. This would not have been possible without the help and advice and counsel of the delegate, the person elected by the residents here in the District to represent their interests; and the gentlewoman from the District of Columbia (Ms. NORTON) has been invaluable to both the chairman and me as we have worked through this process.

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

Mr. FRELINGHUYSEN. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Virginia (Mr. TOM DAVIS), the distinguished chairman of the Committee on Government Reform.

(Mr. TOM DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. TOM DAVIS of Virginia. Mr. Chairman, I thank my friend for yielding me this time.

Over the past decade, the District of Columbia, which previously had faced a fiscal crisis of Shakespearean proportions, has embarked on an impressive road to financial recovery. With the help of the now-dormant Control Board and the 1997 Revitalization Act, the District has taken care of its financial house. It has balanced its budget for 7 consecutive years without tricks or gimmicks, and it has a cash reserve that is the envy of almost every municipality in the Nation.

The Federal assistance provided in our annual appropriation bills promotes and advances the rebirth of our Nation's Capital.

This year's bill funds a wide range of programs that will enhance the quality of life for D.C. residents and those who visit and work in the Nation's Capital. The increase in funding for emergency planning and security will help ensure that we are ready for the worst. I am pleased to see that the Child and Family Services Agency will continue to receive adequate funding to help protect the District's most vulnerable residents and that the D.C. court will have additional funds to continue its much-needed renovation project.

I am particularly pleased the D.C. College Access Program will receive enhanced funding. The increase reflects the program's indisputable positive impact on the District. The College Access Program has been a key component of the District's revitalization efforts, and I am heartened that the gentleman from New Jersey (Chairman FRELINGHUYSEN) agrees that Congress needs to continue its partnership with the District in providing access to higher education, resources, and opportunities.

Since the inception of this legislation, the number of high school seniors in the District going on to college has increased by 28 percent. That is a remarkable achievement. The impact is undeniable. The national average over the same period, while it was 28 percent in the District of Columbia, was 5 percent nationally.

Finally, I want to thank the gentleman from New Jersey (Chairman FRELINGHUYSEN) for fully funding the D.C. School Choice initiative. The bill before us maintains the careful balance that was struck last year. Of the $40 million for education, there is $13 million for the District's public schools for teacher training, recruitment, and improving student achievement. These funds are in addition to the large increases already guaranteed to D.C. public schools through Federal programs. There is another $13 million for D.C. charter schools to support and expand their capacity, and there is $13 million for the School Choice Scholarship program, along with an additional $1 million for administrative expenses.

The fact is, the District of Columbia is one of the most troubled public school systems in the United States; and working with the local government, working with the school system, working with the Mayor, we are trying to reverse that.

Again, I want to thank the gentleman from New Jersey (Chairman FRELINGHUYSEN) for the time and the energy he and his staff have devoted in reviewing the D.C. budget and bringing this bill to the floor. I also thank the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), for his work and, of course, my colleague, the gentlewoman from the District of Columbia (Ms. NORTON), for our continued partnership.

Mr. FATTAH. Mr. Chairman, consuming whatever time I may, just to make a few brief remarks before I yield to the delegate, the District operates unlike any other city in our country, because it has the responsibility to be the home of the Nation's Federal Government. There are no problems that exist in the District that have been solved elsewhere in the country. Whatever problems exist in this city exist other places. But the District has, in a unique way, been able to tackle its fiscal problems far better than any other city in the country: a 7-year balanced budget, bond ratings that have been elevated by all three of the rating agencies, and a cash reserve, I say to the gentleman from Florida (Mr. YOUNG), that any city would be the envy of. The city's leaders, I would say, deserve all of the credit; that is, the Mayor, the city council, and the civic leadership here have worked so very hard.

The gentleman from Virginia (Mr. TOM DAVIS) and I and others, like our chairman, have been involved in important ways, whether it is the financial relief bill or the college access program, the chairman's initiative on libraries that he has allowed me to join with him on; but it is really his initiative to make sure that in our elementary schools here in the District that there is real access to material that will help inspire reading as a lifelong activity of the young people here.

□ 1515

All of that is important, but the District has had to operate without the benefit of a State government. It has had to operate with the increased cost of being the home of the Nation's Capital, and again, its own leadership has brought it to this moment when I think we can have a bill come to the floor without controversy and move through, because it is out of respect for their hard work.

Mr. Chairman, I yield 7 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. FATTAH) for yielding me this time.

We are not going to tarry long this time, and that is itself an extraordinary victory and feat of leadership. Members should know that I have seen this. The smallest appropriation often take the longest period of time to get through this House, much to the consternation of Members.

I spoke during the Committee on Rules about the extraordinary leadership of the gentleman from Florida (Chairman YOUNG) and the gentleman from Wisconsin (Mr. OBEY), who have always been wonderful captains of the ship, pressing to get this appropriation out, understanding what a waste of time it would be for Members to involve themselves deeply in this matter, often going to extraordinary lengths to clear this bill. They have been just where they always were.

The gentleman from Virginia (Chairman TOM DAVIS) deserves a lot of credit for his invaluable assistance to the Committee on Appropriations and to me with this bill, and I have already given my thanks to the Committee on Rules, who gave us the cleanest bill under the circumstances.

But the real applause belongs to the gentleman from New Jersey (Chairman FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH). I can

say to both of them that I do not believe we have gotten this bill through in as short a period of time since I have been in Congress. This is my seventh term.

I want to thank them for the exceptionally smooth and efficient way they have handled the D.C. appropriation now for 2 years. It has affected the operations of the District of Columbia, not only the efficiency of this House.

I want to thank them for their regard for self-government in the District of Columbia. I want to thank them for their respect for the efficiency of the House of Representatives itself and the processes. There are very few Members that care beans about this. That is no insult to you, Members. I don't care beans about your districts either. That is your job.

And finally, I want to thank both the chairman and the ranking member for their keen understanding of the need to move the bill to get the city's own money to the bill, and that has been what has been most important about the way in which they have handled this bill. We cannot spend a red cent of our own money until the House says so, and almost all of this bill consists of our own money.

The District has always deserved self-respect for running its own affairs. That is the way we believe in this country, but I must say, Mr. Chairman, that the city today, and most of the Members of the House agree, has really earned congressional respect. I think a real tribute is due to Mayor Tony Williams, Chair of the Council Linda Cropp and the entire D.C. Council for the way they have improved the city, I mean in every important way, from the city operations, the day-to-day operations, to its bond rating.

They have taken this city from fiscal crisis, now to more than a balanced budget, to a better financial position than our far-richer surrounding States, not because they have managed to raise significant revenue, but because of the very conservative prudence with which they have run the D.C. government.

I mean, they still have a structural deficit, which means that we have high taxes and high debt because of the structural relationship with the Federal Government, and I appreciate that this entire region and the gentleman from Pennsylvania (Mr. FATTAH) have gone on to a bill to help us correct the structural deficit.

So to be prudent, even though you are carrying a federally imposed structural deficit is to deserve high praise. In Virginia, they have just gone through a terribly long period, and they finally had to raise taxes in order to assure their financial standing and keep their bond rating. Maryland, they are still struggling with gambling, something we are not going to have in the District of Columbia in order to pull it out of crisis.

The D.C. economy is run so well that people are moving in, not moving out. The city has become so attractive, that you cannot find a scrap of land on which to build any longer. We are building all through the inner city, the poorest wards of the city, because of the way in which the city is now being run.

Finally, to let me give you a sense of the District's financial prudence, I appreciate that the committee is going to allow the District to save for its emergency and contingency fund not 7 percent of it budget but 6 percent. Now, that is interesting, because going down from 7 percent to 6 percent is not going to affect its bond rating, because it is still the strictest conditions for an emergency and contingency fund in the United States, or pretty close to it.

The District is going to have 2 years instead of 1 year to repay any funds it happens to withdraw, does not withdraw from this bond, 2 years instead of 1 year to repay the fund, and that still makes these conditions among the strictest in the country. Forty-five States with similar emergency contingency funds have no replenishment requirement; and yet, the District must pay it back if it uses it within 2 years.

And among the six States which do require you to replenish any money you take out of the contingency fund, no State requires you to pay back as readily as our fund does.

But, Mr. Chairman, perhaps what I am most proud of is that the District has the highest rating. You have alluded to that in its history, an A rating. This is a city that 8 years ago was in virtual bankruptcy, and I would like to read what Moody's, one of the three investment houses that has given the District an A rating, has said. ''The upgrade reflects the sustained improvement in the District's economy and property tax base, as well as the District's multiyear record of improved financial management, controls and results. In addition, the District's elected leadership has demonstrated a commitment to maintaining this balance,'' that enviable language from investment houses.

The District has done this with the assistance of Congress. It has done it with the structural deficit. It is not because it struck it rich. It is because of conservative budgeting and financial management. We have taken the lead as a city, but we have done it with a partnership, with a Congress, that is now paying off.

I am proud to represent the city. I believe that the city has made us proud of our Capital, and I am particularly grateful to the Chair and to the ranking member for their contribution to what the District has achieved.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM), a distinguished member of the committee, who is vice chairman of the committee and has served on the committee for 10 years.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding me this time, and I would like to thank the ranking member, the gentlewoman from the District of Columbia (Ms. NORTON) and the chairman. And sometimes my colleagues may think this is a free vote to vote ''no'' on. After all, it is the D.C. bill.

A lot of times, if you ask Members of Congress to serve on the Committee on Appropriations, Subcommittee on the District of Columbia, you have to pull them out from under the bed. They will not do it. But I want to tell you, if you want a rewarding job, take something like D.C. that had so many problems. I mean, instead of a sterling city like San Diego that does not need much upgrade, if you take D.C., that is where you can make the most and have the most benefit, and I think we have done that, a lot of it.

A very controversial name with the Democrats is Newt Gingrich, but Newt Gingrich set a path to upgrade this city's Capital and to move it forward for the first time in decades, and I would like to remind my people that if you are thinking about voting ''no,'' think where we have come on this bill.

I have seen this bill take 3 or 4 hours on the House floor. We passed it in about four minutes. Does it mean everything we agreed on? No. But we came together as Republican and Democrat Representatives, and we have done a lot.

I remember when the schools could not open because the fire department had to control the schools. They were unsafe. They would not open. And that has been fixed by the folks mentioned.

Summer school, we did not have a summer school, and we opened it up for the first time. We had 12,000 children volunteer for summer school, not because they had to, because they wanted to learn. That is why this opportunity scholarship program, I think, is important; and also the program of the gentleman from Virginia (Mr. TOM DAVIS) and the chairman and ranking member put forward on college scholarships and college access.

I happen to believe as a conservative that there should be no child that qualifies for college that should not have that opportunity, because it is either pay-me-now or pay-me-a-lot-later by not giving education. And those are going to be the people that are the rich that we give tax breaks to from the other side, I think, some day because they have got a college education.

But I look at the waterfront and the Anacostia River. One of the things that is a challenge to this committee and to this body, every time it rains in Washington, D.C., the Anacostia River is flooded from the sewage system at Washington, D.C. It has the highest fecal count of any river almost in the world. The pollutants are terrible. Fish die because the bacteria is so high, it eats all the oxygen. The waterfront has been fixed. They used to give 1-year leases, and who is going to invest in a waterfront.

This waterfront is going to be like San Diego or San Francisco. It is going

to be revenue-producing for the city instead of drawing money. It is already starting to do that, and that is because of this committee and Mayor Williams.

I especially want to give attention to Mayor Williams and the job he has done.

Mr. SHAYS. Mr. Chairman, I rise today in support of H.R. 4850, the D.C. Appropriations Bill.

I am particularly pleased the legislation included $14 million for school vouchers because I believe too many children in our Nation's Capital are not getting the education they need and deserve.

The D.C. School Choice Incentive Act provides scholarships of up to $7,500 to students in D.C. schools identified for improvement, corrective action, or restructuring. It targets resources to students and families lacking the financial resources to take advantage of available educational options.

The scholarships cover costs of tuition, fees, and transportation expenses.

There is little doubt that D.C. public schools are in serious crisis, but it is not a crisis caused by a lack of resources. In fact, D.C. public schools spend more per pupil than surrounding school districts in Virginia and Maryland.

Clearly, alternatives to increased funding should be tested.

I oppose directly spending Federal tax dollars on private schools. But just as I support providing Pell grants to college students for use at the university of their choice, public or private, including religious schools, I also support school choice programs that provide parents with similar choices for their elementary and secondary school children.

Opponents of school choice argue such a proposal could drain public schools of money and students. These scholarships are assistance to the students, not the schools. And because all funding for the scholarship program comes from new funds, no public, private or charter school will be drained of its funding. They will just have fewer students to educate.

By promoting a competitive model, all schools are forced to improve academically, provide better quality services, and create an administrative structure that operates efficiently.

For these reasons I support this legislation, and I urge my colleagues to do so as well.

Mr. NUSSLE. Mr. Chairman, I rise today to speak on H.R. 4850, the District of Columbia Appropriations Act for Fiscal Year 2005.

Under authority granted in Article I of the United States Constitution (section 8, clause 17), this bill appropriates Federal payments to the District to fund certain activities, and also approves the District of Columbia's entire budget, including the expenditure of local funds ($8.2 billion in local funds for fiscal year 2005). Although a vast majority of the funds discussed in this bill are local funds originating from the District of Columbia, I speak today only about the $560 million in Federal funds appropriated in this bill.

This is the ninth bill we are considering pursuant to the 302(b) allocation adopted by the Appropriations Committee on June 9. I am pleased to report that it is consistent with the levels established the conference report to S. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2005, which the House adopted as its fiscal blueprint on May 19.

H.R. 4850 provides $560 million in new discretionary BA, which is equal to the 302(b) allocation to the Subcommittee on the District of Columbia; outlays are 416 million below the allocation. The bill contains no emergency-designated new budget authority, nor does it include rescissions of previously enacted appropriations.

Accordingly, the bill complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an appropriations subcommittee's 302(b) allocation of budget authority and outlays established in the budget resolution.

Nonetheless, because House-passed appropriations bills to date have exceeded their allocations by a total of $114 million, it is possible that conference agreements on appropriations bills will cause a breach in the BA ceiling unless corrective action is taken by the Appropriations Committee.

With that reservation, I express my support for H.R. 4850.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the base bill considered today, the District of Columbia Appropriations Act for Fiscal Year 2005. I thank Chairman FRELINGHUYSEN and Ranking Member FATTAH for their hard work in crafting this legislation. Furthermore, I congratulate my colleague on the House Select Committee on Homeland Security from the District of Columbia herself, Mr. NORTON on the achievements that she has made through this bill in the areas of public education, public works, and in the HIV/AIDS initiative.

With the work of Ranking Member FATTAH and Ms. NORTON, an amendment was offered to use four million unused dollars from last year's vouchers bill for the District's public schools but was withdrawn without a vote. Nevertheless, the base bill will give $14 million to fund private school vouchers.

Other educational initiatives funded in this bill include $13 million for public schools; $13 million for charter schools; and a 50 percent increase in funding for Ms. NORTON's D.C. College Access Act, H.R. 4012—one of her major priorities. The $8 million increase allocated for tuition assistance, $25.6 million up from $17 million in 2004 not only will help the city retain taxpayers but will also continue the strength of the college Access Act in expanding college education. H.R. 4012 would reauthorize the tuition grant program for five years.

Already, over 6,500 students have benefited form the grant program, which allows District residents to attend any public college or university in the country at lower in-state tuition rates. Furthermore, this program provides $2,500 annually for students to attend private colleges and universities in the region or private Historically Black Colleges and Universities throughout the country.

At this time, I also commend Ms. NORTON on introducing H.R. 4269, the District of Columbia Fair Federal Compensation Act of 2004. The bill outlines the unique situation of the District of Columbia as a federal city. It proposes an annual federal payment of $800 million with provisions to adjust the amount in the future. The $800 million would be made available to address important structural needs of the city, which the District Government cannot fully fund from its current budget: transportation and street maintenance, information technology and DCPS capital improvements. These items are essential to the running of the city.

In addition, this bill will include other funding that my colleague, Congresswoman ELEANOR HOLMES NORTON, has been working diligently on, including $3 million for the Anacostia Waterfront Initiative and $10 million to continue the Combined Sewer Overflow Long Term Plan. This plan will update and repair the District of Columbia's antiquated sewer system. By acting on this now, we avoid any catastrophic costs that would occur if we wait for further damage or contamination to the District's drinking water supply system. This initiative is of particular interest to elderly residents who live in older or sub-standard homes.

I join my colleague from the District in expressing disappointment in the continued placement of riders on the budget to ban the needle exchange program. We should not condition funding on the ceased participation in a program that aims to reduce the spread of HIV/AIDS and save lives.

Mr. Chairman, again, I support the base bill for the benefits that it will bring to our Nation's capital; however, I share disappointment in the prohibition on the needle exchange program contained in its provisions.

Mr. FATTAH. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FRELINGHUYSEN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

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

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 in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 4850

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 District of Columbia and related agencies for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, $25,600,000, to remain available until expended: *Provided*, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to $2,500 each year at eligible private institutions of higher education: *Provided further*, That the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students and such other factors as may be authorized: *Provided further*, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the

Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: *Provided further,* That the account shall be under the control of the District of Columbia Chief Financial Officer, who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: *Provided further*, That the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: *Provided further,* That not more than 7 percent of the total amount appropriated for this program may be used for administrative expenses.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

For necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, $15,000,000, to remain available until expended, to reimburse the District of Columbia for the costs of providing public safety at events related to the presence of the national capital in the District of Columbia and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions: *Provided*, That any amount provided under this heading shall be available only after notice of its proposed use has been transmitted by the President to Congress and such amount has been apportioned pursuant to chapter 15 of title 31, United States Code.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, $202,110,000, to be allocated as follows: for the District of Columbia Court of Appeals, $8,952,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, $84,948,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Court System, $40,699,000, of which not to exceed $1,500 is for official reception and representation expenses; and $67,511,000, to remain available until September 30, 2006, for capital improvements for District of Columbia courthouse facilities: *Provided,* That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause ''availability of Funds'' found at 48 CFR 52.232–18: *Provided further*, That funds made available for capital improvements shall be expended consistent with the General Services Administration master plan study and building evaluation report: *Provided further,* That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate: *Provided further,* That 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and Senate, the District of Columbia Courts may reallocate not more than $1,000,000 of the funds provided under this heading among the items and entities funded under this heading for operations, and not more than 4 percent of the funds provided under this heading for facilities.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11–2604 and section 11–2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code, or pursuant to contractual agreements to provide guardian ad litem representation, training, technical assistance and such other services as are necessary to improve the quality of guardian ad litem representation, payments for counsel appointed in adoption proceedings under chapter 3 of title 16, D.C. Code, and payments for counsel authorized under section 21–2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), $41,500,000, to remain available until expended: *Provided,* That the funds provided in this Act under the heading ''Federal Payment to the District of Columbia Courts'' (other than the $67,511,000 provided under such heading for capital improvements for District of Columbia courthouse facilities) may also be used for payments under this heading: *Provided further,* That in addition to the funds provided under this heading, the Joint Committee on Judicial Administration in the District of Columbia shall use funds provided in this Act under the heading ''Federal Payment to the District of Columbia Courts'' (other than the $67,511,000 provided under such heading for capital improvements for District of Columbia courthouse facilities), to make payments described under this heading for obligations incurred during any fiscal year: *Provided further,* That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: *Provided futher,* That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia and the Public Defender Service for the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, $183,490,000, of which not to exceed $2,000 is for official receptions and representation expenses related to Community Supervision and Pretrial Services Agency programs; of which not to exceed $25,000 is for dues and assessments relating to the implementation of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002; of which $115,343,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to the supervision of adults subject to protection orders or the provision of services for or related to such persons; of which $39,314,000 shall be available to the Pretrial Services Agency; and of which $28,833,000 shall be transferred to the Public Defender Service for the District of Columbia: *Provided,* That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: *Provided further,* That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: *Provided further,* That the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection: *Provided further,* That the Court Services and Offender Supervision Agency Director is authorized to accept and use reimbursement from the D.C. Government for space and services provided on a cost reimbursable basis: *Provided further,* That the Public Defender Service is authorized to charge fees to cover costs of materials distributed to attendees of educational events, including conferences, sponsored by the Public Defender Service, and notwithstanding section 3302 of title 31, United States Code, said fees shall be credited to the Public Defender Service account to be available for use without further appropriation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, $10,000,000, to remain available until expended, to continue implementation of the Combined Sewer Overflow Long-Term Plan: *Provided,* That the District of Columbia Water and Sewer Authority provides a 100 percent match for this payment.

FEDERAL PAYMENT FOR THE ANACOSTIA WATERFRONT INITIATIVE

For a Federal payment to the District of Columbia Department of Transportation, $3,000,000, to remain available until September 30, 2006, for design and construction of a continuous pedestrian and bicycle trail system from the Potomac River to the District's border with Maryland.

FEDERAL PAYMENT TO THE CRIMINAL JUSTICE COORDINATING COUNCIL

For a Federal payment to the Criminal Justice Coordinating Council, $1,300,000, to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

FEDERAL PAYMENT FOR CAPITAL DEVELOPMENT IN THE DISTRICT OF COLUMBIA

For a Federal payment to the District of Columbia for capital development, $7,000,000, to remain available until expended, for the Unified Communications Center.

FEDERAL PAYMENT FOR PUBLIC SCHOOL LIBRARIES

For a Federal payment to the District of Columbia Public Schools, $6,000,000, to remain available until expended, for a public school library enhancement program: *Provided,* That the District of Columbia Public Schools provides a 100 percent match for this payment: *Provided further,* That the Federal portion is for the acquisition of library resources: *Provided further,* That the matching portion is for any necessary facilities upgrades.

FEDERAL PAYMENT FOR THE FAMILY LITERACY PROGRAM

For a Federal payment to the District of Columbia, $1,000,000, for a Family Literacy Program to address the needs of literacy-challenged parents while endowing their children with an appreciation for literacy and strengthening familial ties: *Provided,* That the District of Columbia shall provide a 100 percent match with local funds as a condition of receiving this payment.

FEDERAL PAYMENT FOR FOSTER CARE IMPROVEMENTS IN THE DISTRICT OF COLUMBIA

For the Federal payment to the District of Columbia for foster care improvements, $5,000,000: *Provided,* That $3,000,000 shall be for the Child and Family Services Agency, of which $2,000,000 shall be to continue an early intervention program to provide intensive and immediate services for foster children; of which $1,000,000 shall be for the emergency support fund to purchase items necessary to allow children to remain in the care of an approved and licensed family member: *Provided further,* That $1,500,000 shall be for the Department of Mental Health to provide all court-ordered or agency-required mental health screenings, assessments and treatments for children under the supervision of the Child and Family Services Agency: *Provided further,* That $500,000 shall be for the Washington Metropolitan Council of Governments, to continue a program in conjunction with the Foster and Adoptive Parents Advocacy Center, to provide respite care and recruitment of foster parents: *Provided further,* That these Federal funds shall supplement and not supplant local funds.

FEDERAL PAYMENT TO THE OFFICE OF THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

For a Federal payment to the Office of the Chief Financial Officer of the District of Columbia, $19,000,000: *Provided,* That these funds shall be available for the projects and in the amounts specified in the Statement of the Managers on the conference report accompanying this Act: *Provided further,* That each entity that receives funding under this heading shall submit to the Office of the Chief Financial Officer of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate a report on the activities to be carried out with such funds no later than March 15, 2005.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

For Federal payment for a school improvement program in the District of Columbia, $40,000,000, to be allocated as follows: for the District of Columbia Public Schools, $13,000,000 to improve public school education in the District of Columbia; for the State Education Office, $13,000,000 to expand quality charter schools in the District of Columbia; for the Secretary of the Department of Education, $14,000,000 to provide opportunity scholarships for students in the District of Columbia in accordance with division C title III of the District of Columbia Appropriations Act, 2004 (Public Law 108–199, 118 Stat. 126), of which up to $1,000,000 may be used to administer and fund assessments for the opportunity scholarship program: *Provided,* That the District of Columbia Public Schools shall submit a plan for the use of funds provided under this heading for public school education to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Education and the Workforce and the Committee on Government Reform of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate: *Provided further,* That the funds provided under this heading for public school education shall not be made available until 30 calendar days after the submission of a spending plan by the District of Columbia Public Schools to the Committees on Appropriations of the House of Representatives and Senate.

TITLE II—DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: *Provided,* That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.50a) and provisions of this Act, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2005 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or $6,199,114,000 (of which $4,165,485,000 shall be from local funds, $1,687,554,000 shall be from Federal grant funds, $332,761,000 shall be from other funds, and $13,314,000 shall be from private funds), in addition, $98,900,000 from funds previously appropriated in this Act as Federal payments: *Provided further,* That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: *Provided further,* That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act as amended by this Act: *Provided further,* That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2005, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $416,069,000 (including $261,068,000 from local funds, $100,256,000 from Federal grant funds, and $54,745,000 from other funds), in addition, $19,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment to the Chief Financial Officer of the District of Columbia'', and $500,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Foster Care Improvements in the District of Columbia'' shall be available to the Metropolitan Washington Council of Governments: *Provided,* That not to exceed $9,300 for the Mayor, $9,300 for the Chairman of the Council of the District of Columbia, $9,300 for the City Administrator, and $9,300 for the Office of the Chief Financial Officer shall be available from this appropriation for official reception and representation expenses: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally generated revenues: *Provided further,* That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Office of the Chief Technology Officer's delegated small purchase authority shall be $500,000: *Provided further,* That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $334,745,000 (including $55,764,000 from local funds, $93,050,000 from Federal grant funds, $185,806,000 from other funds, and $125,000 from private funds), of which $13,000,000 collected by the District of Columbia in the form of BID tax revenue shall be paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11–134; D.C. Official Code, sec. 2–1215.01 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12–26; D.C. Official Code, sec. 2–1215.15 et seq.): *Provided,* That such funds are available for acquiring services provided by the General Services Administration: *Provided further,* That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia: *Provided further,* That local funds in the amount of $1,200,000 shall be appropriated for the Excel Institute.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, $797,423,000 (including $760,849,000 from local funds, $6,599,000 from Federal grant funds, $29,966,000 from other funds, and $9,000 from private funds), in addition, $1,300,000 from funds previously appropriated in this Act under the heading ''Federal Payment to the Criminal Justice Coordinating Council'': *Provided,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

(INCLUDING TRANSFERS OF FUNDS)

Public education system, including the development of national defense education programs, $1,223,424,000 (including $1,058,709,000 from local funds, $151,978,000 from Federal grant funds, $8,957,000 from other funds, $3,780,000 from private funds) in addition,

$25,600,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Resident Tuition Support'', $6,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Public School Libaries'', and $26,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for School Improvement in the District of Columbia'' to be allocated as follows:

(1) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—$888,944,000 (including $760,494,000 from local funds, $117,450,000 from Federal grant funds, $7,330,000 from other funds, $3,670,000 from private funds), in addition, $6,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Public School Libraries'' shall be available for District of Columbia Public Schools and $13,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for School Improvement in the District of Columbia'' shall be available for District of Columbia Public Schools: *Provided,* That notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary or secondary school during fiscal year 2005 unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia that are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): *Provided further,* That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2005, an amount equal to 10 percent of the total amount of the local funds appropriations request provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2006: *Provided further,* That not to exceed $9,300 for the Superintendent of Schools shall be available from this appropriation for official reception and representation expenses.

(2) TEACHERS' RETIREMENT FUND.—$9,200,000 from local funds shall be available for the Teacher's Retirement Fund.

(3) STATE EDUCATION OFFICE.—$43,104,000 (including $10,015,000 from local funds, $32,913,000 from Federal grant funds, and $176,000 from other funds), in addition, $25,600,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Resident Tuition Support'' shall be available for the State Education Office and $13,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for School Improvement in the District of Columbia'' shall be available for the State Education Office: *Provided,* That of the amounts provided to the State Education Office, $500,000 from local funds shall remain available until June 30, 2006 for an audit of the student enrollment of each District of Columbia Public School and of each District of Columbia public charter school.

(4) DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOLS.—$196,802,000 from local funds shall be available for District of Columbia public charter schools: *Provided,* That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the fiscal year: *Provided further,* That if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall remain available for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(2)): *Provided further,* That of the amounts made available to District of Columbia public charter schools, $100,000 shall be made available to the Office of the Chief Financial Officer as authorized by section 2403(b)(5) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(5)): *Provided further,* That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2005, an amount equal to 25 percent of the total amount of the local funds appropriations request provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2006.

(5) UNIVERSITY OF THE DISTRICT OF COLUMBIA SUBSIDY.—$49,602,000 from local funds shall be available for the University of the District of Columbia subsidy: *Provided,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2005, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further,* That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2005, an amount equal to 10 percent of the total amount of the local funds appropriations request provided for the University of the District of Columbia in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the University of the District of Columbia under the District of Columbia Appropriations Act, 2006: *Provided further,* That not to exceed $9,300 for the President of the University of the District of Columbia shall be available from this appropriation for official reception and representation expenses.

(6) DISTRICT OF COLUMBIA PUBLIC LIBRARIES.—$30,831,000 (including $28,978,000 from local funds, $1,093,000 from Federal grant funds, $651,000 from other funds, and $110,000 from private funds) shall be available for the District of Columbia Public Libraries: *Provided,* That not to exceed $7,500 for the Public Librarian shall be available from this appropriation for official reception and representation expenses.

(7) COMMISSION ON THE ARTS AND HUMANITIES.—$4,941,000 (including $3,618,000 from local funds, $523,000 from Federal grant funds, and $800,000 from other funds) shall be available for the Commission on the Arts and Humanities.

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

Human support services, $2,533,825,000 (including $1,165,314,000 from local funds, $1,331,670,000 from Federal grant funds, $27,441,000 from other funds, $9,400,000 from private funds), in addition, $4,500,000 from funds previously appropriated in this Act under the heading ''Federal Payment to Foster Care Improvements in the District of Columbia'': *Provided,* That $29,600,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That no less than $8,498,720, to remain available until expended, shall be deposited in the Addiction Recovery Fund, established pursuant to section 5 of the Choice in Drug Treatment Act of 2000, effective July 8, 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3004), to be used exclusively for the purpose of the Choice in Drug Treatment program, established pursuant to section 4 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3003), of which $7,500,000 shall be provided from local funds: *Provided further,* That none of the $8,498,720 for the Choice in Drug Treatment program shall be used by the Department of Health's Addiction Prevention and Recovery Administration to provide youth residential treatment services or youth outpatient treatment services: *Provided further,* That no less than $2,000,000 shall be available to the Department of Health's Addiction Prevention and Recovery Administration exclusively for the purpose of providing youth residential treatment services: *Provided further,* That no less than $1,575,416 shall be available to the Department of Health's Addiction Prevention and Recovery Administration exclusively for the purpose of providing youth outpatient treatment services, of which $750,000 shall be made available exclusively to provide intensive outpatient treatment slots, outpatient treatment slots, and other program costs for youth in the care of the Youth Services Administration: *Provided further,* That no less than $1,400,000 shall be used by the Department of Health's Addiction Prevention and Recovery Administration to fund a Child and Family Services Agency pilot project entitled Family Treatment Court: *Provided further,* That $1,200,000 of local funds, to remain available until expended, shall be deposited in the Adoption Voucher Fund, established pursuant to section 3805(a) of the Adoption Voucher Fund Act of 2000, effective October 19, 2000 (D.C. Law 13–172; D.C. Official Code, sec. 4–344(a)), to be used exclusively for the purposes set forth in section 3805(b) of the Adoption Voucher Fund Act (D.C. Official Code, sec. 4–344(b)): *Provided further,* That no less than $300,000 shall be used by the Department of Health's Environmental Health Administration to operate the Total Maximum Daily Load program: *Provided further,* That no less than $1,268,500 shall be used by the Department of Health's Environmental Health Administration to operate its air quality programs, of which no less than $242,000 shall be used to fund 4 full-time air quality employees: *Provided further,* That the Department of Human Services, Youth Services Administration shall not expend any appropriated fiscal year 2005 funds until the Mayor has submitted to the Council by September 30, 2004, a plan, including time lines, to close the Oak Hill Youth Center at the earliest feasible date. All of the above proviso amounts in this heading relate back to and are a subset of the first-referenced appropriation amount of $2,533,825,000.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor

and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, $331,936,000 (including $312,035,000 from local funds, $4,000,000 from Federal grant funds, and $15,901,000 from other funds): *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

CASH RESERVE

For the cumulative cash reserve established pursuant to section 202(j)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (D.C. Official Code, sec. 47–392.02(j)(2)), $50,000,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act (D.C. Official Code, secs. 1–204.62, 1–204.75, and 1–204.90), $347,700,000 from local funds.

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, $4,000,000 from local funds.

CERTIFICATES OF PARTICIPATION

For principal and interest payments on the District's Certificates of Participation, issued to finance the ground lease underlying the building located at One Judiciary Square, $11,252,000 from local funds.

SETTLEMENTS AND JUDGMENTS

For making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government, $20,270,000 from local funds: *Provided,* That this appropriation shall not be construed as modifying or affecting the provisions of section 103 of this Act.

WILSON BUILDING

For expenses associated with the John A. Wilson building, $3,633,000 from local funds.

WORKFORCE INVESTMENTS

For workforce investments, $38,114,000 from local funds, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for which employees are properly payable: *Provided,* That of this amount $3,548,000 shall remain available until expended to meet the requirements of the Compensation Agreement Between the District of Columbia Government Units 1 and 2 Approval Resolution of 2004, effective February 17, 2004 (Res. 15–459; 51 DCR 2325).

NON-DEPARTMENTAL AGENCY

To account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget, $13,946,000 (including $4,000,000 from local funds and $9,946,000 from other funds) to be transferred by the Mayor of the District of Columbia within the various appropriations headings in this Act: *Provided,* That $4,000,000 from local funds shall be for anticipated costs associated with the No Child Left Behind Act.

EMERGENCY PLANNING AND SECURITY FUND

For Emergency Planning and Security Fund, $15,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Emergency Planning and Security Costs in the District of Columbia''.

TAX INCREMENT FINANCING PROGRAM

For a Tax Increment Financing Program, such amounts as are necessary to meet the Tax Increment Financing requirements, not to exceed $9,710,000 from the District's general fund balance.

EQUIPMENT LEASE OPERATING

For Equipment Lease Operating $23,109,000 from local funds: *Provided,* That for equipment leases, the Mayor may finance $19,453,000 of equipment cost, plus cost of issuance not to exceed 2 percent of the par amount being financed on a lease purchase basis with a maturity not to exceed 5 years.

EMERGENCY AND CONTINGENCY RESERVE FUNDS

For the emergency reserve fund and the contingency reserve fund under section 450A of the District of Columbia Home Rule Act (Public Law 98–198, as amended; D.C. Official Code, sec. 1–204.50a), such additional amounts from the District's general fund balance as are necessary to meet the balance requirements for such funds under section 450A.

FAMILY LITERACY

From funds previously appropriated in this Act under the heading ''Federal Payment for the Family Literacy Program'', $1,000,000.

PAY-AS-YOU-GO CAPITAL

For Pay-As-You-Go Capital funds in lieu of capital financing, $6,531,000 from local funds, to be transferred to the Capital Fund.

PAY-AS-YOU-GO CONTINGENCY

For Pay-As-You-Go Contingency Fund, $43,137,000, subject to the Criteria for Spending Pay-As-You-Go Funding Act of 2004, approved by the Council of the District of Columbia on 1st reading, May 14, 2004 (Title I of Bill 15–768), there are authorized to be transferred from the contingency fund to certain other headings of this Act as necessary to carry out the purposes of this Act. Expenditures from the Pay-As-You-Go Contingency Fund shall be subject to the approval of the Council by resolution.

REVISED REVENUE ESTIMATE CONTINGENCY PRIORITY

If the Chief Financial Officer for the District of Columbia certifies through a revised revenue estimate that funds are available from local funds, such available funds shall be expended as provided in the Contingency for Recordation and Transfer Tax Reduction and the Office of Property Management and Library Expenditures Act of 2004, approved by the Council of the District of Columbia on 1st reading, May 14, 2004 (Bill 15–768), including up to $2,000,000 to the Office of Property Management, and up to $1,200,000 to the District of Columbia Public Library.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY

For operation of the Water and Sewer Authority, $275,289,000 from other funds, of which $15,180,402 shall be apportioned for repayment of loans and interest incurred for capital improvement projects and payable to the District's debt service fund. For construction projects, $371,040,000, to be distributed as follows: $181,656,000 for the Blue Plains Wastewater Treatment Plant, $43,800,000 for the sewer program, $9,118,000 for the stormwater program, $122,627,000 for the water program, and $13,839,000 for the capital equipment program; in addition, $10,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment to the District of Columbia Water and Sewer Authority'': *Provided,* That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation account shall apply to projects approved under this appropriation account.

WASHINGTON AQUEDUCT

For operation of the Washington Aqueduct, $47,972,000 from other funds.

STORMWATER PERMIT COMPLIANCE ENTERPRISE FUND

For operation of the Stormwater Permit Compliance Enterprise Fund, $3,792,000 from other funds.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act, 1982, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3–172; D.C. Official Code, sec. 3–1301 et seq. and sec. 22–1716 et seq.), $247,000,000 from other funds: *Provided,* That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board: *Provided further,* That the Lottery and Charitable Games Enterprise Fund is hereby authorized to make transfers to the general fund of the District of Columbia, in excess of this appropriation, if such funds are available for transfer.

SPORTS AND ENTERTAINMENT COMMISSION

For the Sports and Entertainment Commission, $7,322,000 from other funds: *Provided,* That the paragraph under the heading ''Sports and Entertainment Commission'' in Public Law 108–199 (118 Stat. 125) is amended by striking the term ''local funds'' and inserting the term ''other funds'' in its place.

DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established pursuant to section 121 of the District of Columbia Retirement Reform Act of 1979 (D.C. Official Code, sec. 1–711), $15,277,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided,* That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $77,176,000 from other funds.

NATIONAL CAPITAL REVITALIZATION CORPORATION

For the National Capital Revitalization Corporation, $7,850,000 from other funds.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

For the University of the District of Columbia, $85,102,000 (including, $49,603,000 from local funds previously appropriated in this Act under the heading ''Public Education Systems'', $15,192,000 from Federal funds, $19,434,000 from other funds, and $873,000 from private funds): *Provided,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2005, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable

public institutions of higher education in the metropolitan area.

UNEMPLOYMENT INSURANCE TRUST FUND

For the Unemployment Insurance Trust Fund, $180,000,000 from other funds.

OTHER POST EMPLOYEE BENEFITS TRUST FUND

For the Other Post Employee Benefits Trust Fund, $953,000 from other funds.

DC PUBLIC LIBRARY TRUST FUND

For the DC Public Library Trust Fund, $17,000 from other funds: *Provided,* That $7,000 shall be for the Theodore W. Noyes Trust Fund: *Provided further,* That $10,000 shall be for the Peabody Trust Fund.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of $1,087,649,000, of which $839,898,000 shall be from local funds, $38,542,000 from Highway Trust funds, $37,000,000 from the Rights-of-way funds, $172,209,000 from Federal grant funds, and a rescission of $361,763,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of $725,886,000, to remain available until expended; in addition, $7,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for Capital Development in the District of Columbia'' and $3,000,000 from funds previously appropriated in this Act under the heading ''Federal Payment for the Anacostia Waterfront Initiative'': *Provided,* That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That the Office of the Chief Technology Officer of the District of Columbia shall implement the following information technology projects on behalf of the District of Columbia Public Schools: Student Information System (project number T2240), Student Information System PCS (project number T2241), Enterprise Resource Planning (project number T2242), E-Rate (project number T2243), and SETS Expansion PCS (project number T2244).

TITLE III—GENERAL PROVISIONS

SEC. 101. Whenever in this Act, an amount is specified within an appropriation for a particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 102. Appropriations in this act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor, or, in the case of the Council of the District of Columbia, funds may be expended with the authorization of the Chairman of the Council.

SEC. 103. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government.

SEC. 104. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly provided herein.

SEC. 105. (a) Except as provided in subsection (b), no part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

(b) The District of Columbia may use local funds provided in this Act to carry out lobbying activities on any matter other than—

(1) the promotion or support of any boycott; or

(2) statehood for the District of Columbia or voting representation in Congress for the District of Columbia.

(c) Nothing in this section may be construed to prohibit any elected official from advocating with respect to any of the issues referred to in subsection (b).

SEC. 106. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2005, 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 expenditures for an agency through a reprogramming of funds which—

(1) creates new programs;

(2) eliminates a program, project, or responsibility center;

(3) establishes or changes allocations specifically denied, limited or increased under this Act;

(4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted;

(5) reestablishes any program or project previously deferred through reprogramming;

(6) augments any existing program, project, or responsibility center through a reprogramming of funds in excess of $1,000,000 or 10 percent, whichever is less; or

(7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center,

unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the reprogramming.

(b) None the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds in excess of $1,000,000 from one appropriation heading to another unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the transfer, except that in no event may the amount of any funds transferred exceed 4 percent of the local funds in the appropriations.

SEC. 107. Consistent with the provisions of section 1301(a) of title 31, United States Code, appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 108. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2–139; D.C. Official Code, sec. 1–601.01 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–2041.22(3)), shall apply with respect to the compensation of District of Columbia employees. For pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 109. No later than 30 days after the end of the first quarter of fiscal year 2005, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate the new fiscal year 2005 revenue estimates as of the end of such quarter. These estimates shall be used in the budget request for fiscal year 2006. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 110. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6–85; D.C. Official Code, sec. 2–303.03), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical, but only if the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and has been reviewed and certified by the Chief Financial Officer of the District of Columbia.

SEC. 111. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3–171; D.C. Official Code, sec. 1–123).

SEC. 112. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 113. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9–114; D.C. Official Code, sec. 32–701 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 114. (a) Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b)(1) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

(A) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

(B) the Council has reviewed and approved the acceptance, obligation, and expenditure of such grant.

(2) For purposes of paragraph (1)(B), the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant if—

(A) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under paragraph (1)(A); or

(B) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under paragraph (1)(A).

(c) No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal,

private, or other grant not subject to such subsection.

(d) The Chief Financial Officer of the District of Columbia may adjust the budget for Federal, private, and other grants received by the District government reflected in the amounts appropriated in this Act, or approved and received under subsection (b)(2) to reflect a change in the actual amount of the grant.

(e) The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

SEC. 115. (a) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term ''official duties'' does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department;

(2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day or is otherwise designated by the Fire Chief;

(3) the Mayor of the District of Columbia; and

(4) the Chairman of the Council of the District of Columbia.

(b) The Chief Financial Officer of the District of Columbia shall submit by March 1, 2005, an inventory, as of September 30, 2004, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 116. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government for fiscal year 2005 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia, in coordination with the Chief Financial Officer of the District of Columbia, pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Official Code, sec. 2–302.8); and

(2) the audit includes as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year using the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.

SEC. 117. (a) None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

(b) Nothing in this section bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 118. (a) None of the funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 119. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District of Columbia) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted. The Chief Financial Officer of the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and Senate by the 10th day after the end of each quarter a summary list showing each report, the due date, and the date submitted to the Committees.

SEC. 120. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 121. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a ''conscience clause'' which provides exceptions for religious beliefs and moral convictions.

SEC. 122. The Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate quarterly reports addressing—

(1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets;

(2) access to substance and alcohol abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs;

(3) management of parolees and pre-trial violent offenders, including the number of halfway houses escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency for the District of Columbia;

(4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools and the District of Columbia public charter schools;

(5) improvement in basic District services, including rat control and abatement;

(6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and

(7) indicators of child well-being.

SEC. 123. (a) No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council of the District of Columbia a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.42), for all agencies of the District of Columbia government for fiscal year 2004 that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

(b) This section shall apply only to an agency where the Chief Financial Officer of the District of Columbia certifies that a reallocation is required to address unanticipated changes in program requirements.

SEC. 124. None of the funds contained in this Act may be used to issue, administer, or enforce any order by the District of Columbia Commission on Human Rights relating to docket numbers 93–030–(PA) and 93–031–(PA).

SEC. 125. None of the Federal 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. 126. Notwithstanding any other law, the District of Columbia Courts shall transfer to the general treasury of the District of Columbia all fines levied and collected by the Courts under section 10(b)(1) and (2) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50–2201.05(b)(1) and (2)). The transferred funds shall remain available until expended and shall be used by the Office of the Corporation Counsel for enforcement and prosecution of District traffic alcohol laws in accordance with section 10(b)(3) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50–2201.05(b)(3)).

SEC. 127. None of the funds contained in this Act may be made available to pay—

(1) the fees of an attorney who represents a party in an action or an attorney who defends an action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in excess of $4,000 for that action; or

(2) the fees of an attorney or firm whom the Chief Financial Officer of the District of Columbia determines to have a pecuniary interest, either through an attorney, officer or employee of the firm, in any special education diagnostic services, schools, or other special education service providers.

SEC. 128. The Chief Financial Officer of the District of Columbia shall require attorneys in special education cases brought under the Individuals with Disabilities Act (IDEA) in

the District of Columbia to certify in writing that the attorney or representative rendered any and all services for which they receive awards, including those received under a settlement agreement or as part of an administrative proceeding, under the IDEA from the District of Columbia. As part of the certification, the Chief Financial Officer of the District of Columbia shall require all attorneys in IDEA cases to disclose any financial, corporate, legal, memberships on boards of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which the attorneys have referred any clients as part of this certification. The Chief Financial Officer shall prepare and submit quarterly reports to the Committees on Appropriations of the House of Representatives and Senate on the certification of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA. The Inspector General of the District of Columbia may conduct investigations to determine the accuracy of the certifications.

SEC. 129. The amount appropriated by this Act may be increased by no more than $15,000,000 from funds identified in the comprehensive annual financial report as the District's fiscal year 2004 unexpended general fund surplus. The District may obligate and expend these amounts only in accordance with the following conditions:

(1) The Chief Financial Officer of the District of Columbia shall certify that the use of any such amounts is not anticipated to have a negative impact on the District's long-term financial, fiscal, and economic vitality.

(2) The District of Columbia may only use these funds for the following expenditures:

(A) Unanticipated one-time expenditures.

(B) Expenditures to avoid deficit spending.

(C) Debt Reduction.

(D) Unanticipated program needs.

(E) Expenditures to avoid revenue shortfalls.

(3) The amounts shall be obligated and expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

(4) The amounts may not be used to fund the agencies of the District of Columbia government under court ordered receivership.

(5) The amounts may be obligated and expended only if approved by the Committees on Appropriations of the House of Representatives and Senate in advance of any obligation or expenditure.

SEC. 130. (a) Section 450A(a) of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.50a(a)) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

''(1) IN GENERAL.—There is established an emergency cash reserve fund (''emergency reserve fund'') as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall make a deposit in cash each fiscal year of such an amount as may be required to maintain a balance in the fund of at least 2 percent of the operating expenditures as defined in paragraph (2) of this subsection or such amount as may be required for deposit in a fiscal year in which the District is replenishing the emergency reserve fund pursuant to subsection (a)(7).''.

(2) Paragraph (2) is amended to read as follows:

''(2) OPERATING EXPENSES.—For the purpose of this subsection, operating expenditures is defined as the amount reported in the District of Columbia's Comprehensive Annual Financial Repsort for the fiscal year immediately preceding the current fiscal year as the actual operating expenditure from local funds, less such amounts that are attributed to debt service payments for which a separate reserve fund is already established under this Act.''.

(3) Paragraph (7) is amended to read as follows:

''(7) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the current fiscal year and 100 percent of the amount allocated or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation.''.

(b) Section 450A(b) of such Act (sec. 1–204.50a(b), D.C. Official Code) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

''(1) IN GENERAL.—There is established a contingency cash reserve fund (''contingency reserve fund'') as an interest-bearing account, separate from other accounts in the general fund, into which the Mayor shall make a deposit in cash each fiscal year of such amount as may be required to maintain a balance in the fund of at least 4 percent of the operating expenditures as defined in paragraph (2) of this subsection or such amount as may be required for deposit in a fiscal year in which the District is replenishing the emergency reserve fund pursuant to subsection (b)(6).''.

(2) Paragraph (2) is amended to read as follows:

''(2) OPERATING EXPENSES.—For the purpose of this subsection, operating expenditures is defined as the amount reported in the District of Columbia's Comprehensive Annual Financial Report for the fiscal year immediately preceding the current fiscal year as the actual operating expenditure from local funds, less such amounts that are attributed to debt service payments for which a separate reserve fund is already established under this Act.''.

(3) Paragraph (6) is amended to read as follows:

''(6) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the current fiscal year and 100 percent of the amount allocated or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation.''.

SEC. 131. For fiscal year 2005, the Chief Financial Officer shall re-calculate the emergency and contingency cash reserve funds amount established by section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.50a), as amended by this Act, and is authorized to transfer funds between the emergency and contingency cash reserve funds to reach the required percentages, and may transfer funds from the emergency and contingency cash reserve funds to the general fund of the District of Columbia to the extent that such funds are not necessary to meet the requirements established for each fund, except that the Chief Financial Officer may not transfer funds from the emergency or the contingency reserve funds to the extent that such a transfer would lower the fiscal year 2005 total percentage below 7 percent.

SEC. 132. (a) Section 6 of the Policemen and Firemen's Retirement and Disability Act Amendments of 1957 (sec. 5–732, D.C. Official Code) is amended by striking the period at the end of the first sentence and inserting the following: '', and for the administrative costs associated with making such benefit payments.''.

(b) The amendment made by subsection (a) shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 133. (a) CONTINUING AVAILABILITY OF AMOUNTS IN CHARTER SCHOOL FUND.—Section 2403(b)(1) of the District of Columbia School Reform Act of 1995 (sec. 38–1804.03(b)(1), D.C. Official Code) is amended by adding at the end the following new sentence: ''Amounts in the Charter School Fund shall remain available until expended, and any amounts in the Fund remaining unobligated or unexpended at the end of a fiscal year shall not revert to the General Fund of the District of Columbia.''.

(b) AVAILABILITY OF ADDITIONAL LOCAL FUNDS FOR CHARTER SCHOOL FUND.—Section 2403(b)(2)(A) of such Act (sec. 38–1804.03(b)(2)(A), D.C. Official Code) is amended by inserting after ''District of Columbia,'' the following: ''together with any other local funds that the Chief Financial Officer of the District of Columbia certifies are necessary to carry out the purposes of the Fund during the fiscal year,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 134. (a) CONTINUATION OF CERTAIN AUTHORITY OF CHIEF FINANCIAL OFFICER.—Section 2302 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 593), is amended by striking ''September 30, 2004'' and inserting ''September 30, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Emergency Wartime Supplemental Appropriations Act, 2003.

SEC. 135. (a) Section 106(b) of the District of Columbia Public Works Act of 1954 (sec. 34–2401.25(b), D.C. Official Code) is amended by striking paragraph (5).

(b) Section 212(b) of such Act (sec. 34–2112(b), D.C. Official Code) is amended by striking paragraph (5).

(c) The amendments made by this section shall apply with respect to quarters occurring during fiscal year 2005 and each succeeding fiscal year.

SEC. 136. (a) APPROVAL OF BONDS BY JOINT COMMITTEE ON JUDICIAL ADMINISTRATION.—Section 11–1701(b), District of Columbia Official Code, is amended by striking paragraph (5).

(b) EXECUTIVE OFFICER.—

(1) IN GENERAL.—Section 11–1704, District of Columbia Official Code, is amended to read as follows:

''§ 11–1704. Oath of Executive Officer

''The Executive Officer shall take an oath or affirmation for the faithful and impartial discharge of the duties of that office.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 17 of title 11, District of Columbia Official Code, is amended by amending the item relating to section 11–1704 to read as follows:

''11–1704. Oath of Executive Officer.''.

(c) FISCAL OFFICER.—Section 11–1723, District of Columbia Official Code, is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)'';

(2) by striking subsection (b); and

(3) by redesignating paragraphs (2) and (3) of subsection (a) as subsections (b) and (c).

(d) AUDITOR-MASTER.—Section 11–1724, District of Columbia Official Code, is amended by striking the second and third sentences.

(e) REGISTER OF WILLS.—

(1) IN GENERAL.—Section 11–2102, District of Columbia Official Code, is amended—

(A) in the heading, by striking ''bond;'';

(B) in subsection (a)(2), by striking ''give bond,'' and all that follows through ''seasonably to record'' and inserting ''seasonably record''; and

(C) by striking the third sentence of subsection (a).

(2) CLERICAL AMENDMENT.—The item relating to section 11–2102 in the table of sections for chapter 21 of title 11, District of Columbia Official Code, is amended by striking ''bond;''.

SEC. 137. Section 11–1728, District of Columbia Official Code, is amended to read as follows:

''§ 11–1728. Recruitment and training of personnel; travel

''(a) The Executive Officer shall be responsible for recruiting such qualified personnel as may be necessary for the District of Columbia courts and for providing in-service training for court personnel.

''(b) Travel under Federal supply schedules is authorized for the travel of court personnel on official business. The Joint Committee shall prescribe such requirements, conditions, and restrictions for such travel as it considers appropriate, and shall include policies and procedures for preventing abuses of that travel authority.''.

(b) The table of sections for subchapter II of chapter 17 of title 11, District of Columbia Official Code, is amended by amending the item relating to section 11–1728 to read as follows:

''11–1728. Recruitment and training of personnel; travel.''.

SEC. 138. (a) Notwithstanding any other provision of this Act, the amount of local funds made available under this Act for the Office of the Inspector General shall be the amount provided in the annual estimate of the Inspector General of the expenditures and appropriations necessary for the operation of the Office for fiscal year 2005, as prepared by the Inspector General and submitted to the Mayor of the District of Columbia under section 208(a)(2)(A) of the District of Columbia Procurement Practices Act of 1985 (sec. 2–302.08(a)(2)(A), D.C. Official Code).

(b) The Chief Financial Officer of the District of Columbia shall take such steps as are necessary to carry out this section.

Mr. FRELINGHUYSEN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 65, line 5, be considered as read, printed in the RECORD and open to amendment at any point.

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

There was no objection.

Mr. TANCREDO. Mr. Chairman, I move to strike the last word to engage in a colloquy with the gentleman from New Jersey (Mr. FRELINGHUYSEN), the distinguished chairman of the Committee on Appropriations, Subcommittee on the District of Columbia, regarding a move by certain District of Columbia Council members to enact a bill that would give noncitizens the right to vote in local elections.

Mr. Chairman, passage of such a measure would eliminate one of the few remaining distinctions between noncitizens and citizens, and I firmly believe that it is not too much to ask that American citizenship be a prerequisite for voting in an American election. Therefore, I am opposed to the adoption of such a measure.

Mr. Chairman, it was my intention to offer an amendment that would prohibit implementation of such a measure. However, after receiving assurances from the gentleman from Virginia (Chairman TOM DAVIS) of the Committee on Government Reform that that measure would be overturned by Congress before it becomes law, I am satisfied that the amendment will no longer be necessary.

□ 1530

Mr. Chairman, is that your understanding of the situation?

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

Mr. TANCREDO. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Yes, it is. I wanted to thank my distinguished colleague for bringing this issue to my attention. Let me say from the onset that I am very sympathetic to the gentleman's position on the issue. It is my understanding that the Committee on Government Reform has a 30-day review period in which to approve or disapprove all legislative provisions enacted by the city council.

Mr. TANCREDO. I thank the chairman for working with me on the issue. I will not offer my amendment.

AMENDMENT NO. 2 OFFERED BY MR. HEFLEY

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. HEFLEY:

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

SEC. 139. Total Federal appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by $5,600,000.

Mr. HEFLEY. Mr. Chairman, I rise again to offer an amendment to cut the level of funding in this appropriations bill by 1 percent. This equals about $5.6 million. This is not the biggest bill that we deal with. However, the increase in the bill is over 3 percent over last year. I do not mean this at all as a slap against D.C., our Nation's Capital, certainly not a slap against the committee, because as most Members are aware, I have offered a series of these amendments on the appropriations bills because I think we have to start drawing the line somewhere and some time.

The budget we have for next year is too large, and we can do something about the deficit now if we would start doing it. I would really be remiss, however, Mr. Chairman, if I did not commend the chairman and ranking member on a very difficult job that they have had to do; and, obviously, they have done a very excellent job of it as evidenced by the fact that we are not spending half a day on the D.C. bill down here, that they have worked out the problems beforehand.

So I commend them on a tremendous job that both of them and the committee have done. And it is many times a thankless job because most of the folks back home do not care what happens in the D.C. bill, and so it does not get them any great acclaim back home for the good job they are doing. But I would like to put in the record that they have done a good job.

Still, I do not think a cut of 1 cent on a dollar is too much to ask for or is unreasonable, given our current budget situation.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in opposition to the amendment.

Let me say, Mr. Chairman, I have watched the gentleman from Colorado (Mr. HEFLEY) stand on an appropriations bill, and I know his heart is in the right place; and, reluctantly, I do rise in opposition to his amendment.

The entire Federal portion of the bill is only $560 million. Within this total, the committee had to make some hard funding choices. It reduced a number of things that are key priorities to the Members of Congress and to the city's leadership. An additional 1 percent reduction in this bill would, I think, seriously hinder the District's ability to effectively manage its program at a time when the District government is sincerely making major improvements to its financial and program management.

I will not go through any examples, but I do rise in opposition. I understand where his heart is.

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

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

Mr. Chairman, I wanted to say that I would like to commend the gentleman from Colorado (Mr. HEFLEY) for his great service to the House as chairman of the Committee on Standards of Official Conduct. I served with him for many years on the committee. I cannot find a way to support his amendment today; but if he were to offer, for instance, to reduce by even a greater percent the reconstruction dollars of 20 billion we sent to Iraq, I would be prepared to vote to cut those dollars. But here in the Nation's Capital I believe that there are too many needs to be met.

I still have great respect for my colleague. Colorado has a warm place in my heart. My wife is from Colorado; but I would oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 113, noes 309, not voting 11, as follows:

[Roll No. 398]

AYES—113

Akin
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Boehlert
Boozman
Bradley (NH)
Brady (TX)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Cannon
Carter
Chabot
Chocola
Coble
Cox
Crane
Cubin
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeMint
Diaz-Balart, M.
Doggett
Duncan
Everett
Feeney
Flake
Forbes
Fossella
Franks (AZ)
Garrett (NJ)
Gibbons
Gingrey
Goode
Goodlatte
Goss
Graves
Green (WI)
Gutknecht
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Jenkins
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Lewis (KY)
Linder
Manzullo
McCotter
McHugh
McInnis
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Norwood
Otter
Oxley
Paul
Pence
Petri
Pickering
Pitts
Platts
Ramstad
Rehberg
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Schrock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (WA)
Stearns
Stenholm
Strickland
Sullivan
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Toomey
Upton
Vitter
Wamp
Wilson (SC)

NOES—309

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Ballenger
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burr
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Cole
Conyers
Costello
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Ford
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gephardt
Gerlach
Gilchrest
Gillmor
Gonzalez
Gordon
Granger
Green (TX)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Hart
Hastings (FL)
Hastings (WA)
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Sherwood
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stupak
Sweeney
Tauscher
Tauzin
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Buyer
Carson (IN)
Collins
Cooper
Ferguson
Harris
Isakson
Majette
Marshall
Matheson
Quinn

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1559

Ms. WATSON and Mr. LYNCH changed their vote from ''aye'' to ''no.''

Messrs. CHABOT, COX, BOOZMAN and BOEHLERT changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. HARRIS. Mr. Chairman, on rollcall No. 398, I was unavoidably detained. Had I been present, I would have voted "no."

The CHAIRMAN. Are there any other amendments to the bill?

If not, the Clerk will read the last two lines.

The Clerk read as follows:

This Act may be cited as the ''District of Columbia Appropriations Act, 2005''.

The CHAIRMAN. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KLINE) 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. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, pursuant to House Resolution 724, reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 371, nays 54, not voting 8, as follows:

[Roll No. 399]

YEAS—371

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Farr
Fattah
Feeney
Filner
Foley
Forbes
Ford
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Gordon
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind

King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—54

Bartlett (MD)
Berry
Biggert
Boehlert
Boswell
Coble
Cubin
Davis, Jo Ann
Deal (GA)
Deutsch
Duncan
Etheridge
Evans
Everett
Flake
Fossella
Franks (AZ)
Goode
Goodlatte
Goss
Graves
Gutknecht
Hayworth
Hefley
Hensarling
Herger
Hostettler
Jones (NC)
King (IA)
Manzullo
McDermott
McHugh
Michaud
Miller (FL)
Miller, George
Neugebauer
Norwood
Otter
Paul
Peterson (MN)
Petri
Rahall
Ramstad
Royce
Sensenbrenner
Simmons
Smith (MI)
Stearns
Stenholm
Taylor (MS)
Taylor (NC)
Tierney
Toomey
Wexler

NOT VOTING—8

Carson (IN)
Collins
Dunn
Ferguson
Isakson
Majette
Matheson
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KLINE) (during the vote). Members are reminded that there are 2 minutes remaining in this vote.

□ 1618

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 857 AND H.R. 1078

Mr. SULLIVAN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 857 and H.R. 1078.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken tomorrow.

RECOGNIZING 35TH ANNIVERSARY OF APOLLO 11 LUNAR LANDING

Mr. HALL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 723) recognizing the 35th anniversary of the *Apollo 11* lunar landing, and for other purposes.

The Clerk read as follows:

H. RES. 723

Whereas President John F. Kennedy set a goal of landing Americans on the moon and returning them safely to Earth;

Whereas the National Aeronautics and Space Administration (NASA) created the Apollo space program to fulfill the goal set by President Kennedy;

Whereas on July 16, 1969, the Apollo 11 mission launched into space to attempt the first manned lunar landing;

Whereas on July 20, 1969, at 10:56 p.m. eastern daylight time, astronaut Neil A. Armstrong ushered in a new era in space exploration when he stepped onto the lunar surface and declared, ''That's one small step for man, one giant leap for mankind.'';

Whereas Neil Armstrong, the mission commander, and fellow astronauts Michael Collins, the command module pilot, and Edwin E. ''Buzz'' Aldrin, Jr., the lunar module pilot, exemplified bravery and determination in successfully completing the mission;

Whereas the Apollo 11 mission demonstrated the technological abilities of the United States and established the United States as a leader in space exploration;

Whereas the Apollo 11 mission inspired further exploration of the universe and led to more than three decades of continued voyage and discovery; and

Whereas the Apollo 11 mission continues to inspire exploration as NASA envisions returning to the moon and eventually landing a person on Mars: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the 35th anniversary of the Apollo 11 lunar landing;

(2) commends the astronauts and other men and women of the National Aeronautics and Space Administration (NASA) whose efforts assured the success of the Apollo 11 mission; and

(3) supports the continued leadership of the United States in the exploration of space.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. HALL) and the gentleman from Texas (Mr. LAMPSON) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. HALL).

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

Mr. Speaker, on this day 35 years ago, two Americans stepped onto the surface of the Moon and ushered in a new era in space exploration. The astronauts of *Apollo 11*, Neil Armstrong, Buzz Aldrin, and Michael Collins, not only made history, they also fulfilled an American dream. Their successful Moon landing was the culmination of years of preparation by hundreds of thousands of people in government, in industry, and universities. And they became heroes to all Americans in the process.

In 1961, President John F. Kennedy laid out a goal of landing an American on the Moon and returning him safely to Earth. On July 16, 1969, NASA launched the *Apollo 11* spacecraft into orbit to fulfill this quest. The successful mission demonstrated the United States' technological and economic power, and it established our Nation as the leader in space exploration from that moment to the present.

During their walk on the Moon, Neil Armstrong and Buzz Aldrin took pictures, planted an American flag, and gathered rocks, tangible items to take back to Earth for posterity. They also gave the world a sense of wonder and awe and an enthusiasm about future space travel. Astronaut Neil Armstrong's first step on the lunar surface was indeed a ''giant leap for mankind,'' but it was also a first step toward a new era of discovery and innovation.

The next three decades witnessed enormous strides in space exploration and research. Experiments conducted on the Space Shuttle and International Space Station expanded health research into our most threatening diseases. Microgravity experiments helped scientists fight infections, produce medicines to treat patients who have suffered from strokes, and combat osteoporosis. From the development of MRI technology to microchips, the scientific partnerships between NASA and American universities and companies continue to ensure our Nation's viability, increase our Nation's competitiveness, and help drive our economy.

As Buzz Aldrin said before Congress, the footprints on the Moon ''belong to the American people, and since we came in peace for all mankind, those footprints belong also to all people of the world.'' Michael Collins told Congress, ''Man has always gone where he has been able to go. It is that simple. He will continue pushing back his frontier, no matter how far it may carry

him from his homeland. Someday, in the not too distant future, when I listen to an earthling step out onto the surface of Mars or some other planet, I hope to hear him say: 'I come from the United States of America.' ''

We are the keepers of this dream. As we celebrate today's anniversary, we can also rekindle this vision. Venturing to the Moon, Mars and beyond is challenging, but our citizens have never shied away from a challenge. As a democratic people who look to the future for inspiration and solutions, we have a destiny to continue to lead in space travel. In a world marred by conflict, we can once again usher in an era of peaceful exploration.

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

Mr. LAMPSON. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H. Res. 723.

It was 35 years ago that humans first walked on the Moon. It was a magnificent achievement and it is fitting that we in the House of Representatives pause to commemorate it today. The landing of Eagle at Tranquility Base was the culmination of a national effort that began in 1961 when a young, energetic President, John F. Kennedy, challenged America to achieve great things in space. America rose to that challenge and barely 8 years after President Kennedy said that we would go to the Moon by the end of the decade, we did.

Neil Armstrong and Buzz Aldrin took those historic first steps on July 20, 1969, while Mike Collins orbited overhead and all the world's population held its collective breath. Clearly Neil, Buzz and Mike had the ''right stuff,'' as did the other Mercury, Gemini and Apollo astronauts and as do the astronauts who are serving in our Nation's space program today.

Yet it was not just the heroism and steel nerves of the astronauts that made Apollo a success. It was the efforts of tens of thousands of unsung heroes from government, industry and academia, namely the scientists, engineers, program managers, technicians and others who individually and collectively made it possible for 12 Americans to land on and explore the surface of the Moon between 1969 and 1972.

I was teaching physical science in a middle school during that time. The children in my classes, their eyes would light up when we would watch on television and discuss what was going on. The interest that developed from them was unimaginable. I know that it is what inspired so many of those young people to want to become the astronauts of today.

Neil Armstrong spoke his first words from the Moon to Mission Control in the Ninth District of Texas, where we have neighbors who worked on the Apollo program and some who participate in the space exploration efforts of today. That is where those kids that I taught went to work.

Last July, Glynn and Marilyn Lunney from my district brought their two grandchildren to my office to take a tour of this Capitol. In passing the statue of *Apollo 13* astronaut Jack Swigert downstairs, Mrs. Lunney said, ''There's Jack.'' They knew who Jack was because Mr. Lunney had been a flight director on Apollo missions, including *Apollo 11*. The Lunneys are just a few of the many individuals in Texas' Ninth Congressional District whom I salute today.

The Lunneys' son started a company that took one of those spin-offs from the space exploration efforts to create a vagus nerve stimulator which saves the lives of people who are suffering from epilepsy and seizures today. So many wonderful things have come from that program.

Just beyond the fences of Johnson Space Center are reminders of the living legacy of NASA's pioneer programs in our community. The names of sports teams, local businesses, and even the streets that we drive display the impact of manned space flight. Today, I salute all southeast Texans involved in manned space flight, including Johnson Space Center's civil service and contractor workforce of over 16,000 in Houston's bay area.

I am pleased to be an original cosponsor of this congressional resolution commemorating a shining achievement that is an inspiration to all they do. Yet I have to confess that I look forward to the day when we will not just be commemorating the past but will also be celebrating new accomplishments in space exploration.

The last Americans, indeed the last human beings, to venture out beyond low Earth orbit visited the Moon 32 years ago. It is time for Americans to get back to the Moon. And it is time for Americans to set out on voyages of exploration to all of the interesting places in our solar system. Robotic explorers have already blazed a scientifically productive trail, and they will continue to do so in the years to come, but I have no doubt that humans will, and should, follow.

I want America to lead that exploration effort, and I intend to work with the White House and my colleagues in Congress to craft an exploration program that all America will embrace. However, that is work for another day. Today is a day for commemorating the achievement of the Apollo team. I urge my colleagues to support this important resolution.

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

Mr. HALL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science.

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

Mr. BOEHLERT. Mr. Speaker, I rise in support of this resolution, which I was proud to cosponsor with the gentleman from Texas (Mr. HALL). At this time of fiscal constraint and international discord, it is good to remember that brief moment in history when the entire world, together, collectively held its breath and watched as human beings stepped for the first time onto the surface of the Moon.

One sign of the success of the Apollo mission is that it is hard to conjure now just how strange and wondrous and awe-inspiring that moment was. Neil Armstrong's and Buzz Aldrin's steps were the culmination of millennia of human dreams and aspirations. Whatever else the Apollo program did, it fundamentally changed the human sense of the possible. It changed our sense of what was in reach.

I would point out that the Apollo program also changed our own sense of the planet. Those pictures of Earth as a blue dot revolving through empty space, those pictures of Earthrise, those pictures of an Earth whose air pollution could be picked up from miles into the heavens, with those pictures the Apollo program also brought home the preciousness of our own planet and its and our own fragility.

So I want to join with my colleagues today in trying to recapture that sense of excitement and wonder and awe that space travel evoked. I want to join in reminding Americans of the unique and courageous accomplishments of the Apollo astronauts and the scientists and engineers who worked behind the scenes. And I want to encourage us all to think through all the lessons of the Apollo program.

America must continue its ventures in space, manned and robotic. And we need to think about how to ensure that those ventures will enrich our culture, our scientific understanding, our sense of what it means to be human, and our ability to survive on our own planet.

The Apollo program has left us a remarkable legacy that we can respect best by continuing to debate its meaning.

Mr. LAMPSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington (Mr. MCDERMOTT).

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

Mr. MCDERMOTT. Mr. Speaker, the name Buzz Aldrin is legendary in America's manned space flight program, but the name Buzz Lightyear may be better known today. ''To infinity and beyond,'' Buzz Lightyear calls out in the movie ''Toy Story'' and everyone smiled. Buzz Aldrin actually did it.

Thirty-five years ago today, Buzz Aldrin commanded the lunar module during man's first landing on the Moon. Buzz Aldrin followed Neil Armstrong onto the lunar surface. It was a defining moment in world history and the entire world stopped what it was doing to watch. If you were alive on that day, you know where you were, what you were doing, and how good it felt to be an American.

□ 1630

We were proud. The world was proud of us. For a few moments at least, the world was united. How we could use that today.

In part that is why this resolution is so important. It honors President John F. Kennedy for his vision and his leadership. JFK, not Captain Kirk, was the first to challenge us to go where no one had gone before. Kennedy inspired us to believe that we could do what was almost certainly impossible, and we did it.

This resolution honors the men and women of NASA. It honors Buzz Aldrin and every astronaut for their courage, sacrifice, and extraordinary service to this country and to humanity. I hope this resolution rekindles the spirit, enthusiasm, and hope embodied in a great moment for America and the world.

The world-renowned writer Arthur C. Clarke said, ''The only way to discover the limits of the possible is to go beyond them into the impossible.'' In other words, to infinity and beyond.

Mr. HALL. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER), chairman of Space and Aeronautics Subcommittee.

Mr. ROHRABACHER. Mr. Speaker, on July 20, 1969, all humankind witnessed the greatest technological achievement in history: men setting foot on the Moon and then successfully returning to Earth. The tremendous accomplishment of those three men and, yes, of the United States of America, is remembered to this day. Neil Armstrong, Buzz Aldrin, Mike Collins stand as shining examples of courage and technological genius, along with those many people in NASA that helped them and were on that trip with them every second of the journey. We honor the people of NASA who were responsible for this great achievement, and we honor these three brave astronauts for their heroism in taking that one giant leap for mankind 35 years ago.

On reflection, that day in history represented more than man's mastery of science and engineering. Rather, NASA's success in this endeavor has given us a sense of unlimited potential for our Nation and the world. Buzz Aldrin said it best when he observed, ''The significance of what we did was not embodied in the few rocks that we brought back or what we saw . . . But the significance really was the impact we had on millions of people around the world.'' And, yes, millions of people in the United States.

Now we have the opportunity today to repeat history with President Bush's vision for space exploration. I believe there are young people who will be just as inspired by this great quest as those were by the first Moon landing.

Thus, the occasion that we celebrate today also forces us to look forward. As President Bush pointed out last year following the tragic loss of the Space Shuttle *Columbia*, ''This cause of exploration and discovery is not an option we choose. It is a desire written in the human heart. We are that part of creation which seeks to understand all of creation. We find the best among us, send them forth into unmapped darkness, and pray they will return. They go in peace for all mankind, and all mankind is in their debt.'' That was President Bush.

Today we look back and honor this great achievement of 35 years ago and commend the astronauts and the others who were responsible for this great achievement. But also today we are looking forward to a path ahead and a recommitment ourselves to America's leadership in the exploration of space and America's leading humankind to conquer this new frontier.

Mr. LAMPSON. Mr. Speaker, I yield 5 minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to thank the distinguished gentleman from Texas, who has the pleasure of representing Johnson's Space Center, for his great leadership. There has not been a moment that he has not been committed to the progress and future of that great center along with so many others.

What does one say about the gentleman from Texas (Mr. HALL), who has led us in science for so many years? I am delighted to join him in this resolution.

And might I say the proud fact is that this resolution is a bipartisan resolution. It recognizes that space is bipartisan. And might I just emphasize now 35 years later the great debt of gratitude that we owe to Neil Armstrong and Buzz Aldrin and Michael Collins because I do not know if we understand that they were, in fact, are the very first humans to step on a planet outside of Earth's atmosphere. They were the very first humans, and in essence we can call them the true explorers who went into another atmosphere, another planet. The many things that we look at on television, science fiction, these individuals actually did do it.

But I think these words are so very important and prominent as they laid this plaque after 2 hours and 11 minutes: ''Here men from Planet Earth first set foot upon the Moon July 1969 AD. We came in peace for all mankind.'' These words should be forever prominent in our mind: they came in peace for all mankind.

That is why I rise today to join in celebration of H. Res. 723. I believe that Buzz and all of them, Neil and Michael, would be very proud that since they landed, women have gone into space, African Americans, Hispanics, people from foreign lands have all gone together in peace. That is what it represents.

It is interesting that this young man, this young man who defined Camelot in 1961, John F. Kennedy, a Democrat, spoke to the world and the Nation; and he did not raise up a partisan flag about space. He joined all of us as Americans. That is why we rise today because this is, in fact, an American Dream, an American cause.

I too salute all of those who work for NASA all over the Nation in the space centers all around the country, whether it is in Huntsville, whether it is in Mississippi or California or Florida, and particularly those at the Johnson Space Center, some 16,000 employees strong. I salute them. And the reason I do that is because they do not wear a partisan hat. They realize that space is important.

Let me say, however, Mr. Speaker, that as we take risks and we recognize risks are important, let us be cognizant of the importance of safety. And I realize that those who were willing to take risks in those early days also valued their intellect, their courage, what they valued, the men and women on the ground who were on the cutting edge of making sure that it was as safe as it could be in that time frame. It is now our obligation to likewise look to the future, the President's new proposal, and ensure that not only do we move forward on Mars exploration, that we do it in a safe manner, that we make sure that the international space station is safe, we make sure that the human space flight is safe, because that is what this whole effort is about.

1969 was the ending of a troubling time in America. In 1968 we saw the assassination of Robert Kennedy. We saw the assassination of Martin Luther King. Yet this country could still dream. We came together, all of us from all parts of this Nation. No matter whether we lived in the South or the North, no matter whether we were still crying and still feeling the pain of the assassinations of those great Americans, we came together when we saw those young men go off into space because it was an American cause. That is the dream and the hope that I hope we will implement as we move forward in the Mars exploration.

I would caution those in business and my colleagues to not make the Mars program a partisan issue. Do not make it where they are leaving out those of us who are supporters of space and space exploration who happen to be Democrats. Space, Mars, the Moon, and celebration of all of us goes beyond political grandstanding. And I would hope no matter what administration will be in after November that we will have the opportunity as Americans to watch us join hands together to be able to celebrate the excitement of space. I am gratified that the Internet, that new research dealing with health care all came about through space, communications all came about through our space exploration. We can do this, and we can do it together.

Might I also suggest that we owe a debt of gratitude to the *Challenger* families and to *Columbia 7*. And might I, in respect of *Columbia 7*, say to my colleagues that the families of those who

were lost in *Columbia 7* stood up and said that the space program must go on. Is that not what America is all about? I would simply say on their tribute and testimony, I hope we will not leave this session without honoring them by the resolution that we have offered, many sponsors that have offered to provide a gold medal for the *Columbia 7*, 300 sponsors and many on the Senate side. That is how we honor all of those who have served, doing it unified in a nonpartisan way. We do it as Americans.

My hat is off to *Apollo 11*. May the blessings be upon them. They are great Americans. God bless them and God bless the United States.

Thirty-five years ago a revolution was started. Neil Armstrong and Buzz Aldrin—backed by Mike Collins, and a huge team of engineers and scientists from NASA and academia and industry—walked on the moon. It was a spectacular achievement by the crew of Apollo 11, that capped off an equally impressive eight years of research, development, and innovation. But when I say they started a revolution, I am not just talking about what they accomplished in space. I am thinking about the impact they made here on Earth.

The Apollo mission inspired a generation of intellectual pioneers and dreamers like nothing else could. Children, and young adults not afraid to think like children, sat awe-struck watching these guys bounding around on the moon, and then ran off to join science programs, and math programs, and engineering programs. They wanted to be part of something noble and great. The vast majority of those people did not end up in space, but veered off to go into other branches of physics or scientific research, or high-tech industries.

I have met with so many researchers from the great medical research labs at the Texas Medical Center in Houston, or CEOs in biotech or communications or internet companies, who have told me that it was the success of the Apollo mission that drove them to reach the heights they have reached. Many have theorized that indeed it was NASA and the Apollo mission that made possible the U.S. domination in science and industry, that changed America and the world in the 80s and 90s.

It was a bold investment, and we are still reaping the rewards.

But it could have gone much differently. Space travel is inherently dangerous. The team at NASA overcame tremendous obstacles of all sorts, and turned science fiction into science in under a decade. It truly shows the power of the American spirit, when appropriately applied.

Mr. Speaker I commend my colleague form Texas, Mr. HALL and the Chairman of the Science Committee on which I serve, as well as Ranking Member LAMPSON of the Space Subcommittee, for their leadership in giving space exploration the attention it deserves today. I hope that this resolution, and all of the celebrations of this exciting anniversary, will help re-kindle the American passion for the NASA manned-space mission. This week, as the Appropriations Committee is considering the future of the NASA budget, I hope we can all remember the tremendous dividends that our investment in NASA makes.

NASA and Johnson Space Center have touched the people of Houston in so many ways. I will continue to be a strong supporter of NASA even as I work with my colleagues in the Science Committee to make NASA missions safer. I will continue to push for my bill H.R. 525, which would honor the fallen crew of the Shuttle Columbia with the Congressional Gold Medal. With over 300 co-sponsors, it would be sad to see this Congress adjourn without showing our appreciation for those astronauts who made the ultimate sacrifice to advance this nation. Working together, we can keep NASA moving forward into space, for the good of the American people, and the world.

We humans are truly at our best when we are working together toward peaceful and noble goals. The Apollo lunar landing 35 years ago truly was the epitome of such peaceful and noble pursuits. My hat is off to the Apollo team, and their surviving families, and to the entire NASA community, for their spectacular contribution to our today, and to our future.

Mr. HALL. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. FEENEY), another member of the Space and Aeronautics Subcommittee.

Mr. FEENEY. Mr. Speaker, I thank the gentleman from Texas (Mr. FEENEY) for his great leadership over many years of space.

Mr. Speaker, today's Florida Today editorial started out by saying this: ''On July 20, 1969, humanity changed forever. The moment the boot of astronaut Neil Armstrong touched the surface of the Moon, the future of humanity no longer was tethered to Planet Earth.'' And, indeed, 35 years ago a mesmerized Nation and a mesmerized world watched as Americans landed on the moon. Today we celebrate that accomplishment.

Looking back at the history of the Cape, the human space flight program began in June, 1959, when a Mercury boilerplate capsule was brought down for a test flight called Big Joe, when NASA needed tools at that time, they went to Sears Roebuck in Orlando. They used a flatbed truck, a wooden cradle, and mattresses to transport the Mercury capsule to the launch pad. Just a few years later, Saturn V rockets, the largest rocket ever built, were assembled in the Vehicle Assembly Building, the second largest building in the world, and transported 3 miles by the Crawler Transporter, then the largest tracked vehicle in the world.

Thousands of men and women viewed Apollo as a calling and not just a career. They overcame the tragedy of *Apollo 1*, guided *Apollo 11* through some frightening moments during descent to the lunar surface and shortly after landing, and brought home a crippled Apollo 13 safely.

Inspired by what they witnessed on television, hundreds of thousands of children dedicated themselves to math and to science, thereby giving birth to many of today's science and engineering leaders.

Unfortunately, *Apollo* was not designed to sustain itself forever. By the end of 1972, mankind retreated to spaceflight around the Earth.

America now possesses a great vision for space exploration under which we will become a spacefaring people once again. We will undertake a paced, sustainable, and affordable journey that breaks free from merely orbiting the Earth. We will not be fixated on a destination and a timetable, but rather pursue an evolving program of exploration and science.

Along the way we, like all explorers, will be surprised by our discoveries. We will unleash the imaginations and talents of thousands of aerospace professionals, reminding all of them why they chose their calling.

Earlier this year, Americans watched in awe as the pictures from Mars came back from the Mars Rovers. In a few months, thousands will line the banks of the Indian and Banana rivers to watch the Shuttle once again return to space. We are a restless, inquisitive, pioneering people. We yearn to go.

Mr. Speaker, I include the full editorial from Florida Today for the RECORD.

[From Florida Today, July 9, 2004]

READY FOR NEW GOALS

On July 20, 1969, humanity changed forever.

The moment the boot of astronaut Neil Armstrong touched the surface of the moon, the future of humanity no longer was tethered to planet Earth.

Thirty-five years ago today, as millions worldwide watched televised images transported more than 250,000 miles through space, a silent but mighty shift roiled the river of history.

Humankind had become residents of the solar system.

The question now is, will America return to that path of manned exploration and discovery? Or be satisfied to rest on great deeds of the past, reported on the yellowing pages of crumbling newspaper?

For those who remember, that magnificent day and the four fantastic years that followed made up an odyssey that dwarfed all other human efforts.

Historians called the human exploration of the lunar surface mankind's greatest technological achievement.

That claim would get no argument from those lucky enough to have lived in Brevard County in those breathtaking times.

The vigorous, patriotic and enthusiastic space workers who poured into this county through the 1960s helped turn Brevard from a backwater into the single spot on the globe from which man has journeyed to another celestial body.

They came in response to a challenge by an equally vigorous president, John F. Kennedy, who in 1961 declared it was ''time for this nation to take a clearly leading role in space achievement, which in many ways, may hold the key to our future on earth.''

The goal was clear: The United States must, ''before this decade is out,'' land a man on the moon and return him safely to the Earth.

Those words triggered a serendipitous combination of the leader, the people and the times, to launch a technology that altered our world.

From communications and telemetry to computers, what came to be known as the Apollo project generated knowledge that sent the national economy on a long road of technological innovation that reverberates today.

Not surprisingly, Brevard in those years averaged among the highest of any U.S. county in levels of educational achievement,

creating a legacy of interest that's reflected today in Brevard schools' strong performance in science and math.

Locally and nationally, the benefits of the Apollo remain immeasurable.

That's why it's incredible that for more than 30 years, the moon's cold surface has not felt another human step.

What might science have discovered, 35 years after Armstrong and fellow astronaut Buzz Aldrin made those giant lunar leaps, if the nation had continued that dazzling trajectory of human exploration, instead of letting the banner fall?

Such a softening of national purpose must not—must never—be the story of the American future.

Mr. LAMPSON. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentleman for yielding me this time.

I join my colleagues in congratulating the gentleman from Texas (Mr. HALL) and the gentleman from Texas (Mr. LAMPSON) for bringing this important resolution to the floor.

As we have heard, 35 years ago today, the Apollo 11 mission landed on the Moon, and in that short 8-day mission we accomplished miraculous goals, and that mission has stood to inspire us for many years since.

I am also reminded that on the same date in the 1970s, the Viking Mars Lander, the first time we reached Mars, also in penetrating our solar system, July 20, holds a special significance for us.

As many of my colleagues have mentioned here, we have an opportunity now to rekindle that spirit, and that is certainly the intent, I think, of this resolution, as I look at my good friends from Texas. And I know that Buzz Aldrin and Michael Collins and Neil Armstrong together would say it is on our shoulders to reinvigorate and lead NASA into this new century. And I look forward, as I stand here today, to working with a bipartisan group in the House with the gentleman from New York (Chairman BOEHLERT) and the gentleman from Tennessee (Mr. GORDON), ranking member, with the NASA leadership, with the private sector, and with the public that has shown great interest to ratify a new vision for this century and to put the energy and the resources in place to implement that new vision.

□ 1645

That new vision can, like President Kennedy's challenge in 1961, begin a new age of space exploration, inspire our Nation's youth to pursue math, science and engineering and stimulate our U.S. aerospace industry and underline the fact that we are a great Nation that has shown leadership in many, many sectors, including this important area.

So again I want to join my colleagues in endorsing this very important resolution to honor the men and women who so gallantly have gone into outer space

Mr. HALL. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. ADERHOLT), a member of the Subcommittee on VA, HUD and Independent Agencies of the Committee on Appropriations, which oversees the Space Station, and one of the major leaders in the space thrust.

Mr. ADERHOLT. Mr. Speaker, I thank the gentleman from Texas for his leadership on this issue and for his leadership here in the Congress on this issue of space exploration for many years.

Today, it has already been mentioned that we celebrate the accomplishments of NASA's Apollo 11 mission. Of course, it was back in 1961 that President Kennedy challenged NASA to meet the goals of sending people to the Moon and back. It was an exciting day only 8 years later when Neil Armstrong, Buzz Aldrin and Michael Collins represented all Americans when the first human steps were taken on the Moon.

President Bush has issued a new challenge for NASA, the vision for space exploration. I wholeheartedly support NASA in this endeavor, and I encourage my colleagues to do the same. NASA is important to this country's economic well-being, and it inspires our children to dream of distant worlds that they may actually see in their lifetime. It may be one of our children or one of our grandchildren who take the first steps on Mars.

Although achieving the President's new vision may be some years in the future, we should all be aware of the many benefits and the spin-offs from NASA that reach all citizens of the United States, including those in each of our districts every day.

NASA-inspired communications satellites connect the world. Other NASA-launched satellites enable weather forecasters to track hurricanes, wildfires, volcanoes, and also assist emergency workers in those areas to prepare ahead in time of events that could have devastating impacts. The NASA power source used to separate the solid rocket boosters from the Space Shuttle is used in Lifeshears, a rescue tool which quickly cuts debris to free victims when they have been in accidents.

NASA has also made tremendous contributions to the medical field. NASA, technology first used to monitor the health of astronauts in space, has enabled health workers in today's hospitals to monitor many patients. One NASA researcher realized that his work study in small particles suspended in liquids could possibly help to detect cataracts, a condition that his father had suffered from. Now the instrument he designed is being adapted to identify other eye diseases, diabetes, and possibly even Alzheimer's.

Another NASA researcher, driven by his own hearing problem, used expertise that he had gained as an electronics instrumentation engineer at NASA's Kennedy Space Center to develop the Cochlear Implant. This device has restored hearing for thousands and allowed others born deaf to hear for the very first time.

A silicone chip originally developed for the Hubble Space Telescope makes breast cancer screening less painful, less expensive, and results in less scarring than the traditional biopsy.

If that is not enough for you to support NASA's budget, consider their dedication to the youth of this Nation. NASA-sponsored or cosponsored programs such as the Student Launch Initiative, the Annual Moonbuggy Race and the Team America Rocketry Challenge reach out directly to our young people and inspire them to look within themselves to invent, create, dream and strive for accomplishments.

NASA's Explorer Schools Programs have touched hundreds of minority and poverty-stricken communities to help educators in those systems with grants, materials, teaching guides and support for their math and science programs. NASA continues to benefit students even after they reach the college and university level through numerous grants, fellowships and programs.

Through these and other programs, NASA and Vision for Space Exploration will inspire this Nation's youth, motivating future generations to study math, science and engineering. The work these young people will aspire to assists them to reach dreams beyond their imagination. What better memorial could there be for the noble astronauts who have given their lives in pursuit of space and exploration than to create a brand-new generation of explorers and visionaries?

As I have detailed here, all citizens of the United States of America benefit in some way from NASA, whether from the thousands of jobs that were created in support of the programs, the commercial spin-offs from the research and technology developed, or by the impact of our young people through NASA's education initiative.

I hope my colleagues this afternoon will join me as we look forward to supporting NASA's budget for fiscal year 2005 and as we celebrate the 35th anniversary of the *Apollo* mission.

Mr. LAMPSON. Mr. Speaker, I yield 5 minutes to my friend the gentlewoman from Dallas, Texas (Ms. EDDIE BERNICE JOHNSON), another active member of the Committee on Science.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, allow me to thank the gentleman from Texas (Mr. LAMPSON) and the gentleman from Texas (Mr. HALL) for getting us to this point.

I rise in support of their resolution, H. Res. 1723, recognizing the 35th anniversary of the *Apollo 11* lunar landing. I am proud to be a cosponsor.

Apollo 11 was the first mission in which humans walked on the lunar surface and returned to Earth. On July 20, 1969, two astronauts, *Apollo 11* Commander Neil Armstrong, whom I saw on television this morning, and LM pilot Edwin E. ''Buzz'' Aldrin, Jr., landed in the Mare Tranquilitatis, the Sea of Tranquility, on the Moon in lunar module, while the Command and Service Module continued in lunar orbit.

During their stay on the Moon, the astronauts set up scientific experiments, took photographs and collected lunar samples. The lunar module took off from the Moon on July 21, and the astronauts returned to Earth on July 24.

The performance of the spacecraft was excellent throughout the mission. The primary mission goal of landing astronauts on the Moon and returning them to Earth was achieved.

The space exploration research program has been one of the most successful research programs in the history of this country. The space program has yielded many life-saving medical tests, accessibility advances for the physically challenged and products that make our lives more safe and enjoyable.

Specific technological advances made possible by space research include arteriosclerosis detection, ultrasound scanners, automatic insulin pumps, portable x-ray devices, invisible braces, dental arch wire, palate surgery technology, clean room apparel, the implantable heart aid, MRI, bone analyzer, and cataract surgery tools, to name some of them.

I also know that over 40 years ago, the foresight of persons that came along before us caused us to get into this type of research. We also owe those leaders some homage for their foresight, and I am hoping we will then have the foresight to continue this type of research.

Mr. HALL. Mr. Speaker, I yield the balance of my time to the gentleman from Florida (Mr. WELDON). Cape Canaveral is in his district. He is a longtime member of the Committee on Science and Subcommittee on Space, and is now a member of the Committee on Appropriations.

Mr. LAMPSON. Mr. Speaker, I yield 1 minute to the gentleman from Florida.

The SPEAKER pro tempore (Mr. KLINE). The gentleman from Florida (Mr. WELDON) is recognized for 4 minutes.

Mr. WELDON of Florida. Mr. Speaker, I am honored that the gentleman from Texas (Mr. HALL) would allow me the balance of the time, and thank the gentleman from Texas (Mr. LAMPSON) for yielding as well.

Today, July 20, marks the 35th anniversary of the historic *Apollo 11* lunar landing. President Kennedy set us on a race against the Soviet Union to land a man on the Moon and return them safely to Earth. America obviously rose to this challenge and succeeded beyond our expectations.

All Apollo missions were comprised of a crew of three men. *Apollo 11* had Mission Commander Neil Armstrong, Lunar Module Pilot Buzz Aldrin and Command Module Pilot Michael Collins. All three carried the hopes and prayers of a Nation on the greatest mission of exploration since the dawn of mankind.

The Apollo lunar mission comprised of three main components: the massive Saturn 5 booster, the command module and the lunar module. The Saturn 5 was and still is the most powerful rocket ever built. At lift-off, it contained 5.6 million pounds of propellant. At 363 feet tall, the mighty Saturn 5 stood 60 feet taller than the Statue of Liberty. One of the Saturn 5's main engines was more powerful than 30 diesel locomotives. Take that, Superman.

On the morning of July 16, the *Apollo 11* Saturn 5 lifted off from Launch Complex 39A at the Kennedy Space Center with a total of 7.5 million pounds of thrust. Twelve minutes, later Armstrong, Aldrin and Collins were in Earth orbit and well on their way to the Moon.

After 1½ orbits, they broke away from Earth's gravity and Command Module *Columbia* and went off with the Lunar Lander Eagle on their great mission of exploration.

President Nixon at the time heralded the mission as the most historic week since creation. Apollo not only enabled manned exploration of the Moon, but enabled the construction and operation ultimately of America's first space station, Skylab.

The name of the command module was, of course, Columbia, the same name as our first Space Shuttle. In February of 2001 we lost *Columbia* and her brave crew. One of the findings of the Columbia Accident Review Board was that NASA needed a new overarching mission, much like it had during Apollo.

President Bush has agreed, and we now have a vision for NASA that calls for picking up the mantle of Apollo and returning Americans to the Moon. First, we will return the Space Shuttle to flight, complete the International Space Station, and once again break away from low Earth orbit and return to the Moon.

Today, with this resolution, we honor that great work of the past, and I am honored to be able to rise and speak in support of this legislation.

Mr. Speaker, I just want to share one additional thing. I practiced medicine for 15 years before I was elected to this position representing Florida's Space Coast, and one of the greatest honors and pleasures was to have the working people who made the Apollo program a success coming in to see me and the sense of tremendous pride they had in having been a part of that process.

So we here today are not just honoring Aldrin and Armstrong and Collins, but all the people at Johnson Space Center and Marshall Space Flight Center, the rank-and-file people.

I remember a great story. Once, I think it was President Johnson, asked a custodian at Johnson Space Center what he did, and he said, ''I am putting a man on the Moon.'' We are acknowledging that great anniversary today.

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

Mr. Speaker, I want to thank the gentleman from Texas (Mr. HALL) for sponsoring this bill and for allowing me to join him and all of those who spoke.

The gentleman from Florida (Mr. WELDON) is so very right about the people who made this happen. When we sat here on Earth, I guess I can put it in the context of what is happening today.

When I come to this floor of the House of Representatives, it is such a magnificent thrill to me. I cannot imagine the thrill that it must have been to Neil, Buzz and Mike and all those other folks who went up there. When they were standing on the Moon, they took with them the hopes, the dreams, the breath of millions of Americans; not just the thousands who helped them get there, because it took a tremendous team to make it happen, but a little bit of piece of each one of us went up there with them.

We thank them for those feelings, we thank them for the magnificent advances to humankind that they gave to us. What a wonderful way to commemorate them.

Mr. Speaker, I urge passage of H.R. 723.

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

Mr. DELAY. Mr. Speaker, at 10:56 p.m., Eastern Daylight Time, 35 years ago tonight, the United States achieved the greatest single feat of ingenuity in human history when Neil Armstrong stepped onto the surface of the moon.

In the three and a half decades that have passed since that awesome night, an entire generation of humanity has been born never knowing a time before the *Apolo 11* mission.

And while this is the necessary and proper way to human progress, those of us who remember staying up that night, glued to the living room television—our muscles tired from tension and fear and anticipation—we know what our children have missed.

In the last 35 years, space travel has been made—because of the brilliance and courage of NASA—into something seemingly almost routine. but those of us who were there 35 years ago know it is not—and never was—routine. Space exploration, then and now, represents the apex of humanity's quest for knowledge and of every obstacle standing between us and the unknown.

For thousands of years, mankind dreamed of what it would be like to fly birds, and then in less than 70, the people of Earth got from Kitty Hawk to the moon. "One giant leap" indeed.

Thirty-five years ago, the world stopped to watch and listen—to learn—as two men walked into history. Neil Armstrong, Buzz Aldrin, and Michael Collins command as much respect today as they did when they left their footprints on the lunar surface, and it is for us—we who remember—to not let those who do not, every forget.

A generation of Americans have been inspired by what they saw 35 years ago. What will our children remember of us 35 years from now? Will we have sought our great challenges, sought to take the next "giant leap for mankind"? Will we have dared mighty deeds to leave our own footprints on history?

There can be only one truly American answer to that question, and it was answered for all times by the men of *Apollo 11*.

Mr. CRAMER. Mr. Speaker, as we celebrate the 35th Anniversary of the *Apollo 11* mission this week, I rise to pay tribute to the achievements of the past, and to urge my colleagues to set our sights on the potential of the future.

The historic steps taken by Neil Armstrong and Buzz Aldrin 35 years ago will be remembered by future generations as one of the greatest accomplishments of the 20th Century. While these steps were taken on another world, they were born right here on Earth. That was an exciting time in my district in North Alabama, which is the home of NASA's Marshall Space Flight Center, and the von Braun rocket team. Wernher von Braun, Marshall's first Director, led the development of the roadmap for putting humans on the Moon. Through bold thinking, ingenious engineering, and a lot of good old-fashioned hard work, NASA's engineers and scientists built the colossal Saturn V—a rocket powerful enough to take our astronauts out of the tight grasps of Earth's gravity.

Apollo 11 established the U.S. as the world's leader in space and boosted our economy with technology and innovation. But the most important benefit realized from the *Apollo 11* moon landing may have been the effect it had on the children of that era—it inspired them—us—to dream—to reach for the starts. Like generations before, those who come after us have an inherent desire to explore the unknown.

It is appropriate during this special week for us to give consideration to the future of space exploration, which has been put before us in NASA's new space exploration vision. It begins with the return to flight of the Space Shuttle, and the completion of the ISS as a unique scientific laboratory. It includes the robotic exploration of our solar system and the universe beyond. And it includes the extending of human exploration beyond Earth's orbit—first to the Moon, and then ultimately onto Mars.

To be sure, realizing such a vision will require advances in space transportation systems. But advances in transportation have always opened new frontiers for our civilization. Examples include the first ocean-crossing ships of the New World explorers, the stage coaches and trails of the Great American West, the first transcontinental steam locomotives, the first automobiles off the assembly line, the flight of the Wright Brothers, and the historic escape of the Earth's gravity by the Apollo program. During the era, each of these advances required valuable resources and an unusually high degree of risk-taking, but the return on investment, unpredictable at the time, turned out to be tremendous. Each of these advances would ultimately change the very fabric of our society.

Mr. Speaker, I would also like to take a few seconds to highlight some results from a Gallup poll on Space Exploration that was just released yesterday.

According to this Gallup poll, over two-thirds of the respondents are interested in America's space program, and only 11% were not interested at all. A majority of the adults surveyed—68%—agree that it is important for the Nation to have a space program that uses both human and robotic exploration. Almost two-thirds of the adults surveyed believe that space exploration should be funded at or above the current level. And 68% of the public supports the space exploration vision, at the funding level of 1% of the Federal budget.

So you see that while we stand here today to honor the epic accomplishments of the past, Americans look forward to realizing the great achievements of the future. Mr. Speaker, I close by extending my congratulations to the many people across our Nation who had a hand in that historic mission 35 years ago.

Today, as Americans, we remember *Apollo's* race to the Moon with pride, wonder, and awe. And we look forward to many more missions of extraordinary achievement and discovery from our Nation's space program.

Mr. OXLEY. Mr. Speaker, I rise today to remember the *Apollo 11* mission and honor a native of the 4th district of Ohio, Neil Armstrong. As mission commander, Armstrong was first to step on the lunar surface at 10:56 p.m., EDT on July 20, 1969. His immortal words—"That is one small step for man, one giant leap for mankind"—will resonate in our hearts and minds forever.

Neil Alden Armstrong took his first steps in Wapakoneta, Ohio. Born to Stephen and Viola Armstrong, Neil developed an early interest in flying. At age six, he took his first airplane ride in Warren, Ohio in a Ford Tri-Motor plane nicknamed the "Tin Goose". He began taking flying lessons at the age of fifteen and had his student pilot's license before graduating from Blume High School in 1947.

While in college at Purdue University, he was called up for active duty in the Navy and was sent to Korea as an aviator. During the war, he flew seventy-eight combat missions from the aircraft carrier USS Essex. Following the war, Armstrong joined the National Advisory Committee for Aeronautics and was sent to the Lewis Research Center near Cleveland, Ohio (today the Glenn Research Center) where he was an engineer and test pilot. At Lewis and later at NASA's Flight Research Center in Edwards, California, Armstrong flew over 200 different models of aircraft while pursuing a master of science degree in aerospace engineering from the University of Southern California.

In 1962, Armstrong was transferred to astronaut status and moved to El Lago, Texas, where he underwent four years of training for the Apollo program. He commanded his first space mission as pilot for *Gemini VII*, but his most famous mission came when *Apollo 11* launched on July 16, 1969. Armstrong and the two other astronauts, "Buzz" Aldrin and Michael Collins, spent eight days in space and 2½ hours on the Moon's surface.

For his work as an astronaut, Armstrong received the Medal of Freedom, the NASA Distinguished Service Medal, the NASA Exceptional Service Medal, and the Congressional Space Medal of Honor. Neil Armstrong went where no one had gone before and helped our Nation become the leader in space exploration. This man from rural Ohio paved the way for generations to continue to explore and dream of the far reaches of our universe. As our Nation embarks on future space travels, we need to take time to honor those explorers who carved out a new path for us to follow.

□ 1700

The SPEAKER pro tempore (Mr. KLINE). The question is on the motion offered by the gentleman from Texas (Mr. HALL) that the House suspend the rules and agree to the resolution, H. Res. 723.

The question was taken.

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

Mr. HALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 723, the resolution just considered.

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

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2443, COAST GUARD MARITIME TRANSPORTATION ACT FOR 2004

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–618) on the resolution (H. Res. 730) waiving points of order against the conference report to accompany the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes, which was referred to the House Calendar and ordered to be printed.

DEPARTMENT OF HOMELAND SECURITY FINANCIAL ACCOUNTABILITY ACT

Mr. PLATTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4259) to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

The Clerk read as follows:

H.R. 4259

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 "Department of Homeland Security Financial Accountability Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Influential financial management leadership is of vital importance to the mission success of the Department of Homeland Security. For this reason, the Chief Financial Officer of the Department must be a key figure in the Department's management.

(2) To provide a sound financial leadership structure, the provisions of law enacted by

the Chief Financial Officers Act of 1990 (Public Law 101–576) provide that the Chief Financial Officer of each of the Federal executive departments is to be a Presidential appointee who reports directly to the Secretary of that department on financial management matters. Because the Department of Homeland Security was only recently created, the provisions enacted by that Act must be amended to include the Department within these provisions.

(3) The Department of Homeland Security was created by consolidation of 22 separate Federal agencies, each with its own accounting and financial management system. None of these systems was developed with a view to executing the mission of the Department of Homeland Security to prevent terrorist attacks within the United States, reduce the Nation's vulnerability to terrorism, and minimize the damage and assist in the recovery from terrorist attacks. For these reasons, a strong Chief Financial Officer is needed within the Department both to consolidate financial management operations, and to insure that management control systems are comprehensively designed to achieve the mission and execute the strategy of the Department.

(4) The provisions of law enacted by the Chief Financial Officers Act of 1990 require agency Chief Financial Officers to improve the financial information available to agency managers and the Congress. Those provisions also specify that agency financial management systems must provide for the systematic measurement of performance. In the case of the Department of Homeland Security, therefore, it is vitally important that management control systems be designed with a clear view of a homeland security strategy, including the priorities of the Department in addressing those risks of terrorism deemed most significant based upon a comprehensive assessment of potential threats, vulnerabilities, criticality, and consequences. For this reason, Federal law should be amended to clearly state the responsibilities of the Chief Financial Officer of the Department of Homeland Security to provide management control information, for the benefit of managers within the Department and to help inform the Congress, that permits an assessment of the Department's performance in executing a homeland security strategy.

SEC. 3. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

''(G) The Department of Homeland Security.''.

(b) APPOINTMENT OR DESIGNATION OF CFO.—The President shall appoint or designate a Chief Financial Officer of the Department of Homeland Security under the amendment made by subsection (a) by not later than 180 days after the date of the enactment of this Act.

(c) CONTINUED SERVICE OF CURRENT OFFICIAL.—An individual serving as Chief Financial Officer of the Department of Homeland Security immediately before the enactment of this Act, or another person who is appointed to replace such an individual in an acting capacity after the enactment of this Act, may continue to serve in that position until the date of the confirmation or designation, as applicable (under section 901(a)(1)(B) of title 31, United States Code), of a successor under the amendment made by subsection (a).

(d) CONFORMING AMENDMENTS.—

(1) HOMELAND SECURITY ACT OF 2002.—The Homeland Security Act of 2002 (Public Law 107–296) is amended—

(A) in section 103 (6 U.S.C. 113)—

(i) in subsection (d) by striking paragraph (4), and redesignating paragraph (5) as paragraph (4);

(ii) by redesignating subsection (e) as subsection (f); and

(iii) by inserting after subsection (d) the following:

''(e) CHIEF FINANCIAL OFFICER.—There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31, United States Code.''; and

(B) in section 702 (6 U.S.C. 342) by striking ''shall report'' and all that follows through the period and inserting ''shall perform functions as specified in chapter 9 of title 31, United States Code, and, with respect to all such functions and other responsibilities that may be assigned to the Chief Financial Officer from time to time, shall also report to the Under Secretary for Management.''.

(2) FEMA.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (B), and by redesignating subparagraphs (C) through (H) in order as subparagraphs (B) through (G).

SEC. 4. FUNCTIONS OF CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) PERFORMANCE AND ACCOUNTABILITY REPORTS.—Section 3516 of title 31, United States Code, is amended by adding at the end the following:

''(f) The Secretary of Homeland Security—

''(1) shall for each fiscal year submit a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security;

''(2) shall include in each performance and accountability report an audit opinion of the Department's internal controls over its financial reporting; and

''(3) shall design and implement Department-wide management controls that—

''(A) reflect the most recent homeland security strategy developed pursuant to section 874(b)(2) of the Homeland Security Act of 2002; and

''(B) permit assessment, by the Congress and by managers within the Department, of the Department's performance in executing such strategy.''.

(b) IMPLEMENTATION OF AUDIT OPINION REQUIREMENT.—The Secretary of Homeland Security shall include audit opinions in performance and accountability reports under section 3516(f) of title 31, United States Code, as amended by subsection (a), only for fiscal years after fiscal year 2005.

(c) ASSERTION OF INTERNAL CONTROLS.—The Secretary of Homeland Security shall include in the performance and accountability report for fiscal year 2005 submitted by the Secretary under section 3516(f) of title 31, United States Code, an assertion of the internal controls that apply to financial reporting by the Department of Homeland Security.

(d) AUDIT OPINIONS OF INTERNAL CONTROLS OVER FINANCIAL REPORTING BY CHIEF FINANCIAL OFFICER AGENCIES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Chief Financial Officers Council and the President's Council on Integrity and Efficiency established by Executive Order 12805 of May 11, 1992, shall jointly conduct a study of the potential costs and benefits of requiring the agencies listed in section 901(b) of title 31, United States Code, to obtain audit opinions of their internal controls over their financial reporting.

(2) REPORT.—Upon completion of the study under paragraph (1), the Chief Financial Officers Council and the President's Council on Integrity and Efficiency shall promptly submit a report on the results of the study to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Comptroller General of the United States.

(3) GENERAL ACCOUNTING OFFICE ANALYSIS.—Not later than 90 days after receiving the report under paragraph (2), the Comptroller General shall perform an analysis of the information provided in the report and report the findings of the analysis to the committees referred to in paragraph (2).

SEC. 5. FUTURE YEARS HOMELAND SECURITY PROGRAM AND HOMELAND SECURITY STRATEGY.

Section 874 of the Homeland Security Act of 2002 (6 U.S.C. 112) is amended by striking subsection (b) and inserting the following:

''(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall—

''(1) include the same type of information, organizational structure, and level of detail as the future years defense program submitted to Congress by the Secretary of Defense under section 221 of title 10, United States Code;

''(2) set forth the homeland security strategy of the Department, which shall be developed and updated as appropriate annually by the Secretary, that was used to develop program planning guidance for the Future Years Homeland Security Program; and

''(3) include an explanation of how the resource allocations included in the Future Years Homeland Security Program correlate to the homeland security strategy set forth under paragraph (2).''.

SEC. 6. ESTABLISHMENT OF OFFICE OF PROGRAM ANALYSIS AND EVALUATION.

Section 702 of the Homeland Security Act of 2002 (6 U.S.C. 342) is amended by—

(1) inserting ''(a) In General.—'' before the first sentence; and

(2) adding at the end the following:

''(b) PROGRAM ANALYSIS AND EVALUATION FUNCTION.—

''(1) ESTABLISHMENT OF OFFICE OF PROGRAM ANALYSIS AND EVALUATION.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall establish an Office of Program Analysis and Evaluation within the Department (in this section referred to as the 'Office').

''(2) RESPONSIBILITIES.—The Office shall perform the following functions:

''(A) Analyze and evaluate plans, programs, and budgets of the Department in relation to United States homeland security objectives, projected threats, vulnerability assessments, estimated costs, resource constraints, and the most recent homeland security strategy developed pursuant to section 874(b)(2).

''(B) Develop and perform analyses and evaluations of alternative plans, programs, personnel levels, and budget submissions for the Department in relation to United States homeland security objectives, projected threats, vulnerability assessments, estimated costs, resource constraints, and the most recent homeland security strategy developed pursuant to section 874(b)(2).

''(C) Establish policies for, and oversee the integration of, the planning, programming, and budgeting system of the Department.

''(D) Review and ensure that the Department meets performance-based budget requirements established by the Office of Management and Budget.

''(E) Provide guidance for, and oversee the development of, the Future Years Homeland

Security Program of the Department, as specified under section 874.

''(F) Ensure that the costs of Department programs, including classified programs, are presented accurately and completely.

''(G) Oversee the preparation of the annual performance plan for the Department and the program and performance section of the annual report on program performance for the Department, consistent with sections 1115 and 1116, respectively, of title 31, United States Code.

''(H) Provide leadership in developing and promoting improved analytical tools and methods for analyzing homeland security planning and the allocation of resources.

''(I) Any other responsibilities delegated by the Secretary consistent with an effective program analysis and evaluation function.

''(3) DIRECTOR OF PROGRAM ANALYSIS AND EVALUATION.—There shall be a Director of Program Analysis and Evaluation, who—

''(A) shall be a principal staff assistant to the Chief Financial Officer of the Department for program analysis and evaluation; and

''(B) shall report to an official no lower than the Chief Financial Officer.

''(4) REORGANIZATION.—

''(A) IN GENERAL.—The Secretary may allocate or reallocate the functions of the Office, or discontinue the Office, in accordance with section 872(a).

''(B) EXEMPTION FROM LIMITATIONS.—Section 872(b) shall not apply to any action by the Secretary under this paragraph.''.

SEC. 7. NOTIFICATION REGARDING TRANSFER OR REPROGRAMMING OF FUNDS FOR DEPARTMENT OF HOMELAND SECURITY.

Section 702 of the Homeland Security Act of 2002 (6 U.S.C. 342) is further amended by adding at the end the following:

''(c) NOTIFICATION REGARDING TRANSFER OR REPROGRAMMING OF FUNDS.—In any case in which appropriations available to the Department or any officer of the Department are transferred or reprogrammed and notice of such transfer or reprogramming is submitted to the Congress (including any officer, office, or Committee of the Congress), the Chief Financial Officer of the Department shall simultaneously submit such notice to the Select Committee on Homeland Security (or any successor to the jurisdiction of that committee) and the Committee on Government Reform of the House of Representatives, and to the Committee on Governmental Affairs of the Senate.''.

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to the rule, the gentleman from Pennsylvania (Mr. PLATTS) and the gentleman from New York (Mr. TOWNS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PLATTS).

GENERAL LEAVE

Mr. PLATTS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4259.

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

There was no objection.

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

Madam Speaker, I rise today in strong support of H.R. 4259, the Department of Homeland Security Financial Accountability Act. This legislation, which I introduced in May 2004, along with the chairman of the Committee on Government Reform, the gentleman from Virginia (Mr. TOM DAVIS); the ranking member, the gentleman from California (Mr. WAXMAN); the chairman of the Select Committee on Homeland Security, the gentleman from New Jersey (Mr. COX); the ranking member of the Select Committee on Homeland Security, the gentleman from Texas (Mr. TURNER); the gentleman from New York (Mr. TOWNS); and the gentlewoman from Tennessee (Mrs. BLACKBURN), represents a compromise between the House Committee on Government Reform and the House Select Committee on Homeland Security.

Essentially, H.R. 4259 replaces H.R. 2886, which was reported by the House Committee on Government Reform in November of 2003. This latest version, H.R. 4259, was introduced to incorporate key changes requested by the minority and the Select Committee on Homeland Security.

Madam Speaker, let me provide a brief history of this important legislation. On July 24 of last year, I, along with the gentleman from Virginia (Chairman TOM DAVIS), the gentleman from California (Ranking Member WAXMAN), the gentleman from New York (Mr. TOWNS), and the gentlewoman from Tennessee (Mrs. BLACKBURN), introduced the original H.R. 2886 to ensure that the Department of Homeland Security is subject to the same financial accountability requirements as all other Cabinet-level Departments.

This bill, and the one before us today, codifies a structure for sound financial management that is mandatory, not optional, for future administrations. H.R. 4259, like its predecessor, achieves this goal by adding the Department of Homeland Security to the list of agencies that are covered by the CFO Act of 1990.

H.R. 4259 puts the Department of Homeland Security's Chief Financial Officer on the same footing as the CFOs at the rest of the Cabinet-level Departments by ensuring that the Department's CFO is a Presidential appointee subject to Senate confirmation, reports directly to the Secretary of the Department, and is part of the statutorily created Chief Financial Officer's Council.

In addition, the bill ensures that the Department will comply with the Federal Financial Management Improvement Act of 1996, which establishes important financial management systems requirements for the CFO Act agencies.

Additionally, this legislation requires an opinion-level audit of the Department's internal controls. Currently, OMB guidance requires a report on internal controls in conjunction with annual financial audits. Having an auditor issue an opinion on the internal controls report would help uncover inherent weaknesses and address problems as business practices are being established, before they become ingrained. Strong internal controls are essential to sound financial management.

H.R. 4259 incorporates a number of important changes requested by the gentleman from California (Ranking Member WAXMAN) as well as the Select Committee on Homeland Security. Most notably, H.R. 4259 alters the reporting structure for the Department of Homeland Security Chief Financial Officer to allow for dual reporting to both the Secretary and the Under Secretary for Management. It also provides for the establishment of an Office of Program Analysis and Evaluation. It requires a Future Years Homeland Security Program and Homeland Security Strategy. The new bill also delays a requirement for the Department's internal control audit until fiscal year 2006.

H.R. 4259 retains key provisions from the original bill, H.R. 2886, as introduced, including the requirement that the CFO at DHS be appointed by the President and confirmed by the Senate. The newness, size, and mission of the Department of Homeland Security calls for more accountability and oversight, not less.

At present, DHS is the only Cabinet-level Department whose CFO is not required to be Senate confirmed. This unique status demotes both the CFO position and the importance of financial management within the Department. Now is not the time to dilute the importance of the CFO position, and we should not require less financial accountability at DHS than we do at other Cabinet-level Departments.

This Department faces many daunting challenges, and these challenges will require strong leadership and a commitment from top-level management to overcome. Financial management at DHS must be of the highest priority. The legislation before the Congress today ensures that it is such a priority.

Madam Speaker, it is important to note that under the leadership of President George Bush and Department Secretary Tom Ridge, my fellow Pennsylvanian, the Department has shown a determination to be fiscally responsible, and they are to be applauded for this approach. I want to emphasize that, although they are not required to comply with the CFO Act, they have made a determined effort to do so and are setting a good example. What we are trying to do is make sure that is a permanent example followed by future administrations.

Future administrations are not bound by law, as I said, to follow this same path of fiscal responsibility. This bill rectifies that situation by codifying compliance with the provisions of the CFO Act. I urge my colleagues to support H.R. 4259.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, let me begin by commending both the gentleman from Virginia (Chairman TOM DAVIS); the gentleman from Pennsylvania (Mr. PLATTS), the chairman of the subcommittee; and the gentleman from California (Mr. WAXMAN), the ranking member, for their tireless efforts in forging a consensus for H.R. 4259, the Department of Homeland Security Financial Accountability Act, of which I am a proud cosponsor. Our work today will move us one step closer to ensuring that the critical resources utilized for protecting our Nation will finally have an appropriate level of management and oversight.

In an era of soaring Federal deficits, along with challenges in managing a dynamic workforce from distinct legacy agencies, the exemption of DHS's CFO from the requirements of all other Cabinet-level CFOs is irresponsible. Therefore, I am happy to say that the bill before us today is a well-crafted compromise forged after months of negotiation and deliberative discussions. There are several key provisions contained in this legislation. Most importantly, however, the bill amends the Chief Financial Officers Act of 1990 to include the Department of Homeland Security, ensuring that the DHS CFO is subject to the same reporting requirements, oversight responsibilities, and congressional scrutiny required for all major Cabinet-level positions. The CFO is in the executive branch.

Through thoughtful analysis and consideration, there have been several significant improvements made to this legislation, which I am happy have occurred. These include a provision requiring the CFO to be a Presidential appointee subject to Senate confirmation. The specific language would require the CFO to report directly to the Secretary of Homeland Security, and authorization for the DHS CFO to become part of the statutorily created CFO Council. To address the need for stronger fiscal oversight, the bill requires DHS to annually review its internal financial controls, ensuring that agency standards for financial management and accountability remain intact.

By adding these provisions to the bill, we are strengthening the accountability, management, and oversight responsibilities of the new Department. As we all recognize, Madam Speaker, the establishment of the Department of Homeland Security was an unprecedented effort by Congress to increase our Nation's preparedness and responsiveness to domestic security threats. The Department is one of the largest in the Federal Government, consisting of 22 legacy agencies, and has perhaps the most important mission of any Federal agency as we struggle to counteract new threats to our domestic security.

To conclude, this is a necessary step forward if we are to develop an efficient and effective agency that is ready to achieve its purpose of protecting our citizens, infrastructure, and borders. I urge my colleagues to support this bill.

Madam Speaker, I reserve the balance of my time.

Mr. PLATTS. Madam Speaker, I yield myself such time as I may consume to just thank our ranking member, the distinguished gentleman from New York (Mr. TOWNS), for his work and his staff's work with me and our subcommittee staff on the majority side. It has certainly been a bipartisan effort, and I am grateful for his assistance.

Madam Speaker, I urge all Members to support the passage of H.R. 4259, the Department of Homeland Security Financial Accountability Act, and I yield back the balance of my time.

Mr. TOWNS. Madam Speaker, I yield myself such time as I may consume to thank the chairman of the subcommittee for his outstanding work in terms of bringing about a coalition to be able to work out some of the disagreements that we had, to be able to come up, I think, with a very strong bill. So I would like to salute him for that. I would like to salute the staff on both sides, the Democratic side and the Republican side, for their hard work as well.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. PLATTS) that the House suspend the rules and pass the bill, H.R. 4259.

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

A motion to reconsider was laid on the table.

BOB MICHEL DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4608) to name the Department of Veterans Affairs outpatient clinic located in Peoria, Illinois, as the ''Bob Michel Department of Veterans Affairs Outpatient Clinic''.

The Clerk read as follows:

H.R. 4608

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

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, PEORIA, ILLINOIS.

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

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the chief sponsor of this very important resolution, the gentleman from Illinois (Mr. LAHOOD).

Mr. LAHOOD. Madam Speaker, I thank the gentleman for yielding me this time. I appreciate the work of the Committee on Veterans' Affairs in expediting this and also the majority leader's office.

Madam Speaker, I am honored to rise today to express my strong support for H.R. 4608, legislation that would name the Department of Veterans Affairs Outpatient Clinic in Peoria, Illinois, after Bob Michel, the former Republican leader of the House of Representatives.

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This year, as we mark the 60th anniversary of D-Day, we as a Nation are taking the time to reflect on those members of the greatest generation who served our country during World War II. Bob Michel is one of those heroes. As a member of the 39th Infantry, he served in England, France, Belgium and Germany. He fought from the beaches of Normandy to the Battle of the Bulge, where he was wounded by machine gun fire. His service earned him the Purple Heart, two Bronze Stars and four Battle Stars.

After the war, Bob Michel continued his service to our country and to our community, first as a congressional staffer, then as a Member of this House for 38 distinguished years.

He served 6 years as the minority whip and 15 years as the Republican leader, the longest-serving Republican leader in the history of the House of Representatives. During his career, he never forgot about those who served with him in World War II and those who served in uniform after him in peacetime and conflicts that followed.

He knows firsthand the sacrifice veterans have made for our country, so he was instrumental in gaining funding that established the VA clinic in Peoria, Illinois, in 1979, a source of care and comfort for thousands of veterans throughout central Illinois. In 2003, there were more than 42,000 visits to the Peoria clinic.

Respect for Bob Michel is certainly widespread. In 1989, President Reagan awarded the Presidential Citizens Award Medal, which recognizes individuals who performed exemplary deeds for their country and fellow citizens, to then minority leader Bob Michel.

In 1994, President Clinton honored Mr. Michel with the Presidential Medal of Freedom, the Nation's highest civilian award. In 2003, Mr. Michel became one of the first recipients of the Congressional Distinguished Service Award presented to him by the gentleman from Illinois (Speaker HASTERT), and in June of this year, Mr. Michel returned to France with the gentleman from Illinois (Speaker HASTERT) and was one

of only 100 people to become a Knight of the Legion of Honor, one of the highest honors paid by the French Government to a noncitizen.

Bob Michel, a member of the American Legion, the Veterans of Foreign Wars, AMVETS, the Distinguished American Veterans and the Military Order of the Purple Heart, continues to be an example of patriotism and the exemplary public service to which we all aspire. I am honored to call him my mentor and my friend of more than 20 years, and I know many in this House, both staff and fellow Members alike, share these feelings with me.

On the top of many other accolades and honors, I can think of no better way to honor his lifetime of public service than to add his name to a facility that serves other patriots during their time of need. So I urge my colleagues today to help honor Bob Michel by designating the veterans clinic in Peoria, Illinois, as the Bob Michel Department of Veterans Affairs Outpatient Clinic.

I want to particularly thank the gentleman from New Jersey (Chairman SMITH), and as I said, the majority leader's office, the staff on both sides of the Committee on Veterans' Affairs for so quickly taking action on this legislation, and I urge passage.

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

Madam Speaker, I rise in support of H.R. 4608, a bill introduced by a former member of the Committee on Veterans' Affairs, the gentleman from Illinois (Mr. LAHOOD) to rename the Peoria, Illinois, VA clinic after former Congressman Bob Michel. For 2 decades, Congressman Michel served Peoria as a Member of this body. In the last 6 years of his tenure, he was elected to serve as minority leader, a post he maintained until his retirement in 1995.

While I missed the opportunity to work directly with Congressman Michel, I understand he was an effective and highly respected leader who worked well with both sides of the aisle. He is remembered here for expert political insight, a congenial manner and being a true gentleman. I hope all Members will join me in supporting this bill.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Let me urge all of my colleagues to vote for H.R. 4608, offered by my good friend and colleague, the gentleman from Illinois (Mr. LAHOOD), which would name the outpatient clinic in Peoria after the very distinguished former minority leader, Bob Michel. I cannot think of a person more deserving of this honor.

Bob Michel had an illustrious career as a Member of this body for 38 years. Having been elected in the 85th Congress, Bob was the minority leader for 14 years of his time here. Prior to that, he was the whip for three Congresses.

Madam Speaker, aside from his political career, which was outlined by the gentleman from Illinois (Mr. LAHOOD), Bob Michel was a distinguished veteran of World War II. Our colleague, the gentleman from Illinois (Mr. LAHOOD) talked about that, and for those of us who serve on the Committee on Veterans' Affairs, we look at a guy like Bob Michel and say, he is the quintessential veteran. He is a guy that served honorably, rarely talks about it, was honored by our country for his valor, and for his suffering with a Purple Heart, and he is a real example of the greatest generation.

He continues to give and to give mightily. Bob set an example as minority leader of statesmanship and civility in both his words and his actions. He taught those of us who were fortunate enough to serve with him, and I was elected in the 97th Congress, that one can disagree without being disagreeable, and that life in politics can and should be balanced with outside interests and pursuits.

Bob Michel was a patriot in all of the meaning that that word has. He was an outstanding Member of Congress, and I salute his fearless leadership, his long service and I salute him for his humility, something you do not hear about too often in this place. He could do great deeds, and he was the last person who would ever tell you about it.

He was just a tremendous human being, and is a tremendous human being, and this, plus all of the other accolades that he gets and should get, is just one more that says, ''Bob, we love you, we thank you for your service, and you deserve this.''

Again, I want to thank the gentleman from Illinois (Mr. LAHOOD) for his sensitivity and his foresight in naming this outpatient clinic in honor of our very distinguished former leader, Bob Michel.

Mr. MICHAUD. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. EVANS) who has continually fought for veterans' issues.

Mr. EVANS. Madam Speaker, I am proud to have served with Bob Michel. In the 1980s he represented the greater Peoria region, and the Peoria clinic serves many of my constituents in Fulton and Knox Counties.

Bob Michel is a rare breed in today's Congress. He knew the art of compromise well. He worked well with Members on both sides of the aisle, was a worthy adversary on the floor, but forgot about the battles once he was out of the Chamber. He was really everybody's friend here. He worked with Members on both sides, and most importantly, he played fair. This is a fitting tribute to a former colleague and friend.

We have a lot of good memories of Bob, and my good friend, the gentleman from Illinois (Mr. LAHOOD) has done an excellent job of filling his shoes. I want to thank him for bringing this legislation to the floor and I thank the chairman for your tribute.

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Madam Speaker, I thank my chairman for yielding me the time.

It is my great privilege to rise this afternoon as the House considers H.R. 4608, a bill to name the Peoria, Illinois, Department of Veterans' Affairs Outpatient Clinic for Bob Michel, a great statesman and former minority leader in this very body.

Much has been said and much more will be said today about Bob Michael's valiant military service, about his service to God and country above self and about his contributions as minority leader of this great body.

After spending the 60th anniversary of D-Day with Leader Michel on the shores of Utah Beach, he was there on D-Day plus four, I cannot think of a better way to reflect upon this great patriot's leadership than through his own words. Bob Michel understands that a strong national defense and the sacrifices necessary in order to reach and maintain it are fundamental to this Nation's greatness.

I reflect on a speech from Memorial Day 1992 at Washington, Illinois, where he said, ''We cannot afford to go through that old American three-step dance with national defense. It goes like this: In time of danger, unity. In time of victory, euphoria. And in time of peace, amnesia. We just forgot what the world is like, and we think that peace is just given to you. Well, it is not given. It has to be won by sacrifice, by vigilance, by courage. Each generation has to be prepared to do the job.''

These words are of particular value to the generation at war today, and we can find guidance in a 1993 Washington Times article in which Leader Michel spoke of the need to have government that is at once limited and strong. ''Government is not the enemy. Wasteful government, intrusive government, irresponsible government, corrupt government is the enemy. The people of the United States are not happy with the government when it does not work well, but make no mistake about it, Americans from the beginning have realized that the government system left to us by the Founding Fathers is the best in all the world.''

Well, this statement could very well have been made by one of my constituents in the Florida panhandle who sent me here to represent the very same ideals. Leader Michel held himself to the highest standards of integrity and expected the same from his House colleagues.

To the New York Times in 1988, he said, ''In over 30 years as a Member of this institution, I have kept my word, and I expect others to do the very same.''

There is a lesson in those words for every public servant. As minority leader, Bob Michel never forgot who sent

him to Washington or what they sent him here to do. To a newspaper back home in 1987, he said, ''I have come to learn that leadership does not mean two hoots in hell to most folks back home if it tends to distract you in any way from your primary concern for them.'' I think most Americans would agree today.

In a speech before the Illinois State Convention of AMVETS in 1956, this veteran who served with the 39th Infantry Regiment as a combat infantryman in England, France, Belgium and Germany for nearly 10 years was wounded by machine gun fire and subsequently awarded two Bronze Stars, the Purple Heart and four Battle Stars, said this, ''As veterans of World War II and Korea, the awful imprint of those conflicts is still fresh on our minds, and no one appreciates more than we that we are at peace today. Just as the fate of our country and the freedom-loving nations rested on our shoulders in time of war, so are we obliged to shoulder the responsibilities of establishing and preserving a lasting peace.''

Madam Speaker, I commend my colleague, the gentleman from Illinois (Mr. LAHOOD), for introducing this measure. It is my hope that upon its passage, the Senate will act swiftly so we can get on with providing this tribute to the service and life of a man who has done so much, not only for the Land of Lincoln, but for the man whose valiant military service, conservative leadership and steadfast commitment to traditional American values have helped reshape this Nation; and I urge my colleagues to support this measure, a befitting recognition of the legacy of this man who has borne the fate of this country and freedom-loving nations upon his shoulders.

Madam Speaker, it is very richly deserved.

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Madam Speaker, I thank very much my colleague for yielding me time.

I come to the floor to express my deep appreciation for the House's recognition of our colleague, former Member of the House and Republican Leader, Robert Michel, as the House goes about naming a veterans medical clinic after Robert H. Michel, a fabulous Member of the House who reflects much of that which is the best of this place.

He was a Member of the House who for many years served as the minority leader during much of the time that I was a member of that caucus. As he carried forward that responsibility, he also carried forward some of the most important qualities of leadership in this House. He absolutely recognized that beyond the policy work that we do, that friendship on both sides of the aisle was fundamental to our success. And Bob Michel understood that as we walked away from the Chamber, we could be friends. And time and time again, he demonstrated the value of that because he was able to accomplish things as minority leader that all too often these days we find not getting accomplished.

But, indeed, more important than all of that, Bob Michel represented his people in Illinois in a way like few ever have. He is a fabulous person and to have a medical clinic named after him is very, very appropriate, but particularly appropriate in this sense. It is a part of the past history, but at one time I had the privilege as serving as chairman of the subcommittee that handles veterans affairs and medical care problems. We all know that we are all very proud of the amount of money that we are, from time to time, able to get appropriated for veterans services. All too seldom, however, are the people who work here in an organized sense on behalf of veterans, all too seldom are they willing to go down to the communities where those services are actually delivered.

We have known for a long, long time that the big hospitals too often are too far away from where the services are needed, and too often the VSOs do not worry too much about whether the veterans are getting the service they need at home.

These medical clinics are designed to recognize that the huge hospital of the past is not necessarily the best way to deliver service in a local community either today or in the future. So this medical clinic as a part of the VA system appropriately reflects the changing demands and needs for medical services for our veterans; but most importantly in this instance, we recognize the fabulous service and the understanding of veterans' needs exhibited by our colleague, Bob Michel.

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

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4608.

The question was taken.

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

Mr. LAHOOD. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LAHOOD. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4608.

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

There was no objection.

PRINCIPAL OFFICE OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS AND SENSE OF CONGRESS REGARDING NEW VETERANS COURTHOUSE AND JUSTICE CENTER

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3936) to amend title 38, United States Code, to authorize the principal office of the United States Court of Appeals for Veterans Claims to be at any location in the Washington, D.C., metropolitan area, rather than only in the District of Columbia, and expressing the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for that Court and those it serves and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation, and for other purposes.

The Clerk read as follows:

H.R. 3936

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

SECTION 1. PRINCIPAL OFFICE OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 7255 of title 38, United States Code, is amended by striking ''District of Columbia'' and inserting ''Washington, D.C., metropolitan area''.

SEC. 2. FINDINGS AND SENSE OF CONGRESS REGARDING NEW VETERANS COURTHOUSE AND JUSTICE CENTER.

(a) FINDINGS.—Congress makes the following findings:

(1) Every Article I court of the United States other than the United States Court of Appeals for Veterans Claims is located in a dedicated courthouse.

(2) The United States Court of Appeals for Veterans Claims has since its creation in 1988 been located in a commercial office building in the District of Columbia.

(3) That court should be housed in a dedicated courthouse, as are all other Article I courts.

(4) A dedicated courthouse for that court constituting a Veterans Courthouse and Justice Center would express the gratitude and respect of the Nation for the sacrifices of those serving and those who have served in the Armed Forces, and their families.

(5) Location of such a courthouse and judicial center in an area proximate to the Pentagon, Arlington National Cemetery, and the Air Force Memorial (as planned) in Arlington, Virginia would be symbolically significant of the high esteem that the Nation holds for its veterans.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a dedicated Veterans Courthouse and Justice Center should be provided for the United States Court of Appeals for Veterans Claims; and

(2) the Secretary of Defense, in cooperation with the United States Court of Appeals for Veterans Claims, the Secretary of Veterans

Affairs, and the Administrator of General Services, should determine the feasibility of locating such a Veterans Courthouse and Justice Center at an appropriate site owned by the United States that is part of or proximate to the Pentagon Reservation in Arlington, Virginia.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of Veterans Affairs, and the Administrator of General Services shall submit to the Committees on Veterans' Affairs and the Committees on Armed Services of the Senate and House of Representatives a joint report on the feasibility of locating a new Veterans Courthouse and Justice Center at an appropriate site owned by the United States that is part of or proximate to the Pentagon Reservation in Arlington, Virginia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

□ 1730

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H.R. 3936, a bill to authorize the U.S. Court of Appeals for Veterans Claims, now located in commercial office space in the District of Columbia, to seek a new location in the greater national capital region. This bill would also express the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for the court and the veterans it serves. It should be located, or would be located, if feasible, next to Interstate Highway 395 on one of three small parking lots that are part of the Pentagon Reservation in Arlington, Virginia.

The Court of Appeals for Veterans Claims was created by statute in 1988 as an independent article I judicial tribunal that for the first time gave our Nation's veterans the right to judicial review of benefits decisions on their disability, pension, education and other claims. It should, like all other article I courts, have a permanent courthouse.

In addition to the court, occupants of the new courthouse would be representatives of veterans that regularly practice before the court, for example, the Veterans Consortium Pro Bono Program, the National Veterans Legal Services Program, and the appellate attorneys of veterans service organizations. The court and the offices of its constituents pay over $3.7 million per year for their rent. The General Services Administration anticipates that the court's rental costs will increase substantially in the not-too-distant future. Therefore, the committee believes that it would be desirable to relocate the court on a government-owned site if possible.

H.R. 3936 would also require the Secretary of Defense and the Secretary of Veterans Affairs and the Administrator of General Services to submit a joint report to the House and Senate Committees on Armed Services and Veterans' Affairs on the feasibility of locating a new Veterans Courthouse and Justice Center at an appropriate site owned by the U.S. that is part of or near the Pentagon Reservation.

Madam Speaker, we have veterans or their survivors from all of the wars in which our country fought in the 20th century, and we are now engaged in a global war on terrorism. I cannot imagine a better use for one of the present parking lots near the Pentagon than a stand-alone dedicated Veterans Courthouse and Justice Center to embody the gratitude and the respect this Nation has for these men and women who have served and are serving their country so well.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, first of all, I would like to thank the gentleman from New Jersey (Mr. SMITH), the chairman of the full committee, and the gentleman from Illinois (Mr. EVANS), our ranking member, as well as our chairman of the Subcommittee on Benefits, the gentleman from South Carolina (Mr. BROWN), for their work in bringing this bill before the House this afternoon.

H.R. 3936 will honor our veterans by supporting the establishment of a dedicated courthouse for the United States Courts of Appeal For Veterans Claims in the greater Washington, D.C. area. It is strongly supported by Members from both sides of the aisle.

H.R. 3936 shows support for our Nation's veterans, especially those who must avail themselves of a Federal court system in order to obtain the benefits that they have earned by military service. I hope that by establishing a separate, dedicated courthouse for veterans' claims, there will ease any confusion veterans may have about the role of this court as part of the Federal judicial system, and not part of the VA, and that this will streamline and facilitate the adjudication process.

The establishment of this courthouse will also improve the security of the court. The events of September 11, 2001, have made clear the need for appropriate security in government buildings. The Court of Appeals for Veterans Claims is currently located above a parking area which creates a serious security risk. This bill recommends a location for the court on land near the Pentagon. I believe this is an appropriate site.

H.R. 3936 is a bill which deserves the support of all Members of this House, and I urge them to do so.

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

Mr. SMITH of New Jersey. Madam Speaker, I ask unanimous consent to insert in the RECORD a letter from the Committee on Armed Services and an additional letter concerning H.R. 3936.

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

There was no objection.

COMMITTEE ON ARMED SERVICES,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, June 21, 2004.

Hon. CHRISTOPHER SMITH,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Committee on Armed Services in matters being considered in H.R. 3936, a bill to amend title 38, United States Code, to authorize the principal office of the United States Court of Appeals for Veterans Claims to be at any location in the Washington, DC, metropolitan area, rather than only in the District of Columbia, and expressing the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for that Court and those it serves and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation, and for other purposes.

Our Committee recognizes the importance of H.R. 3936 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over a number of provisions of the bill, I do not intend to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Committee on Armed Services.

Additionally, the Committee on Armed Services asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference. The Committee also asks that this letter and the Committee on Veterans' Affairs response be included in the CONGRESSIONAL RECORD.

With best wishes.

Sincerely,

DUNCAN HUNTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, June 25, 2004.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of June 21, 2004, regarding the jurisdictional interest of the Committee on Armed Services in the bill H.R. 3936, to authorize the principal office of the U.S. Court of Appeals for Veterans Claims to be at any location in the Washington, D.C. metropolitan area, rather than only in the District of Columbia, and expressing the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for that Court and those it serves and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation, and for other purposes. This bill was referred primarily to the Committee on Veterans' Affairs and additionally to the Committee on Armed Services.

Your willingness to forego a sequential referral to expedite House consideration of H.R. 3936 is most appreciated. I recognize that the Committee on Armed Services has a valid claim to jurisdiction over certain provisions of the bill, and this decision to forego sequential referral is not construed by the Committee on Veterans' Affairs as affecting

the jurisdiction of the Committee on Armed Services over the bill or as a precedent for other bills. In addition, if a conference on H.R. 3936 should become necessary, I will support any request by you for the Committee on Armed Services to be represented on the conference. Finally, because the bill report was submitted on June 9, 2004, I will include your letter and this reply in the Congressional Record during House consideration of H.R. 3936.

Thank you for your cooperation on this matter of interest to both of our committees, and I look forward to working with you again on other matters.

Sincerely,

CHRISTOPHER H. SMITH,
Chairman.

GENERAL LEAVE

Mr. SMITH of New Jersey. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3936.

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

There was no objection.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from South Carolina (Mr. BROWN) and the ranking member, the gentleman from Maine (Mr. MICHAUD), of the Subcommittee on Benefits for their strong support and work in crafting this legislation; and to my good friend, the gentleman from Illinois (Mr. EVANS), the ranking member on the full committee.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3936.

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

A motion to reconsider was laid on the table.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2004

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4175) to increase, effective as of December 1, 2004, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4175

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 ''Veterans' Compensation Cost-of-Living Adjustment Act of 2004''.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 2004, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2004.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2004, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2005, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.

SEC. 4. IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR.

Section 1112(b)(3) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

''(L) Osteoporosis.''.

SEC. 5. CODIFICATION OF COST-OF-LIVING ADJUSTMENT PROVIDED IN PUBLIC LAW 108–47.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) by striking ''$104'' in subsection (a) and inserting ''$106'';

(2) by striking ''$201'' in subsection (b) and inserting ''$205'';

(3) by striking ''$310'' in subsection (c) and inserting ''$316'';

(4) by striking ''$445'' in subsection (d) and inserting ''$454'';

(5) by striking ''$633'' in subsection (e) and inserting ''$646'';

(6) by striking ''$801'' in subsection (f) and inserting ''$817'';

(7) by striking ''$1,008'' in subsection (g) and inserting ''$1,029'';

(8) by striking ''$1,171'' in subsection (h) and inserting ''$1,195'';

(9) by striking ''$1,317'' in subsection (i) and inserting ''$1,344'';

(10) by striking ''$2,193'' in subsection (j) and inserting ''$2,239'';

(11) in subsection (k)—

(A) by striking ''$81'' both places it appears and inserting ''$82''; and

(B) by striking ''$2,728'' and ''$3,827'' and inserting ''$2,785'' and ''$3,907'', respectively;

(12) by striking ''$2,728'' in subsection (l) and inserting ''$2,785'';

(13) by striking ''$3,010'' in subsection (m) and inserting ''$3,073'';

(14) by striking ''$3,425'' in subsection (n) and inserting ''$3,496'';

(15) by striking ''$3,827'' each place it appears in subsections (o) and (p) and inserting ''$3,907'';

(16) by striking ''$1,643'' and ''$2,446'' in subsection (r) and inserting ''$1,677'' and ''$2,497'', respectively; and

(17) by striking ''$2,455'' in subsection (s) and inserting ''$2,506''.

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) by striking ''$125'' in subparagraph (A) and inserting ''$127'';

(2) by striking ''$215'' and ''$64'' in subparagraph (B) and inserting ''$219'' and ''$65'', respectively;

(3) by striking ''$85'' and ''$64'' in subparagraph (C) and inserting ''$86'' and ''$65'', respectively;

(4) by striking ''$101'' in subparagraph (D) and inserting ''$103'';

(5) by striking ''$237'' in subparagraph (E) and inserting ''$241''; and

(6) by striking ''$198'' in subparagraph (F) and inserting ''$202''.

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking ''$588'' and inserting ''$600''.

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—(1) Section 1311(a) of such title is amended—

(A) by striking ''$948'' in paragraph (1) and inserting ''$967''; and

(B) by striking ''$204'' in paragraph (2) and inserting ''$208''.

(2) The table in section 1311(a)(3) of such title is amended to read as follows:

''Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$967	W–4	$1,157
E–2	$967	O–1	$1,022
E–3	$967	O–2	$1,056
E–4	$967	O–3	$1,130
E–5	$967	O–4	$1,195
E–6	$967	O–5	$1,316
E–7	$1,000	O–6	$1,483
E–8	$1,056	O–7	$1,602
E–9	$1,102[1]	O–8	$1,758
W–1	$1,022	O–9	$1,881
W–2	$1,063	O–10	$2,063[2]
W–3	$1,094		

''[1]If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,189.

''[2]If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,213.''.

(3) Section 1311(b) of such title is amended by striking ''$237'' and inserting ''$241''.

(4) Section 1311(c) of such title is amended by striking ''$237'' and inserting ''$241''.

(5) Section 1311(d) of such title is amended by striking ''$113'' and inserting ''$115''.

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—(1) Section 1313(a) of such title is amended—

(A) by striking ''$402'' in paragraph (1) and inserting ''$410'';

(B) by striking ''$578'' in paragraph (2) and inserting ''$590'';

(C) by striking ''$752'' in paragraph (3) and inserting ''$767''; and

(D) by striking ''$752'' and ''$145'' in paragraph (4) and inserting ''$767'' and ''$148'', respectively.

(2) Section 1314 of such title is amended—

(A) by striking ''$237'' in subsection (a) and inserting ''$241'';

(B) by striking ''$402'' in subsection (b) and inserting ''$410''; and

(C) by striking ''$201'' in subsection (c) and inserting ''$205''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 4175, as amended, would provide a cost-of-living adjustment in the same amount as given to Social Security recipients, to disabled veterans and surviving spouses. The committee ordered this bill reported when it met on May 19, 2004. Five other measures were also ordered reported at that meeting of our committee.

All veterans and qualified survivors of veterans who receive disability compensation would receive a full COLA on December 1 of this year. The COLA is actually calculated on September 30; but if calculated today, it would be 2.2 percent.

More than 2.5 million veterans, Madam Speaker, were receiving service-connected disability compensation as of April of 2004. The basic purpose of the disability compensation program is to provide a measure of relief from the impaired earning capacity of veterans disabled as a result of their military service. These benefits are paid monthly, and range from $106 for a 10 percent disability to $2,239 per month for a 100 percent disability. Additional monetary benefits are available for our most severely disabled veterans, as well as for their dependents.

Spouses of veterans who died on active duty or as the result of a service-connected disability likewise are entitled to monetary compensation, as the Nation assumes, in part, the legal and moral obligation of the veteran to support the spouse and the children. Depending on their spouse's rank or grade in service, a spouse receives between $967 and $2,063 monthly. Currently, there are more than 300,000 surviving spouses and more than 29,900 children receiving dependency and indemnity compensation, also known as DIC.

The bill would also expand the list of diseases presumed to be related to a former prisoner of war for which benefits may be paid by adding osteoporosis, an often crippling bone condition. Former prisoners of war are eligible for disability compensation if they are disabled from one of the 16 conditions presumed to be the result of their POW experience.

I want to thank the gentleman from Florida (Mr. BILIRAKIS), the committee's vice chairman, for working with us to include this portion of his bill, which was H.R. 348.

Finally, the bill would codify the current rates of compensation for service-connected disabilities and the rates of DIC for surviving spouses and children of veterans who die of service-connected causes, which went into effect last December, pursuant to Public Law 108–147.

I urge my colleagues to support this bill. It is a bipartisan bill.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I would like to thank once again the gentleman from New Jersey (Mr. SMITH); the ranking member, the gentleman from Illinois (Mr. EVANS); and our chairman of the Subcommittee on Benefits, the gentleman from South Carolina (Mr. BROWN), for their continued efforts to assure that our veterans' purchasing power is not decreased with the passage of time.

H.R. 4175, the Veterans Compensation Cost-of-Living Act of 2004, will help our service-disabled veterans and their survivors maintain the value of their compensation benefits despite any increase in the cost of living.

Although we will not know the amount of the increase until the consumer price index is computed this fall, I expect this bill will provide an increase in benefits for calendar year 2005.

No amount of money can adequately compensate for the loss of life or limb, but it is important that the compensation that is paid does not lose its value as the cost of living rises. This is particularly important in a rural State like Maine. Some labor market areas in my State have experienced double-digit unemployment. In one labor market alone last year, unemployment was as high as 32 percent.

Veterans benefits help veterans and their families in these areas make ends meet. I am also happy to note that the bill contains a provision adding osteoarthritis to the list of conditions that are presumptively service-connected for veterans who are former POWs.

I am a co-sponsor of H.R. 348, introduced by the gentleman from Florida (Mr. BILIRAKIS), which contains this provision and more. I regret that the full bill cannot be considered because of the fiscal constraints.

I believe that when men and women suffer disabilities as a result of confinement as prisoners of war, this Nation should compensate them for all the disabilities that result. These disabilities are another cost of war, and they should be recognized and compensated as such. This provision is another small step in the right direction.

H.R. 4175 will receive my full support, and it deserves the support of Members of this House.

Madam Speaker, I reserve the balance of my time.

□ 1745

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. BROWN), the distinguished chairman of our Subcommittee on Benefits.

Mr. BROWN of South Carolina. Madam Speaker, I rise in support of H.R. 4175, the Veterans' Compensation Cost-of-Living Adjustment Act of 2004.

Congress acts annually to provide a cost-of-living adjustment in VA disability compensation and survivors benefits. Congress has provided increases in these rates for every fiscal year since 1976, and the administration's fiscal year 2005 budget includes the cost for this increase.

As well as providing the cost-of-living adjustment effective December 1, 2004, and codifying the current dollar amount for veterans and survivors benefits, H.R. 4175, as amended, would add osteoporosis to the list of diseases presumed to be service-connected for former prisoners of war. This particular provision is derived from H.R. 438, which the gentleman from Florida (Mr. BILIRAKIS) introduced in January of 2003. The vice chairman has long been a champion for former POWs, and I regret that due to budgetary obstacles we were not able to consider his bill in its entirety. I appreciate his understanding in that regard.

Madam Speaker, I note that last year the Secretary of Veterans Affairs convened a work group comprised of officials from the Veterans Health Administration, Veterans Benefits Administration and the Office of General Counsel, to develop a methodology for a fair and balanced assessment of medical conditions identified and associated with POW detention. This summer, the workgroup will recommend to the Secretary any conditions it believes warrant either presumptive status or further study. I look forward to meeting with the Secretary upon the workgroup's findings.

I want to thank the gentleman from Maine (Mr. MICHAUD), the ranking member of the Subcommittee on Benefits, for his efforts on this bill and urge all my colleagues to support it.

Mr. MICHAUD. Madam Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), the ranking member of the committee.

Mr. EVANS. Madam Speaker, I would like to thank the gentleman from New Jersey (Mr. SMITH), chairman of the full committee; the gentleman from South Carolina (Mr. BROWN), the Subcommittee on Benefits chairman; and

the gentleman from Maine (Mr. MICHAUD), the ranking Democratic member, for their spirt of bipartisanship. Their work has resulted in a bill strongly supported by Members on both sides of the aisle.

H.R. 4175, the Veterans' Compensation Cost-of-Living Adjustment Act of 2004, will help our service-disabled veterans and their survivors maintain the value of their benefits despite any increases in cost-of-living adjustments. Our Nation's veterans and survivors have earned these benefits, and we must maintain their purchasing power.

I strongly support the provision adding osteoarthritis to the list of conditions which are presumptively service-connected for veterans who are former prisoners of war. Last year, the Congress passed legislation which I introduced to add additional disabilities to the presumptive list and to eliminate the time period of internment for certain conditions. I am a cosponsor and strongly support efforts to improve benefits for prisoners of war.

Additional presumptive conditions and the establishment of criteria for the Department of Veterans Affairs to establish new presumptive conditions are contained in H.R. 348, introduced by the gentleman from Florida (Mr. BILIRAKIS), my good friend. I hope that all of these provisions will one day become law.

This is a bill which deserves the support of all of the Members of this House. I urge all Members to support it.

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. BEAUPREZ), a distinguished member of the committee.

Mr. BEAUPREZ. Madam Speaker, I thank the gentleman and the chairman of our committee for his diligence on this bill, as well as on behalf of all veterans. He is to be commended. And my thanks as well to the gentleman from Maine (Mr. MICHAUD), my good friend, and the gentleman from Illinois (Mr. EVANS), the ranking member of our full committee, for his work as well. It has been a real pleasure to serve on the Committee on Veterans' Affairs in a true bipartisan effort.

Mr. Speaker, I rise in full support of H.R. 4175. There is absolutely no question that our Nation's veterans are truly deserving of every bit of assistance we can afford to provide them in return for their service to our country.

Disabled veterans must receive even greater care and compensation. It is imperative that we ensure that these brave men and women receive every benefit they have so painstakingly earned.

It is equally important that these benefits be periodically adjusted to meet the increasing demands of inflation.

This bill, the Veterans' Compensation Cost-of-Living Adjustment Act, will increase disability compensation and survivor pensions based upon the Consumer Price Index. In addition, the bill will also provide additional compensation for surviving spouses and their children.

Madam Speaker, I feel the merits of this bill speak for themselves and have already eloquently been addressed in this Chamber. I hope my colleagues here today will join me in supporting this legislation for those who helped defend our Nation's unparalleled ideals.

Mr. MICHAUD. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Madam Speaker, I rise today in support of H.R. 4175, the Veterans' Compensation Cost-of-Living Adjustment Act of 2004.

I would also like to take this opportunity to thank the gentleman from New Jersey (Mr. SMITH), the chairman of the Committee on Veterans Affairs, and of course, the gentleman from Illinois (Mr. EVANS), our ranking member, for their leadership and advocacy for our Nation's veterans. I also would like to thank the gentleman from Maine (Mr. MICHAUD) for his efforts and his leadership as the ranking member of the Subcommittee on Benefits, as well as the gentleman from South Carolina (Mr. BROWN).

Every year Congress does a small yet much welcomed cost-of-living adjustment to increase the rates of disability compensation for veterans with service-connected disabilities. This legislation, similar to those we have passed before, would authorize the cost-of-living adjustment on December 1, 2004, based on the same formula for our Social Security users. Additionally, it would increase the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans.

Our disabled veterans are some of our country's greatest assets.

The Disabled American Veterans say it best: ''Treaties are signed and the battles of nations end, but the personal battles of those disabled in war only begin when the guns fall silent.'' These men and women must struggle to regain health, to reshape lives shattered by disability, learn new trades or professions, and rejoin the civilian world. At each step, they need help to help themselves.

Madam Speaker, I know that this is just a small increase for our veterans and their survivors, but I know that they appreciate it. I encourage all my colleagues to vote in favor of this particular piece of legislation.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume. We do not have any further requests for time.

I, too, want to thank the gentleman from Maine (Mr. MICHAUD) and again the gentleman from Illinois (Mr. EVANS) and the gentleman from South Carolina (Mr. BROWN). This is again a good, bipartisan piece of legislation. It is very significant and will significantly help our veterans and especially those who are service-connected disabled.

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

Mr. MICHAUD. Madam Speaker, I yield 3 minutes to the gentlewoman from South Dakota (Ms. HERSETH), who has shown her interest in veterans' issues and is very dedicated and will be a hard fighter for veterans' issues.

Ms. HERSETH. Madam Speaker, I thank the gentleman for yielding me time.

I would like to thank the gentleman from New Jersey (Mr. SMITH), chairman of the House Committee on Veterans' Affairs, and the gentleman from Illinois (Mr. EVANS), the ranking Democrat member, as well as the gentleman from South Carolina (Mr. BROWN) and the gentleman from Maine (Mr. MICHAUD) for again working together to maintain the level of benefits provided to veterans who are disabled as a result of their military service and the survivors of those who have died.

In this Chamber, we hear debates often on the merits and costs of various programs proposed by the Department of Defense. Today, as men and women of the Armed Forces place themselves in harm's way, this bill reminds us that the costs of war do not end when the treaties are signed and the battle is over.

Those who are disabled while serving this Nation deserve to be appropriately compensated for the harm that they have suffered. As the cost-of-living rises, so must the compensation paid to those who have service-connected disabilities.

Those who have been held as prisoners of war deserve our special consideration. This bill would recognize that former prisoners of war are at greatest risk of osteoarthritis. I commend the gentleman from Florida (Mr. BILIRAKIS), the subcommittee chairman, for his efforts in this regard.

H.R. 4175 is a bill which deserves the support of all Members of this House, and I urge all Members to support it.

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4175, as amended.

The question was taken.

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING MEMBERS OF AMVETS FOR THEIR SERVICE TO THE NATION

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 308) recognizing the members of AMVETS for their service to the Nation and supporting the goal of AMVETS National Charter Day.

The Clerk read as follows:

H. CON. RES. 308

Whereas on July 23, 1947, AMVETS (American Veterans) was chartered by the United States as a not-for-profit corporation;

Whereas membership in AMVETS is open to veterans who have honorably served, or are serving, in the Armed Forces, including the Coast Guard, National Guard, and Reserves, during or since World War II;

Whereas the veterans of the Armed Forces have made great sacrifices to ensure the peace and security of the United States;

Whereas the members of AMVETS are dedicated to providing important services to their local communities and to their fellow veterans;

Whereas the motto of AMVETS is ''We fought together, now let's build together'';

Whereas the members of AMVETS consistently honor that motto through countless hours of patriotic service, including providing services to hospitalized veterans, assisting veterans with their problems regarding housing and employment, marching in parades, participating in color guards and burial details, and educating the Nation's youth;

Whereas the war on terrorism has emphasized the sacrifices that veterans have made, and continue to make, for the benefit of the Nation;

Whereas AMVETS has designated July 23 as AMVETS National Charter Day; and

Whereas the goal of AMVETS National Charter Day is to raise public awareness regarding AMVETS' commitment and service to veterans, the families of veterans, and the Nation: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress recognizes the members of AMVETS (American Veterans) for their service to the Nation and supports the goal of AMVETS National Charter Day.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of H. Con. Res. 308, legislation recognizing the members of AMVETS for their service to the Nation and supporting the goal of AMVETS on National Charter Day.

I want to recognize the gentleman from New York (Mr. BISHOP), the sponsor of this legislation, and thank him for his work on this resolution.

From its origins in the middle of World War II, AMVETS has a long and distinguished history of service to our Nation. They held their first national convention in Chicago in October of 1945, and just 2 years later, on July 23, 1947, President Harry Truman signed the AMVETS Charter. Originally organized for World War II veterans, AMVETS had their charter amended in 1966 to include veterans who served honorably during the Korean conflict and the Vietnam War, and again in 1984 to include those who served honorably during peacetime as well.

From its humble origins, AMVETS has grown to a national organization, Madam Speaker, with over 250,000 members, in addition to another 60,000 members of its ladies auxiliary.

As chairman of the Committee on Veterans' Affairs, I can attest to the important role that AMVETS plays in Washington advocating for stronger Federal policies supporting veterans, their surviving spouses and dependents. Their legislative staff is among the finest, and they have played a key role in many important public policy debates. Members know that they can count on AMVETS for advice, counsel and support as we continue developing national policies to benefit our veterans.

Madam Speaker, I want to recognize and commend AMVETS National Commander John Sisler of Groveland, Illinois, who presented AMVETS legislative goals at our joint Senate-House Committee on Veterans' Affairs hearing earlier this year. He should be proud of the fact and of the success of AMVETS that they have achieved and continue to achieve, not just in Washington but also in communities across America. In addition to providing benefits and services to their fellow veterans, they also play an important role in the civic life of their communities.

I urge support for H. Con. Res. 308.

Madam Speaker, I reserve the balance of our time.

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

Madam Speaker, I rise in strong support of House Concurrent Resolution 308. This measure recognizes the members of AMVETS for their efforts on behalf of military families and service to our Nation.

During and following their military service, members of AMVETS have routinely worked to provide important services to their local communities and to their fellow veterans. They have truly been guided by the AMVETS motto: ''We fought together, now let's build together.''

This motto definitely rings true back in my home State of Maine, which is home to a very active and successful AMVETS chapter.

Madam Speaker, AMVETS has designated July 23 as its National Charter Day, with the goal to encourage public awareness of their commitment and service to veterans, their families and our country.

□ 1800

I commend and applaud AMVETS for their past, present, and future service. I am pleased to support House Concurrent Resolution 308, and I ask other Members to do the same.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I reserve the balance of my time.

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

Mr. RODRIGUEZ. Madam Speaker, we are incredibly blessed in this country to have a group of veterans service organizations looking out for the best interest of our veterans. For almost 60 years, American Veterans, commonly referred to as AMVETS, have been making a difference in the lives of those who have given so much for this country, our veterans and their families.

Through their national service foundations, AMVETS has service officers throughout the country who provide guidance and action on compensation claims and help them at no charge to our veterans.

Additionally, their Members and those of the AMVETS Auxiliary volunteer countless hours at our veterans and military hospitals throughout this country. During this time of increased military deployment, it is so important to have a network of veterans who help our injured soldiers and to whom they can turn for help and assistance.

Throughout my 7 years in Congress, I have met with AMVETS on a regular basis as they advocate for funding for veteran services, needs for homeless veterans, for better education benefits for our veterans, and many other issues. They have been there. Without them, we would not be where we are. They have been a voice for our veterans and continue to be there for our veterans. They have an incredible history, and I would like to take this opportunity not only to thank them for all they do for our veterans, but also to congratulate them on their upcoming National Charter Day.

Mr. MICHAUD. Madam Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Madam Speaker, I rise today in strong support of H. Con. Res. 308, a bill that I introduced to honor the AMVETS veterans service organization's National Charter Day. AMVETS is an organization that is truly dedicated to helping this Nation's veterans, and I am pleased to see that this Congress is now acting to support this group which consistently works to help the men and women who have selflessly served this country.

I am proud to recognize AMVETS for its dedication to bettering the lives of veterans throughout this country. As we continue our military operations overseas, we must not forget that honoring veterans and their service must be something that we do every day, not just on Memorial Day and Veterans Day. We must always look to recognize and pay tribute to the sacrifices made to the individuals that have stared down the many faces of tyranny with undying dedication to our country.

On July 23, 1947, President Harry S. Truman signed Public Law 216 making

AMVETS the first World War II organization to be chartered by Congress. Today the organization is open to anyone who has served or is currently serving in the Armed Forces, including the National Guard and the Reserves.

AMVETS has a long history of helping veterans; and in a recent year, AMVETS processed more than 24,000 VA claims that resulted in veterans receiving approximately $400 million in owed benefits. As Members of Congress, we all know how important it is to provide this kind of service to America's deserving veterans.

I am pleased that the House will soon adopt this resolution honoring AMVETS National Charter Day, and I hope that this Friday, as we celebrate national recognition of this organization, all Members of Congress will take the time to support their local members of AMVETS.

I am proud to support the five AMVETS posts located in my district, and I am sure that my colleagues share in the feeling of appreciation I have for the thousands of AMVETS members and their families who are dedicated to helping America's veterans.

Madam Speaker, I urge swift passage of this resolution.

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

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, I applaud the leadership of the gentleman from Maine, and I applaud particularly the sponsor and originator of this resolution, the gentleman from New York (Mr. BISHOP).

I celebrate with them as we commend AMVETS for their Charter Day on July 23, 1947. It has been said that Texas is a State that has probably the largest number of veterans living within it. Therefore, we are very much committed to our veterans. This is an excellent opportunity to honor the AMVETS because they honor us. Their theme, ''We fought together, now let us build together,'' means they are vital components to our community.

As a congressional district that houses one of the largest veterans hospitals in the Nation, I thank them for their continued service to our veterans there, providing services to hospitalized veterans, assisting veterans in their problems regarding housing and employment, marching in parades, participating in Color Guards and burial details, and educating the Nation's youth.

On July 4, I had the opportunity to visit a homeless center where a number of men gathered. I provided them with a patriotic mission and message. In that group, however, it was interesting to note the many, many veterans that were there; and their point was our condition may not be the best now, but we love our country and want to improve our conditions in life. AMVETS are concerned about those veterans.

I expect we will have another legislative initiative on the floor today that will provide for the improved compensation for veterans sponsored by the gentleman from New Jersey (Mr. SMITH). I want to add my support for that legislation as well. But allow me to close by saying that the AMVETS deserve their full day of honor because they have honored us by their continued service in our community.

The very fact that these AMVETS include all of the veterans that have served honorably since World War II and during World War II is again a recognition of the Greatest Generation, but it is also a chance to be able to have these vets teach others.

I thank the gentleman from New York (Mr. BISHOP) for presenting us with this honor and tribute to AMVETS, and I add my support for this legislation. I ask my colleagues to unanimously vote for this AMVETS resolution honoring those who served.

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

In closing, I want to thank the gentleman from New Jersey (Mr. SMITH) for his continued fighting for veterans issues. Also, I want to thank staff on both sides of the aisle for bringing these bills before us today. The staff has done a tremendous job in making sure that we have these bills before us in the proper form.

Also, I want to thank the veterans and the VSOs for all their work in helping keep Congress's feet to the fire in supporting issues important to our veterans in this country.

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

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I too want to thank the gentleman from Maine (Mr. MICHAUD) and the staff, Pat Ryan, chief of staff and general counsel, and Mary Ellen McCarthy who has done a very good job, and Kingston Smith on my right here. This is truly an effort to try to write legislation that really will make a difference. These four bills, and some of the others that are pending which will soon be before the body, really do advance the ball on behalf of our veterans.

I thank them for their cooperation and their partnership on this. That is what it is all about, ''to try to care for him who has borne this Nation's battle, and for his widow and for his orphan,'' to quote President Lincoln.

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 308.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR APPOINTMENT OF ELI BROAD AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. NEY. Madam Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 38) providing for the appointment of Eli Broad as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

S.J. RES. 38

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 5581 of the Revised Statutes (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, resulting from the death of Barber B. Conable, Jr., is filled by the appointment of Eli Broad of California. The appointment is for a term of 6 years, beginning upon the date of enactment of this joint resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

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

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

Madam Speaker, I rise in support of Senate Joint Resolution 38, which provides for the appoint of Eli Broad as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Smithsonian is governed by a board of regents which is comprised of 17 members. These 17 members include the Chief Justice of the Supreme Court and the Vice President of the United States, three Members each of the U.S. House and Senate, and nine citizens who are nominated by the board and approved jointly in a resolution of Congress. The nine citizen members serve for a term of 6 years each, and are eligible for reappointment for one additional term.

Eli Broad will fill a vacancy on the board of regents for Barber Conable, Jr., who, sadly, passed away last year. Eli Broad is an accomplished business leader who built two Fortune 500 companies from the ground up. He serves on several boards, most notably; he is chairman of AIG Retirement Services and KB Home, formerly Kaufman and Broad Home Corporation. He is also the founding chairman of the board of trustees for the Museum of Contemporary Art in Los Angeles and currently a trustee and member of the executive committee of the Los Angeles County Museum of Art.

Eli Broad and his wife, Edythe, are active philanthropists. Since 1984, the Broad Art Foundation has operated an active ''lending library'' of its extensive collection to more than 400 museums and university galleries worldwide.

One of Eli Broad's charitable contributions includes the Broad Foundation, whose mission is to improve urban public education. The foundation has committed over $400 million to support new ideas in the Nation's largest urban school systems. The Broad Foundation contributed toward the construction of the Broad Art Center at UCLA.

However, Mr. Broad's background does not end there, as he incorporates extensive involvement in the field of science as well. The Eli and Edythe Broad Institute for Biomedical Research is a partnership with the Massachusetts Institute of Technology, Harvard University, and Whitehead Institute. It was created in June 2003, and the institute's aim is to realize the promise of the human genome and to revolutionize clinical medicine.

Eli Broad's ongoing leadership roles in art, education, science, and civic development make him a strong candidate for service on the Smithsonian Institution's Board of Regents. I join with my colleague, the ranking member, the gentleman from Connecticut (Mr. LARSON), in support of Senate Joint Resolution 38.

Madam Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I wish to associate myself with the remarks of the gentleman from Ohio (Mr. NEY). As the chairman has pointed out, I am as well pleased to support Senate Joint Resolution 38 which appoints Eli Broad to a 6-year term as citizen regent of the Board of Regents of the Smithsonian Institution to fill that vacancy.

Senate Joint Resolution 38 passed the Senate on June 9, 2004. An identical bill, House Joint Resolution 99, was introduced by the gentleman from California (Mr. MATSUI), who continues to serve on the board of regents with distinction.

Mr. Broad has been recommended by the board of regents to replace our former colleague, Barber Conable, as the chairman pointed out. Mr. Conable retired from the House of Representatives in 1985 and passed away on November 20, 2003.

I especially, again, want to congratulate the gentleman from California (Mr. MATSUI) for his leadership in bringing this nomination to the floor. He has been a regent of the Smithsonian Institution since 1999 and has been diligent in his duties to promote its effective operation, even in the face of his increasing leadership responsibilities here in the House.

Madam Speaker, the board of regents, as the chairman has noted, was created in 1846 as a governing body of the Smithsonian Institution and currently has 17 board members. Eli Broad, who has been recommended to become its newest citizen regent, is a distinguished business leader who built two Fortune 500 companies over a 5-decade career.

As founder of the Broad Foundation, he has focused on philanthropy, promoting art, education, scientific and biomedical research and civic development. Mr. Broad is well qualified for this post, and his wide array of experience will be an asset to the Smithsonian Institution in the years ahead. I urge approval of this joint resolution and its enactment so Mr. Broad may attend the next meeting of the board of regents currently scheduled for September.

Madam Speaker, I am pleased to support S.J. Res. 38, to appoint Eli Broad to a six-year term as a citizen regent of the Board of Regents of the Smithsonian Institution to fill a vacancy. S.J. Res. 38 passed the Senate on June 9, 2004. An identical bill, H.R. Res. 99, was introduced by Representative MATSUI.

Mr. Broad has been recommended by the Board of Regents to replace our late former colleague, Barber Conable of New York, who retired from the House of Representatives in 1985 and passed away on November 20, 2003.

After his retirement, Rep. Conable was generous in his continuing contributions to the Congress, including his service on the advisory board created by the History of the House Awareness and Preservation Act, which was enacted in the 106th Congress and which I had sponsored.

The bill authorized the writing of a major new volume on the history of our institution by a major scholar in the field, and that work is currently being undertaken by Professor Robert Remini, professor emeritus of history at the University of Illinois—Chicago.

Representative MATSUI, who introduced the House's companion legislation (H.J. Res. 99), has been a regent of the Smithsonian since 1999 and has been diligent in his duty to promote its effective operation, even in the face of his increasing leadership responsibilities here in the House. He has been an exemplar of broad public service to the American people in a variety of roles.

On a more personal note, BOB is closely associated with his work to help the Smithsonian shape the "More Perfect Union" exhibit in the National Museum of American History. That exhibit examines the experiences of the Nisei, Americans of Japanese descent, many of whom, like BOB MATSUI and his family, were interned during World War II. It is a significant contribution to public awareness of that tragic era.

The Board of Regents was created in 1846 as the governing body of the Smithsonian, a unique trust equity created by Congress, and is currently composed of 17 Members, including six Members of Congress, three from each chamber. The positions of the nine citizen regents of the Smithsonian were created to bring a variety of expertise from business, politics, science, education and the arts to complement the other regents and provide additional perspective in the funding and management of the Smithsonian's infrastructure and worldwide network of initiatives.

Eli Broad, who has been recommended to become the newest citizen regent, is a distinguished business leader who built two Fortune 500 companies over a five-decade career. He is chairman of AIG Retirement Services Inc., formerly SunAmerica Inc., and founder-chairman of KB Home, formerly Kaufman and Broad Home Corporation.

As founder of the Broad Foundation, he is focused on philanthropy, promoting art, education, scientific and biomedical research and civic development. Since 1984, the Broad Art Foundation has loaned portions of its extensive collection to more than 400 museums and university galleries worldwide.

Mr. Broad was the founding chairman of the board of trustees of The Museum of Contemporary Art in Los Angeles, and is currently a trustee and member of the executive committee of the Los Angeles County Museum of Art.

Since 1999, The Broad Foundation has worked to improve urban public education through better governance, management and labor relations and has committed over $400 million to support innovation in the Nation's largest urban school systems. Mr. Broad has also been active in a variety of civic projects to promote and improve the city of Los Angeles.

In June 2003, in a partnership with the Massachusetts Institute of Technology, Harvard University and Whitehead Institute, the Broads announced the founding gift to create The Eli and Edythe Broad Institute for biomedical research. The Institute's aim is to revolutionize clinical medicine through genetic research and to make knowledge freely available to scientists around the world.

Mr. Broad is a member of the board of trustees of CalTech. He also served as chairman of the board of trustees of Pitzer College and vice chairman of the board of trustees of the California State University system.

Mr. Broad is well-qualified for this post and his wide array of experience will be an asset to the Smithsonian in the years ahead. I urge approval of the joint resolution and its enactment so that Mr. Broad may attend the next meeting of the Board of Regents currently scheduled for September.

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

□ 1815

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

The SPEAKER pro tempore (Ms. HARRIS). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 38.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEY. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of S.J. Res. 38, the Senate joint resolution just passed.

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

There was no objection.

PERMITTING LIBRARIAN OF CONGRESS TO HIRE LIBRARY OF CONGRESS POLICE EMPLOYEES

Mr. NEY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4816) to permit the Librarian of Congress to hire Library of Congress Police employees.

The Clerk read as follows:

H.R. 4816

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

SECTION 1. PERMITTING LIBRARIAN OF CONGRESS TO HIRE LIBRARY OF CONGRESS POLICE EMPLOYEES.

(a) IN GENERAL.—Section 1006 of the Legislative Branch Appropriations Act, 2004 (2 U.S.C. 1901 note), is amended—

(1) in the heading, by striking ''TRAINING, DETAILING, AND HIRING'' and inserting ''TRAINING AND DETAILING'';

(2) by striking ''(a)'' and the heading of subsection (a);

(3) by striking subsection (b) and redesignating paragraphs (1) and (2) of subsection (a) as subsections (a) and (b); and

(4) in subsection (b) (as so redesignated), by striking ''paragraph (1)'' and inserting ''subsection (a)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

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

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

Madam Speaker, I rise today in support of H.R. 4816, a bill that will restore the Librarian of Congress' authority to hire Library of Congress Police employees.

To understand this legislation, one must first understand the chain of events which brings this legislation to the floor of the House. Language was included in last year's appropriations bill which stripped the Library of its authority to hire new police officers. Our committee was not consulted and did not support that language.

The language further called on the United States Capitol Police to begin detailing officers to the Library of Congress as a way to force the beginning of a merger of the two agencies before the appropriate committees of jurisdiction had even had a chance to fully deliberate the merits of a merger.

Over the past several weeks, draft memorandums have circulated back to the committee which attempt to effect this transfer of officers to the Library. All of these memorandums have contained provisions that are not only objectionable to the committee, but raise more questions about the transfer and the merits of a merger.

It is the committee's steadfast position that such a sweeping action affecting security must be conducted in a manner which undeniably results in greater security and greater efficiency for both the Congress and the Library of Congress. There are a multitude of complex issues that really need to be dealt with in order to ensure that any steps taken by the Congress toward a merger are taken in a deliberate manner, with the long-term interests of both institutions in mind.

Many details of the potential merger or the initial detailing of Capitol Police officers have yet to be addressed, in my opinion, in a satisfactory manner, details such as the composition of a new command structure, differences between Library Police procedures and regulations because there is a large difference in the way we operate with the Capitol Hill Police and the way the Library of Congress operates in their missions and their tasks. We really, I think, need to look at those issues, plus the disposition of large numbers of Library Police who would be forced into retirement, the reconciliation of two distinct agency missions, the manner in which grievances are handled, the manner in which recruitment and morale of the United States Capitol Police could be affected, and ultimately, the life safety of the hundreds of thousands who serve, work or visit in the Capitol complex. The Committee on House Administration and the Congress have a responsibility to ensure that unresolved details like these are not swept up in a hasty and broken process.

Our committee was exercising appropriate oversight and due diligence in this process at the time this authorizing language, which originated from the other body, appeared in an appropriations conference report, placing the cart squarely in front of the horse.

Now, because the Librarian is unable to exercise any hiring authority to bring new police onto the Library force, there is a growing manpower gap which some argue could impact the security mission of the Library; and frankly, I think this is putting the Library in a Catch-22 position.

Additionally, the attention being paid on fixing the current situation is siphoning resources from the United States Capitol Police during what we know is a very crucial time. The growing need for officers at the Library is an urgency of the Congress' own creation and should be fixed by the Congress. The mission of the Capitol Police is to protect the Congress, and at a time when that mission is under threat from terrorists, any distraction, I think, is detrimental to the interests of the institution and could have dire consequences.

Madam Speaker, I am intimately involved with and deeply concerned about the security of this campus, as I know our ranking member is and all members of our committee and frankly all Members of this House. It is arguably the most important issue which our committee has jurisdiction over as it deals with matters of life and death. That is why I urge passage of this legislation.

We need to remove the restriction on the Librarian's authority to hire police officers so that we may mend this broken process and allow the authorizers to handle this complex issue in an appropriate manner. I urge my colleagues to vote for this bill so our security officials can meet their missions and focus their attention and their thrust on protecting everyone in the Capitol complex, especially in this heightened security threat environment.

I urge my colleagues to support this legislation restoring authority to the Librarian, and upon passage, I hope the other body will act quickly to lift these constraints on the Librarian and that the appropriators in both bodies will provide the funding necessary to train and pay the officers that can be hired pursuant to this resolution.

Let me just close by saying, also, I think we can have discussions about this with the other body, within appropriations and within the authorizers of both Chambers. But I think right now in the best interests of everybody involved, if we take this measure, it will help the Library of Congress, which is in really a very difficult situation.

Madam Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Madam Speaker, I yield myself such time as I may consume. I would like to again associate myself with the remarks of the distinguished Chair from Ohio. I want to thank the distinguished chairman for moving so resolutely to address the problem caused by last year's appropriations bill.

This predicament, which he has thoroughly outlined and that his legislation would correct, could properly become a case study for why the House rules prevent appropriation bills from including legislative provisions and vest the responsibility for such matters in the authorizing committees.

I support and applaud the chairman's determination to ensure that the Library of Congress does not become a weak point in the Capitol's security perimeter. That, Madam Speaker, we simply cannot afford.

I have, as well, a letter from James Billington, where he quotes, I think, very appropriately that ''the Library has been without an adequate police force for more than a year. The U.S. Capitol Police received funding to hire 23 officers that, under the 2004 legislative branch appropriations bill, were to be detailed to the Library of Congress. As a practical matter, we cannot get them until we have approval of a memorandum of understanding between the Capitol Police and the Library. The 2004 appropriations bill removed the Library's ability to hire police employees, and an additional 10 officers have left our force through attrition. Unless,'' as the chairman's bill provides, ''action is rapidly taken to remedy this situation, we will soon have a police force staffed at only two-thirds of its authorized strength, clearly unacceptable in today's world.''

I trust, as the chairman has indicated, that the Senate will follow his

leadership in this regard. Again I applaud his efforts to prevent the usurpation of the authorizing committee's responsibility. I urge the passage of this.

Madam Speaker, I support the Chairman's motion and urge its adoption.

Section 1015 of Public Law 108–7, enacted on February 20, 2003, provided for the merger of the Library of Congress Police into the United States Capitol Police. The section, which originated in the Senate and was enacted in the Legislative appropriation for fiscal 2003, was never the subject of formal hearings in the Committee on House Administration. Section 1015 provides that the merger of the two police forces will not take place until an implementation plan, developed by the Chief of the Capitol Police and submitted to the Capitol Police Board, the Librarian of Congress, and the appropriate committees, has been approved. Pending that approval, which has not yet occurred, Section 1015 authorized the Librarian to fill vacancies in the Library Police ranks with applicants who satisfy the employment standards of the Capitol Police, to the extent practicable.

Seven months later, Section 1006 of the Legislative Branch Appropriations Act for 2004, another provision not subjected to hearings in our committee, eliminated the Library's authority to hire police officers pending the merger with the Capitol Police. During fiscal 2004, Section 1006 allows the Librarian to select and recommend to the Capitol Police enough qualified officers to replace those which the Library loses through attrition this year, and up to 23 more. Nevertheless, the restriction on the Library's hiring of police officers has in practice resulted in a serious manpower shortage for the Library. The Librarian, Dr. Billington, has warned our committee that if nothing changes, the Library may soon have a police force staffed at two-thirds of its authorized strength. I certainly agree with Dr. Billington that such a posture is unacceptable in these perilous times.

Madam Speaker, the Chairman's bill would restore the Library's authority to hire police officers pending the merger. Under the bill, the Librarian must still, to the extent practicable, hire individuals who meet the standards of the U.S. Capitol Police, as determined by the Capitol Police chief. Since it is not clear at this time how soon the merger implementation plan may win the approval of the appropriations and authorizing committees involved, including the Committee on House Administration, restoring the Library's control over its police hiring is the prudent course for us to take.

Madam Speaker, the Library of Congress is the nation's preeminent cultural institution. This Congress should take every reasonable step to assure the proper protection of the Library's 4,000 employees, millions of books and artifacts, and its capital facilities, so the Library can continue serving the American people and their Congress. Restoring the Library's ability to hire enough qualified police to support its mission is not only reasonable, but essential.

I want to thank the distinguished chairman, the gentleman from Ohio [Mr. NEY] for moving so resolutely to address the problem caused by last year's appropriations bill. This predicament, which the chairman's legislation would correct, could properly become a case study for why the House rules prevent appropriations bills from including legislative provisions, and vest the responsibility for such matters in the authorizing committees. I support and applaud the chairman's determination to ensure that the Library of Congress does not become a weak point in the Capitol's security perimeter. That, Madam Speaker, we simply cannot afford. I trust the Senate will follow the chairman's leadership in this regard.

Madam Speaker, I include for the RECORD a letter on this subject from the Librarian of Congress:

THE LIBRARIAN OF CONGRESS,
July 15, 2004.

Hon. ROBERT NEY,
Chairman, Committee on House Administration, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for taking the time to speak with me on Tuesday regarding the library's Police force. I truly appreciate your call and concern.

The Library has been without an adequate police force for more than a year. The U.S. Capitol Police received funding to hire 23 officers that, under the 2004 Legislative Branch Appropriations Bill, were to be detailed to the Library of Congress. As a practical matter we cannot get them until we have approval of a memorandum of understanding between the Capitol Police and the Library. The 2004 appropriations bill removed the Library's ability to hire police employees, and an additional ten officers have left our force staffed at only two-thirds of its authorized strength—clearly unacceptable in today's world.

I do not see any realistic alternative solution other than a short-term detail of U.S. Capitol Police officers to the Library of Congress police for filling this devastating gap in our police manpower. The memorandum of understanding currently before the House Administration Committee will accomplish that goal and return our police staffing to safe levels.

The outcome of any merger of police forces must be decided by the Congress. The Library will work with you and all other stakeholders on the architecture of this solution. But we must have this immediate infusion of police officers.

With true appreciation for all that you do for the Library of Congress, I am,

Sincerely,

JAMES H. BILLINGTON,
The Librarian of Congress.

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

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

I just want to thank our ranking member from Connecticut (Mr. LARSON) for working on this. It is a crucial issue. I believe our thinking is correct on this, to work together, to work with the appropriators and look at the long-term interests.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and pass the bill, H.R. 4816.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEY. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of H.R. 4816, the bill just passed.

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

There was no objection.

SENSE OF THE HOUSE REGARDING POSTPONEMENT OF A PRESIDENTIAL ELECTION

Mr. NEY. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 728) expressing the sense of the House of Representatives that the actions of terrorists will never cause the date of any Presidential election to be postponed and that no single individual or agency should be given the authority to postpone the date of a Presidential election.

The Clerk read as follows:

H. RES. 728

Whereas no regularly scheduled national election for Federal office has ever been postponed for any reason;

Whereas regularly scheduled Federal elections took place as scheduled during the Civil War, World War I, and World War II;

Whereas after having been re-elected in an election that took place while the Civil War continued to rage, Abraham Lincoln said ''We can not have free government without elections; and if the rebellion could force us to forego, or postpone a national election it might fairly claim to have already conquered and ruined us. . . . [T]he election, along with its incidental and undesirable strife, has done good too. It has demonstrated that a people's government can sustain a national election, in the midst of a great civil war. Until now it has not been known to the world that this was a possibility.'';

Whereas the terrorist bombings that took place in Spain on the eve of the Spanish elections in March 2004 were almost certainly perceived by Al Qaeda as having contributed to the defeat of the government that had stood with the United States in the Global War on Terror;

Whereas terrorists may attempt to strike again against the United States in the months leading up to the November 2004 Presidential election in an attempt to alter or affect the election's outcome;

Whereas in the event that such a horrific attack were to occur, the actions of millions of Americans across the Nation casting their ballots would demonstrate powerfully the strength and resilience of our democracy;

Whereas there is no reason to believe that the men and women who administer elections in jurisdictions across the Nation would be incapable of determining how to react to a terrorist attack;

Whereas postponing an election in the aftermath of a terrorist attack would demonstrate weakness, not strength, and would be interpreted as a victory for the terrorists; and

Whereas under section 4 of article II of the Constitution, Congress has the authority to determine the date on which a Presidential election shall take place: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the actions of terrorists will never cause the date of any Presidential election to be postponed; and

(2) no single individual or agency should be given the authority to postpone the date of a Presidential election.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

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

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

I rise today to introduce, I think, an extremely important resolution, House Resolution 728, which expresses the sense of the House that the actions of terrorists will never cause the date of any national election, Presidential election, to be postponed and that no single individual or agency should be given the authority to postpone the date of a national election.

In a great democratic republic such as ours, there is nothing more fundamental than the bond that is forged between citizens and their representatives during the course of regularly scheduled elections. In our country and by design of our Federal Constitution, the people are sovereign. The power that we exercise as representatives derives directly from their consent.

James Madison, writing in Federalist No. 52, stated that ''It is essential to liberty that the government in general should have a common interest with the people.'' According to Madison, ''Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectually secured.''

Congress is authorized by the Constitution to determine the date on which the Presidential election and all other Federal elections will take place. Thus, only an act of Congress, and not the actions of a single individual or agency, could change that date.

The ability of the United States to conduct regularly scheduled Federal elections even during the most difficult and trying of times, for example, such as during the Civil War and during World Wars I and II, is a hallmark of our strength and our resiliency, the great cornerstone of our democracy itself. We would do well to remember the counsel of Abraham Lincoln who, after having been reelected President while the Civil War was raging, stated:

''We cannot have free government without elections. And if the rebellion could force us to forgo, or postpone a national election, it might fairly claim to have already conquered and ruined us. The election, along with its incidental and undesirable strife, has done good. It has demonstrated that a people's government can sustain a national election in the midst of a great civil war. Until now it has not been known to the world that this was a possibility.''

The resolution that we are introducing today reaffirms our national commitment to holding Federal elections, including the election for President, on the date prescribed by law and to stand firm in the face of terrorist enemies who seek to derail the operation of our democracy.

Since the terrible and fateful morning of September 11, 2001, we all have become in this country painfully aware of the destructive intent of our country's terrorist enemies as well as the increasingly sophisticated and devastating methods by which they carry out their deadly work. We were further reminded of al Qaeda's hatefulness and total disregard for innocent life this past March when, in the days leading up to the Spanish national elections, they unleashed a string of lethal bombings that killed scores of civilians in Madrid. Shortly thereafter, the Spanish Government, that had stood shoulder to shoulder with us, was then voted out of office. But it is not a matter of who was voted into office or who was voted out of office. It is the matter of the action that the terrorists took to intimidate a country.

I realize that many factors were at play during that election. However, I have no doubt that al Qaeda believes its actions led directly to the defeat of a government. And I believe, in fact, the threats that we hear about are intimidation factors on us in the United States to attempt to get us to think about the possibility of a national election being changed.

We hope that there are no terrorist attacks, of course, and we hope that our Central Intelligence Agency and FBI and Homeland Security will do everything possible, as we know they will, in conjunction with the States, to make sure that attacks are not carried out.

But if an attack did occur and we in fact postponed an election, what would we do? Would we say it will happen in 1 week? Or it will happen in 2 weeks? And there is another attack and we postpone it for 2 more weeks. One could imagine the chaos that would be caused by this type of action.

It has been suggested that such an attack may require the postponement of this November's election. I strongly disagree. Any delay in the conduct of an election in the aftermath of a terrorist attack would signify weakness rather than strength and would be a victory for the terrorists if they could accomplish that here on our soil. I believe that if such an attack were ever to occur, and I earnestly pray, as we all do, that it never happens, the actions of millions of Americans across this great country casting their ballots in a regularly scheduled election would send a very powerful signal to our terrorist enemies and to all the world about the vigor of our democracy and the fortitude of our citizens to continue on where America does her work, at the ballot box.

□ 1830

With this resolution the House declares on behalf of the American people it represents that the strength and stability of the American democratic system and the values upon which it is founded are much greater than any attempts our terrorist enemies may make to disrupt or destroy them. The message we send is unmistakably clear: we will not shrink in the face of terrorist threats.

And let me add one other point I think that is important to make. As there has been chatter about the possibility of talking about one person or one agency postponing the elections, we live in a democracy. Elections are postponed in countries that have dictators by one individual. We do not operate that way. So there are many good reasons to support this.

I want to thank the Speaker of the House, all of the Republicans. I want to thank the gentlewoman from California (Ms. PELOSI) and most of all also the gentleman from Connecticut (Mr. LARSON), our ranking member. This is a truly bipartisan resolution. This is a resolution where everybody has joined together to say that we will not be intimidated and to say that Congress has the authority on the elections, the elections will go forward, and that no one single person or agency will even entertain the idea that, in fact, they can postpone an election. I thank the gentleman from Connecticut (Mr. LARSON) for his great support.

Madam Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Madam Speaker, I yield myself such time as I may consume.

I wish to associate myself with the remarks of the gentleman from Ohio (Chairman NEY), my good friend.

I rise today in support of this resolution to reaffirm that our Federal elections should not be postponed in the event of terrorist attacks, as our chairman has eloquently stated in his remarks. I stand in support of this resolution because of the matters contained in the resolving clauses. Number one, the actions of terrorists will never cause the date of any Presidential election to be postponed; and, number two, no single individual or agency should be given the authority to postpone the date of a Presidential election. This is the meat of this resolution.

I further join with the gentlewoman (Ms. PELOSI), our distinguished leader, in calling for the United States to be an example for democracies around the world, and that means holding our elections on schedule. I would also like to thank the gentleman from Texas (Mr. TURNER), ranking member of the Select Committee on Homeland Security, who spoke out so eloquently on this issue, and the gentlewoman from California (Ms. WOOLSEY), who has already circulated in the immediate comments following some of the press with respect to this issue and garnered more than 150 signatures, as the chairman has indicated, along bipartisan lines.

The Union has stood for over 225 years and has never had a Federal election postponed or cancelled. Not in time of war, not in time of economic turmoil, and not in time of natural disaster. We should not start now. We as a country will not bend in the face of threats to our democracy. The United States was founded on the ideas of hope and freedom. Those who believe that they will break those pillars with the threat of terror are misguided.

I have requested a briefing from Department of Homeland Security Secretary Tom Ridge to learn how his Department plans to work with Congress to safeguard the November elections and on reducing the risk of attack. I join with the committee chairman and we share the concerns, and we all hope and pray and abide that no such attacks will occur, and yet we must be prepared for those contingencies. I would suggest that while we are mindful of security and the safety of voters, we should not focus on these issues to the extent that they damage democracy by frightening voters away from the polls. Americans should go to the polls in record numbers to show our determination that we take our democracy seriously.

Madam Speaker, I reserve the balance of my time.

Mr. NEY. Madam Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. SMITH), and I would also note that the gentleman has introduced House Concurrent Resolution 474 into our committee, and it supports the very same objectives; and I appreciate the gentleman's introducing that resolution.

Mr. SMITH of Michigan. Madam Speaker, I thank the chairman for yielding me this time, and I think there is going to be unanimous support for this resolution.

I think it is appropriate to mention the only reason this really came to the forefront and has become an issue is because the Election Assistance Commission Chairman, DeForest Soaries, proposed a possibility of a policy for allowing the alteration of the schedule for Federal elections in the event of an unspecified emergency. He said maybe we should be looking at that possibility. I think it was never the intention of Congress or the administration or anybody else for the reasons that have been presented from both sides to ever alter our election schedule in the United States of America.

I would like to add some of the whereases in the concurrent resolution that I introduced earlier in July, on H. Con. Res. 474.

And it says: ''Whereas the United States has never postponed or delayed a Federal election for any reason, even during the Civil War'' and ''Whereas Condoleezza Rice, the Assistant to the President for National Security Affairs, has stated that the administration has no intention of altering the schedule for Federal elections and expects the elections to occur as scheduled'' and ''Whereas the American people have a longstanding and legitimate expectation that regularly scheduled Federal elections will continue to be held in accordance with Federal law'' and ''Whereas keeping the schedule of Federal elections is necessary to maintain confidence in the legitimacy of the Presidency and Congress both in the United States and around the world: Now therefore be it resolved'' it is not going to happen and this Congress is never going to permit the alteration of law that would be required to have a postponement of our Federal elections because of terrorist threat.

I compliment both sides of the aisle for moving ahead with this resolution.

Mr. LARSON of Connecticut. Madam Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), who has led the effort here in the House and petitioned to Secretary Ridge.

Ms. WOOLSEY. Madam Speaker, it appeared earlier this month that if DeForest Soaries, the chairman of the U.S. Election Assistance Commission, had gotten his wish, his agency would have the authority to postpone the November Presidential elections in the event of a terrorist threat or attack. I was personally appalled that Soaries made such a request and that it was even 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 the selection of our highest leader, and it would be unprecedented in our Nation's history. Such a proposal suggests that State officials responsible for elections in their region are incapable of deciding what steps to take in the event of a catastrophe. The legislative branch of the government has always held the authority to regulate elections, not the executive branch.

So last week I wrote a letter to Secretary Ridge, as the gentleman from Connecticut (Mr. LARSON) stated, and I requested that he take no further steps to postpone this year's Presidential election. 190 Members of Congress signed this letter with me, and I credit the gentleman from Ohio (Mr. NEY) and the gentleman from Connecticut (Mr. LARSON) for bringing this important resolution H. Res. 728, to the House floor immediately, showing support of our request and showing full appreciation for the election process.

Madam Speaker, in early 1864, President Abraham Lincoln feared that he would lose his Presidency due to the widespread criticism of his handling of the Civil War. No President had won a second term in more than 30 years, and the Union had recently suffered a string of military disappointments, and his advisers told him that they thought he should postpone the election. Many of President Lincoln's closest advisers told him he would lose the election, in fact, if it were held. But President Lincoln never considered that possibility, nor will we.

Wars, droughts, floods, and hurricanes have not stopped elections. And the possibility of a terrorist attack must not stop one either. I urge my colleagues to support this resolution.

Mr. NEY. Madam Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. LARSON of Connecticut. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Madam Speaker, I thank the gentleman from Connecticut for yielding me this time and thank the gentleman from Ohio (Mr. NEY).

I want to raise a question here because, first of all, I absolutely agree that the executive branch must not be given the authority or must not assume the authority to change our elections. On that I one hundred percent agree. That must be the purview and the prerogative of the United States Congress.

But I just want to raise a question. The issue really is not the holding of elections. The issue is whether or not in the elections everyone's vote gets counted, and we must be very careful in our rhetorical concerns to not just say they will never disrupt the elections but to instead ensure that terrorists not allow individual votes to not be counted.

We have seen elections in which individual votes were not counted, and that is the threat to the democracy. And I mean this very seriously. It is quite plausible to imagine scenarios wherein we go forth with an election, but individual votes are not counted and thereby the election of an individual as President of the United States or as Members of the House or Senate does produce an outcome, but the outcome is not based on a fair and full counting of each of our votes.

And that is my concern. And my concern, frankly, is I think we are moving this forward too fast. My own preference would be to follow something along the lines of what Norm Ornstein recommended, and that is appoint a commission to study in the interim what the possible scenarios are and what our opportunities are because if, for example, one State, let us say California, is attacked by terrorists and the number of the votes are not in some way able to be tallied, are we today setting a marker in the ground that says it is better not to count the votes of the State of California or to only partially count those in order that we can say the election was held on time?

Quite frankly, I am not comfortable with the results of elections where we have said what matters is that we say we have held the election rather than we say what matters is every single person's vote is counted. It is that principle on which the integrity of a democratic Republic depends, not merely holding elections on a designated time.

So I will very likely vote for this, but I will do so with reservations. And I would suggest that if we do pass this resolution, we not assume that in so doing we have solved this problem. Nor do we assume that in so doing, we have assured the American people that their votes will be counted. Because the American people say not that we must hold the election on the first Tuesday of November. What they say is, most important is my vote must count. In the past it has not counted, and it must count ever after.

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

I am not sure I am going to attempt to actually answer that, but I will say this, and I respect always the gentleman's opinion: when he says the issue is about counting votes, we cannot count votes unless we have an election, I understand where he is coming from. However, there is an issue about the security of the ballots. Let us take terrorists away from it. There could be an earthquake. It could be in California. It could be in Texas. Do we then stop the national elections? Forget terrorism. Would we stop the national elections if on the day of the elections there was an earthquake somewhere? Would we somehow broadcast to the Nation stop, turn around, and go home? But I think, frankly, understanding what he is saying, respecting what he is saying about security, this still goes way beyond that.

□ 1845

At issue tonight is not forgetting about security elections, not forgetting about having accurate elections, but the issue is with the chatter about one person being able to stop elections; the Congress, I think this is the time the Congress is the body that can do that, and this is as a result of the chatter about one person.

Now, whom would we pick? Would we pick you, would we pick the Speaker, would we pick the minority leader, would we pick the Attorney General, would we pick Homeland Security?

So I think the issue of this is stating on the record that Congress will not even entertain one person, because the idea of one person is something so foreign to us, that no one individual in this country ever, ever has the power to stop an election.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I just wanted to comment, as well, that I appreciate the spirit of my colleague's comments and what he had to say, and I think that votes being conducted does truly matter.

In the legislative process, would it be that every time we passed a piece of legislation did we not think the problem had been solved? So I agree that we have to continue to follow through on this issue.

But I think the chairman is correct in terms of looking at the gravity of this situation and an individual, and, as the gentleman pointed out in his remarks as well, understanding completely that that authority should derive with the United States Congress.

Madam Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. BAIRD).

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

I appreciate the discussion here. I absolutely agree. I want to underscore that. The gentleman, I could not agree more; it must not reside with one person. Frankly, not because we feel that way, not because we cannot think of who that one person would be, but because the Constitution of the United States of America has never said that the President or a designee of the President can delay an election. That must reside with Congress, if anything is going to happen to elections.

But I really do want to underscore, what is the purpose of an election? The purpose of an election is not simply to say we had an election and someone was declared the winner. The purpose of the election is to understand the will of the majority of the American people.

If events, be they natural or terrorist, in some way distort the ability of us to accurately glean and determine the will of the American people, then that is to be of profound consideration.

My concern, again, is we must first and foremost ask ourselves what mechanisms are in place to ensure that the will of the American people is accurately recorded and counted, not what mechanisms are in place so that at the close of business on November 2 we can all declare we have had an election. That is all I am trying to say here.

I absolutely applaud the gentleman for saying no one person must make this decision. If nothing else than that, I would vote for this resolution. But I think we must step back after that and say, What mechanisms do we have in place? If on Election Day something profound has happened, be it terrorist or natural, that we reliably can reliably say we do not have an accurate count at the end of this day, should we move forward so that we can say, We had an election; or should we have some mechanism in place to ask ourselves, Has this mechanism of an election been valid? And if it has not been valid, then it behooves us and it is our duty to the American people and the voters to say, We are going to do something beforehand to make sure it is valid and not leave it up to chance. That is all I am trying to say.

So if we pass this, let us please continue this discussion, and ask if something does happen that interferes with your right to have your vote counted and accurately represented, we have some mechanism to anticipate that.

Mr. LARSON. Madam Speaker, I thank the gentleman for his thoughtful comments.

Madam Speaker, I yield 4 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE)

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished gentleman for yielding me time and for his leadership, particularly the guidance that he has given us through a number of election challenges that we have had in this Congress. And I thank the chairman of the committee, who has remained open-minded on these issues.

I think my colleague that has just spoken has crafted one instruction for us, and that is that we should be diligent and we should be vigilant, and I frankly think that this legislation allows us to do both.

I am rising to enthusiastically support the idea that we are committed to the principles of this country and we are not to be intimidated.

Let me say that I believe there is not one of us who is not committed unanimously and in a bipartisan and nonpartisan manner and as Americans to fight the war against terror. We are saying to the world that we will not be intimidated by terrorists or terror. I think we also are committed to securing the homeland, and we realize that we have that kind of important challenge.

In a few days, we will receive the 9/11 report, and it will probably announce, pronounce, a number of failings in our system, one of them being the failing in our Intelligence Community's communication.

In a few days, as well, probably simultaneously, the Select Committee on Homeland Security, of which I am a member, will be marking up a new authorization bill, one that I hope will not be a bill that is intimidating and timid, that we will address the questions of securing the homeland; and frankly, I hope that in the discussions we will talk about the sanctity and the importance of holding elections.

With that in our mind-set, the 9/11 Commission report and homeland security, this particular initiative, this legislation, is important. It makes a public pronouncement of the authority of the United States Congress to hold Federal elections.

I do believe it is important, however, to have this discussion realize that we too understand the possibility of tragic incidents, whether it is one of terror or natural disaster, and that we will say, as we debate this, that we will be cognizant of those possibilities and be prepared as a Congress to respond.

We will be prepared to respond. How that response will take place, it will be our decision as to how it will take place, but we are assuring everyone that our first priority is to have elections.

So I will support this particular legislation because it makes an important public statement: Whose authority is it? It is the United States Congress',

the Federal authority, to ensure we have elections.

But, Madam Speaker, let me say this. I think it is important to make note of the fact that all votes should be counted. I was here on January 6, 2001, and supported the idea of challenging the election at that time. The challenge was not a personal challenge, it was simply one that had to do with making sure that every vote was counted. So that point is very clear, that we should be diligent and vigilant with ensuring that all votes are counted.

Let me add, as I close, that one of the other important aspects of our diligence and our vigilance is, as we look forward to the elections, to make sure they are accurate.

So I was disappointed with the vote of this Congress, an amendment by the gentleman from Indiana (Mr. BUYER), that would ask that we not have international monitors here. The debate was vigorous, and I think the prevailing debate, although it was not prevailing in the vote, is that we are proud of our democracy. We have our failures and our faults, but we are proud of our democracy, and we do not mind if anyone comes to monitor our elections. So this is in sync with this particular legislation on the floor.

Again, let me congratulate the gentleman from Connecticut (Mr. LARSON) and the gentleman from Ohio (Mr. NEY), because we will find that most of the Members of Congress, and let me say that I think all, will find themselves able to vote for this legislation enthusiastically, because we do believe in the importance of elections, no matter whether we win or lose.

But let us do so by being vigilant and diligent. Let us make sure they are accurate elections and make sure that we open the doors for international monitors so that we can make sure that the American people have the best elections ever for the world to see.

Madam Speaker, I ask for support of this legislation.

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

Mr. Speaker, I thank the distinguished gentlewoman, and I again want to add both my praise and thanks for the leadership of our distinguished chairman, the gentleman from Ohio (Mr. NEY), in bringing this resolution to the floor.

We are the greatest country on the face of the Earth. We are known throughout the globe for our great strength and resolve. We are known for the great strength of our military and our armies and the shock and awe that they create.

But the most awesome thing that we have, the thing that sticks out in everybody's minds, what makes us the Nation that we are, is our freedom of expression and our right to vote. That is why this is such an important resolution and such an important issue.

In the final analysis, it will not be the strength of our armies; it will be the strength of the individual and collective thoughts of our citizens that are expressed on the day we vote that makes us the Nation that we are.

Madam Speaker, I thank the gentleman from Ohio for his leadership.

Madam Speaker, today I rise in support of this resolution to reaffirm that our Federal elections should not be postponed in the event of terrorist attack. I would like to associate myself with the remarks of the Chairman and thank his staff for drafting this resolution. I stand in support of this resolution because of the matters contained in the resolving clauses (1) the actions of terrorists will never cause the date of any Presidential election to be postponed; and (2) no single individual or agency should be given the authority to postpone the date of a Presidential election. This is the meat of the resolution, and others can debate about the meaning of the "whereas" clauses—and I am sure there will be lots of different interpretations.

I further join with Leader PELOSI in calling for "the United States to be an example for democracies around the world, and that means holding our elections as scheduled." I would also like to thank the ranking minority member of the Homeland Security subcommittee JIM TURNER and Representative LYNN WOOLSEY for their leadership on this very important issue. This union has stood for over 225 years and has never had a Federal election postponed or cancelled. Not in time of war; not in time of economic turmoil and not in time of natural disaster. We should not start now! We as a country will not bend in the face of threats to our democracy. The United States was founded on the ideals of Hope and Freedom! Those who believe that they will break those pillars with the threat of terror are misguided.

I have requested a briefing from Homeland Security Secretary Thomas Ridge to learn how his department plans to work with Congress to safeguard the November elections and on reducing the risk of an attack.

I would suggest that while we must be mindful of the security and safety of voters, we should not focus on these issues to the extent that it damages democracy by frightening voters away from the polls. Americans should go to the polls in record numbers to show our determination that we take democracy seriously.

Madam Speaker, I urge my colleagues to join me in supporting this resolution.

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

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

Madam Speaker, we have gone a long way in this country, and we always continue to look for ways we can better improve security, ways that we can have integrity in the elections, the Help America Vote Act. There are a lot of different things that we continuously do in the history of our country.

On this issue, I am so proud of this House. I want to thank the Speaker for his support, the gentleman from Connecticut (Mr. LARSON) for his quick action on this, the Democratic leader, the gentlewoman from California (Ms. PELOSI).

You take Members from all backgrounds in this House and sometimes people say, do you ever agree on anything? Well, you know, we might disagree here and there. But you take Members from the left, the right and the middle, you take Members from the rural and the urban, they have come together so quickly on this resolution on a bipartisan basis, because I believe that this Chamber knows and respects the integrity of our process and the rule of law that we have on the election process and Congress' clear, defined role in that.

Madam Speaker, I thank the gentleman and I urge support of this resolution.

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

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the resolution, H. Res. 728.

The question was taken.

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

Mr. NEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 728.

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

There was no objection.

JUNK FAX PREVENTION ACT OF 2004

Mr. UPTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4600) to amend Section 227 of the Communications Act of 1934 to clarify the prohibition on junk fax transmissions, as amended.

The Clerk read as follows:

H.R. 4600

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 "Junk Fax Prevention Act of 2004".

SEC. 2. PROHIBITION ON FAX TRANSMISSIONS CONTAINING UNSOLICITED ADVERTISEMENTS.

(a) PROHIBITION.—Subparagraph (C) of section 227(b)(1) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)(C)) is amended to read as follows:

"(C) to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement, unless—

"(i) the unsolicited advertisement is from a sender with an established business relationship with the recipient, and

''(ii) the unsolicited advertisement contains a notice meeting the requirements under paragraph (2)(D),

except that the exception under clauses (i) and (ii) shall not apply with respect to an unsolicited advertisement sent to a telephone facsimile machine by a sender to whom a request has been made not to send future unsolicited advertisements to such telephone facsimile machine that complies with the requirements under paragraph (2)(E); or''.

(b) DEFINITION OF ESTABLISHED BUSINESS RELATIONSHIP.—Subsection (a) of section 227 of the Communications Act of 1934 (47 U.S.C. 227(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

''(2) The term 'established business relationship', for purposes only of subsection (b)(1)(C)(i), shall have the meaning given the term in section 64.1200 of the Commission's regulations, as in effect on January 1, 2003, except that—

''(A) such term shall include a relationship between a person or entity and a business subscriber subject to the same terms applicable under such section to a relationship between a person or entity and a residential subscriber; and

''(B) an established business relationship shall be subject to any time limitation established pursuant to paragraph (2)(G).''.

(c) REQUIRED NOTICE OF OPT-OUT OPPORTUNITY.—Paragraph (2) of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

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

''(D) shall provide that a notice contained in an unsolicited advertisement complies with the requirements under this subparagraph only if—

''(i) the notice is clear and conspicuous and on the first page of the unsolicited advertisement;

''(ii) the notice states that the recipient may make a request to the sender of the unsolicited advertisement not to send any future unsolicited advertisements to a telephone facsimile machine or machines and that failure to comply, within the shortest reasonable time, as determined by the Commission, with such a request meeting the requirements under subparagraph (E) is unlawful;

''(iii) the notice sets forth the requirements for a request under subparagraph (E);

''(iv) the notice includes—

''(I) a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender; and

''(II) a cost-free mechanism for a recipient to transmit a request pursuant to such notice to the sender of the unsolicited advertisement; the Commission shall by rule require the sender to provide such a mechanism and may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, exempt certain classes of small business senders, but only if the Commission determines that the costs to such class are unduly burdensome given the revenues generated by such small businesses;

''(v) the telephone and facsimile machine numbers and the cost-free mechanism set forth pursuant to clause (iv) permit an individual or business to make such a request during regular business hours; and

''(vi) the notice complies with the requirements of subsection (d);''.

(d) REQUEST TO OPT-OUT OF FUTURE UNSOLICITED ADVERTISEMENTS.—Paragraph (2) of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsection (c) of this section, is further amended by adding at the end the following new subparagraph:

''(E) shall provide, by rule, that a request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if—

''(i) the request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

''(ii) the request is made to the telephone or facsimile number of the sender of such an unsolicited advertisement provided pursuant to subparagraph (D)(iv) or by any other method of communication as determined by the Commission; and

''(iii) the person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine;''.

(e) AUTHORITY TO ESTABLISH NONPROFIT EXCEPTION.—Paragraph (2) of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c) and (d) of this section, is further amended by adding at the end the following new subparagraph:

''(F) may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, allow professional or trade associations that are tax-exempt nonprofit organizations to send unsolicited advertisements to their members in furtherance of the association's tax-exempt purpose that do not contain the notice required by paragraph (1)(C)(ii), except that the Commission may take action under this subparagraph only by regulation issued after public notice and opportunity for public comment and only if the Commission determines that such notice required by paragraph (1)(C)(ii) is not necessary to protect the ability of the members of such associations to stop such associations from sending any future unsolicited advertisements; and''.

(f) AUTHORITY TO ESTABLISH TIME LIMIT ON ESTABLISHED BUSINESS RELATIONSHIP EXCEPTION.—Paragraph (2) of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c), (d), and (e) of this section, is further amended by adding at the end the following new subparagraph:

''(G)(i) may, consistent with clause (ii), limit the duration of the existence of an established business relationship to a period not shorter than 5 years and not longer than 7 years after the last occurrence of an action sufficient to establish such a relationship, but only if—

''(I) the Commission determines that the existence of the exception under paragraph (1)(C) relating to an established business relationship has resulted in a significant number of complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines;

''(II) upon review of such complaints referred to in subclause (I), the Commission has reason to believe that a significant number of such complaints involve unsolicited advertisements that were sent on the basis of an established business relationship that was longer in duration than the Commission believes is consistent with the reasonable expectations of consumers;

''(III) the Commission determines that the costs to senders of demonstrating the existence of an established business relationship within a specified period of time do not outweigh the benefits to recipients of establishing a limitation on such established business relationship; and

''(IV) the Commission determines that, with respect to small businesses, the costs are not unduly burdensome, given the revenues generated by small businesses, and taking into account the number of specific complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines by small businesses; and

''(ii) may not commence a proceeding to determine whether to limit the duration of the existence of an established business relationship before the expiration of the 3-year period that begins on the date of the enactment of the Junk Fax Prevention Act of 2004.''.

(g) UNSOLICITED ADVERTISEMENT.—Paragraph (5) of section 227(a) of the Communications Act of 1934 (47 U.S.C. 227(a)(4)), as so redesignated by subsection (b)(1) of this section, is amended by inserting '', in writing or otherwise'' before the period at the end.

(h) REGULATIONS.—Except as provided in clause (ii) of section 227(b)(2)(G) of the Communications Act of 1934 (as added by subsection (f) of this section), not later than 270 days after the date of the enactment of this Act, the Federal Communications Commission shall issue regulations to implement the amendments made by this section.

SEC. 3. FCC ANNUAL REPORT REGARDING JUNK FAX ENFORCEMENT.

Section 227 of the Communications Act of 1934 (47 U.S.C. 227) is amended by adding at the end the following new subsection:

''(g) JUNK FAX ENFORCEMENT REPORT.—The Commission shall submit a report to the Congress for each year regarding the enforcement of the provisions of this section relating to sending of unsolicited advertisements to telephone facsimile machines, which shall include the following information:

''(1) The number of complaints received by the Commission during such year alleging that a consumer received an unsolicited advertisement via telephone facsimile machine in violation of the Commission's rules.

''(2) The number of such complaints received during the year on which the Commission has taken action.

''(3) The number of such complaints that remain pending at the end of the year.

''(4) The number of citations issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines.

''(5) The number of notices of apparent liability issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines.

''(6) For each such notice—

''(A) the amount of the proposed forfeiture penalty involved;

''(B) the person to whom the notice was issued;

''(C) the length of time between the date on which the complaint was filed and the date on which the notice was issued; and

''(D) the status of the proceeding.

''(7) The number of final orders imposing forfeiture penalties issued pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines.

''(8) For each such forfeiture order—

''(A) the amount of the penalty imposed by the order;

''(B) the person to whom the order was issued;

''(C) whether the forfeiture penalty has been paid; and

''(D) the amount paid.

''(9) For each case in which a person has failed to pay a forfeiture penalty imposed by such a final order, whether the Commission referred such matter for recovery of the penalty.

''(10) For each case in which the Commission referred such an order for recovery—

''(A) the number of days from the date the Commission issued such order to the date of such referral;

''(B) whether an action has been commenced to recover the penalty, and if so, the number of days from the date the Commission referred such order for recovery to the date of such commencement; and

''(C) whether the recovery action resulted in collection of any amount, and if so, the amount collected.''.

SEC. 4. GAO STUDY OF JUNK FAX ENFORCEMENT.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding complaints received by the Federal Communications Commission concerning unsolicited advertisements sent to telephone facsimile machines, which shall determine—

(1) the mechanisms established by the Commission to receive, investigate, and respond to such complaints;

(2) the level of enforcement success achieved by the Commission regarding such complaints;

(3) whether complainants to the Commission are adequately informed by the Commission of the responses to their complaints; and

(4) whether additional enforcement measures are necessary to protect consumers, including recommendations regarding such additional enforcement measures.

(b) ADDITIONAL ENFORCEMENT REMEDIES.—In conducting the analysis and making the recommendations required under paragraph (7) of subsection (a), the Comptroller General shall specifically examine—

(1) the adequacy of existing statutory enforcement actions available to the Commission;

(2) the adequacy of existing statutory enforcement actions and remedies available to consumers;

(3) the impact of existing statutory enforcement remedies on senders of facsimiles;

(4) whether increasing the amount of financial penalties is warranted to achieve greater deterrent effect; and

(5) whether establishing penalties and enforcement actions for repeat violators or abusive violations similar to those established by section 4 of the CAN–SPAM Act of 2003 (15 U.S.C. 7703) would have a greater deterrent effect.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit a report on the results of the study under this section to Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4600, as amended.

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

There was no objection.

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

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume, and it is to make this point: That the majority worked very well with the minority on this issue. The gentleman from Michigan (Mr. DINGELL) and I and all the Members on our side want to thank the gentleman from Michigan (Mr. UPTON) and the gentleman from Texas (Mr. BARTON) for their cooperation on this legislation.

I was the principal House sponsor of the original junk fax bill back in 1991. That bill worked quite well, but we need to update it, and this legislation will help to give the additional protections to American consumers so that they can protect themselves against the tsunami of unwanted junk faxes which go into their homes.

After all, what could be worse than to have something come into your home, consume paper in your fax machine that you have to pay for, and then not have an ability to be able to stop that person from sending any more junk faxes into your home?

That is what this bill will help to ensure does not occur in our country. The provisions in it, I think, are solid, they are sound, and they are the product of a bipartisan bill.

Mr. Speaker, I rise in support of this bill. This legislation reflects a compromise that was negotiated out between both Democratic and Republican Members over a number of weeks and I encourage Members to support this legislation today.

First, let me state that I was the principal House sponsor of the Telephone Consumer Protection Act (TCPA) of 1991, which contained the original junk fax prohibition. Congress endorsed my call in 1991 for a general prohibition against junk faxes because of the intrusive nature of that form of advertising. Junk faxes represent a form of advertising in which the ad is essentially paid for by the recipient. The recipient of a junk fax pays for the fax paper and printer costs, pays in the form of precious lost time as the machine is tied up, and also in the form of the clutter in which important faxes are lost in the midst of a pile of junk faxes.

I think it is important to emphasize that the bill we bring to the House floor today retains the general prohibition against sending junk faxes. In other words, sending an unsolicited facsimile advertisement is against the law. We are not changing the law or the policy with respect to this—sending a junk fax was illegal and remains illegal under this bill. Neither are we changing any of the statutory enforcement mechanisms available to the FCC or consumers in this bill.

The legislation we are proposing will address certain provisions affecting an exception to the general prohibition against sending junk faxes and will improve the bill in these areas. Since the FCC originally implemented the 1991 junk fax provisions of the TCPA, Commission regulations contained an exception for faxes that were sent because an ''established business relationship'' existed between the sender and the recipient. These regulations were in place and the ability to send junk faxes based upon the exception was permitted by the Commission for over a decade.

This concept of an ''established business relationship'' permitted a commercial entity to invoke its ability to prove such a relationship with a consumer in order to contact that consumer in spite of the general prohibitions of the law. The FCC has more recently determined that the term ''established business relationship'' was not specifically included in the provisions addressing junk faxes in the TCPA and therefore changed its regulations. The new rules require ''written'' permission from consumers and these new rules have been stayed from going into effect until January of 2005.

The legislation before us is designed to put specific language into the statute permitting an ''established business relationship'' exception to the general prohibition against junk faxes. Many businesses have complained that written permission is too onerous a regulatory requirement for many of the faxes that they stipulate are routinely sent in the ordinary course of business, presumably without complaints from the recipients of such faxes. The draft bill is responsive to these complaints.

We must recognize, however, that many small businesses and residential consumers find many of these unsolicited faxes, including those faxes sent because a valid claim of an ''established business relationship'' was being asserted in order to send them, to be a considerable irritant and strongly object to receiving them. The legislation, therefore, addresses additional issues, including putting into the statute an ''opt-out'' ability for consumers to object to receiving junk faxes, even when such faxes are sent to them based on an established business relationship. For the decade that the original FCC regulations were in place, many consumers simply were not aware of the FCC's established business relationship exception, nor did very many know they had an ability to stop these faxes or any clear way in which to effectuate such a request.

The bill the House is considering includes new provisions requiring an ''opt-out'' notice and policy that we will add to the statute. The bill requires junk faxes to include, on the first page, a clear and conspicuous notice to consumers that they have the right not to receive future junk faxes from the sender. Second, the notice must include a domestic contact telephone number an fax number for consumers to transmit a request not to receive future faxes. Third, the bill stipulates that consumers must be able to make such requests during normal business hours. Fourth, the bill requires the notice to conform with the Commission's technical and procedural standards for sending faxes under Section 227(d) of the law, which include the requirement to identify the entity sending the facsimile advertisement.

This is an important provision because one of the biggest complains from the FCC at the hearing, and with other law enforcement entities and aggrieved consumers, is that they have had difficulty legally identifying the source of many of the unsolicited faxes. In addition, there were some senders of junk faxes who evidently and falsely believed that simply because they were sending an unsolicited fax based upon their ability to prove they had a ''established business relationship'' with a consumer, and thus did not have to abide by the general prohibition against such faxes, that this also meant they did not have to abide by the other FCC and statutory technical rules. These statutory and regulatory rules include requirements that junk fax senders identify themselves in such faxes. Law enforcement entities and consumers need to be able to find the legal business name or widely recognized trade name of the entity sending a junk fax in violation of the rules in order to pursue enforcement actions.

Fifth, this bill makes it clear that a consumer can ''opt-out'' of receiving faxes to multiple machines, if they have more than one, rather than opting out solely for the particular machine that received the junk fax. Sixth, in this

legislation the Commission is tasked with exploring additional mechanisms by which a consumer might opt-out, such as in person or by e-mail or regular mail, and also requests that the Commission established cost-free ways by which consumers can opt-out. These notice and opt-out requirements all represent new provisions to the law for which existing enforcement remedies will apply.

This legislation also includes the ability for the FCC to limit the duration of an established business relationship notwithstanding the fact that the law would include an opt-out notice and ability which avails consumers of the right to opt-out of receiving faxes at any point in time. I believe this is an important concept and one which deals with the legitimate expectations of consumers. If a consumer buys something from a store, consumers might expect to hear from that store within a reasonable period of time under the notion that they have an established business relationship and the store was sending an unsolicited fax based upon that fact. Over time however, a consumer's expectation changes and there is a time after which the established business relationship can be said to have lapsed.

There are some who believe that no time limit is necessary, in light of the fact that we are now adding a clear way by which consumers may opt-out of receiving junk faxes at any time. There are others who believe that a time limit is necessary for consumer protection, and many of us have different views over what period of time is reasonable. While it is not the preferred resolution for any of us, the bill contains a new provision which tries to bridge the gap between our different perspectives on this issue. The legislation will permit the Commission to put in place a sunset of the established business relationship, after the FCC implements the new opt-out policy and it gets a track record on what is happening in the marketplace. In particular, the Commission will examine consumer complaints to the agency during this period with an analysis as to whether junk faxes from entities with whom consumers have an established business relationship constitute a significant number of complaints. If so, the Commission may establish a limit, between 5 and 7 years, for the duration of an established business relationship. If it does so, then after the limit, entities would not be able to send junk faxes because they can prove an established business relationship with a consumer. In other words, the relationship would end for purposes of the exception and the policy would revert back to the general prohibition against sending the junk fax for that consumer.

Finally, I think it is important to take a comprehensive look at overall enforcement of the junk fax law. I am concerned that some of the most egregious junk fax operations, the entities that broadcast such faxes to millions, often escape enforcement. They may be found guilty, cited by the FCC and sometimes fined—but often it appears as if they either ignore the fines, skip town, or live overseas. For these reasons the bill includes provisions that will give us an annual accounting of the FCC's enforcement activities as well as a GAO analysis of what additional enforcement tools may be necessary to provide sufficient deterrent, especially to the most egregious and abusive junk fax senders.

Again, I want to commend Chairman UPTON and Chairman BARTON for their work on this bill, and in particular for their willingness and openness in working with me and Mr. DINGELL in crafting the compromises needed to achieve consensus. I encourage all the members to support it.

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

Mr. Speaker, today we are considering the Junk Fax Prevention Act of 2004, bipartisan legislation which I introduced along with the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Texas (Mr. BARTON) and the gentleman from Michigan (Mr. DINGELL). I want to thank those Members for their hard work and bipartisan cooperation.

In 1991, Congress passed the Telephone Consumer Protection Act, which included landmark legislation that protected consumers from receiving unwanted and unsolicited commercial faxes. For over 10 years, the FCC had interpreted that law to provide businesses with an exception to the general ban when they faxed commercial or advertising material to an existing business customer.

Then, in 2003, the FCC made a major change in their interpretation of the law. Under the new FCC rules, every business, every single one, small, large, home-based, every association, every nonprofit organization, every charity, would be required to obtain prior written approval from each individual before it sent a commercial fax.

□ 1900

The logistical and financial costs of the new FCC rules, particularly to small business and nonprofit associations, would be enormous.

For instance, the survey of the U.S. Chamber of Commerce suggested that the cost to the average small business would be at least $5,000 in the first year and more than $3,000 each year thereafter. The survey further indicated that it would take, on average, more than 27 hours of staff time to obtain the initial written consent from their customers, and an additional 20 hours each year to keep those forms current. A recent survey by the National Association of Wholesalers-Distributors revealed that its member companies expected to pay an average of $22,500 just to obtain the consent forms. With our economy in the fragile stages of an economic recovery, I would much rather see those dollars going towards production and job creation.

Given the dramatic impact which the new rules would have, last August, just before the new rules were to go into effect, the gentleman from Louisiana (Mr. TAUZIN), the then chairman of the Committee on Energy and Commerce, and I wrote the FCC and requested that the FCC delay the effective date of the new rules. Thankfully, the FCC did. In fact, they stayed the effective date until January of 2005.

Moreover, while the FCC currently has the new rules under reconsideration, I think it is the wisest course for Congress to step in and fix the law to resolve any lingering statutory interpretation problems which led to the FCC's new rules, and that is why we are here today.

Let me start by stating what the Junk Fax Prevention Act of 2004 would not do. The bill does not overturn the ban on the faxing of unsolicited advertisements. That has been outlawed since the passage of the Telephone Consumer Protection Act of 1991, and this bill does nothing to change that.

This bill does not protect the senders of those annoying, unsolicited faxed advertisements which so many of us get from companies with whom we have never done business, often sent to us randomly by blast fax, and do not properly identify themselves in the fax transmission.

Rather, the bill with clearly reinstate the established business relationship exemption to allow businesses, associations, and charities to send commercial faxes to their customers and members without first receiving written permission. Additionally and importantly, the bill would establish new opt-out safeguards to provide additional protections for fax recipients. Under the bill, senders of faxes must alert recipients clearly and conspicuously on the first page, of their right to opt-out of future faxes, and senders must abide by those requests. This is a level of protection that consumers never had under the FCC rules. Finally, the bill sets out the FCC reporting requirements so that Congress can monitor the FCC's enforcement activity.

The Junk Fax Prevention Act is commonsense, regulatory relief; and time is of the essence for Congress to pass it, since many businesses will very soon need to begin making arrangements to be in compliance with the new rules by January of 2005.

I want to thank my friends, the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Texas (Mr. BARTON), and the gentleman from Michigan (Mr. DINGELL), for their sincere bipartisan cooperation on the bill. I also want to thank the staff on both sides of the aisle, Kelly Cole, Howard Waltzman, Pete Filon, Colin Crowell, Will Carty, and certainly Will Nordwind for all of their superb efforts.

I urge my colleagues to support this measure. I look forward to working with my colleagues on the other side of the Capitol to ensure that we get this must-pass legislation to the President's desk as expeditiously as possible this year.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 4600, the Junk Fax Prevention Act of 2004. The bill strikes a proper balance between protecting consumers from unwanted junk faxes and permitting legitimate business communications, and I would commend Chairmen BARTON and UPTON, and Ranking Member MARKEY for their bipartisan work.

H.R. 4600 is necessary because the Federal Communications Commission (FCC), as part of its Do-Not-Call order last year, reversed its existing business relationship (EBR) policy regarding junk faxes. Starting in January 2005, permission to receive junk faxes

must be in writing and include the recipient's signature.

This rule will have a perverse effect on legitimate business communications. For example, under the Commission's new policy, if I would like my travel agent to send me a description of various vacation packages, I must first deliver to my agent a signed waiver requesting the fax. Likewise, my favorite restaurant would have to obtain a similar waiver in order to fax me its updated menu. Not surprisingly, commercial enterprises, especially small businesses and trade associations, are justifiably concerned about the impact of the FCC's new junk fax rules.

H.R. 4600 takes the corrective step of codifying a modified version of the FCC's current 12-year-old junk fax EBR policy that is set to end this year. To provide further protection to consumers, however, that policy will be changed to provide consumers with the right to opt out from receiving such faxes from a particular sender. Further, consumers must be provided clear and conspicuous notice of their new opt-out right. Additional protections for consumers include enabling recipients to opt out using a cost-free mechanism and giving the FCC the authority to sunset the EBR.

In an effort to focus on enforcement against those who illegally send junk faxes, the legislation requires the Commission to report to the Congress each year on the number of junk fax complaints it has received and on the enforcement actions taken against those who violate the agency's rules. This report should assist the commission in maintaining proper vigilance on those who fail to respect consumer privacy. Moreover, the bill requires the Government Accountability Office to study the junk fax issue and make recommendations to the Committee on additional enforcement measures that can be taken to protect consumers from unwanted junk faxes.

Mr. Speaker, consumers are fed up with the unwanted and intrusive junk faxes that clog up their fax machines. H.R. 4600 will help protect consumers from receiving these faxes while ensuring that businesses can continue to use the fax machine to communicate with their customers. I urge my colleagues to support this bill.

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

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the bill, H.R. 4600, as amended.

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

A motion to reconsider was laid on the table.

MINOR USE AND MINOR SPECIES ANIMAL HEALTH ACT OF 2004

Mr. PICKERING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 741) to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

The Clerk read as follows:

S. 741

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

TITLE I—MINOR USE AND MINOR SPECIES HEALTH

SECTION 101. SHORT TITLE.

This title may be cited as the ''Minor Use and Minor Species Animal Health Act of 2004''.

SEC. 102. MINOR USE AND MINOR SPECIES ANIMAL HEALTH.

(a) FINDINGS.—Congress makes the following findings:

(1) There is a severe shortage of approved new animal drugs for use in minor species.

(2) There is a severe shortage of approved new animal drugs for treating animal diseases and conditions that occur infrequently or in limited geographic areas.

(3) Because of the small market shares, low-profit margins involved, and capital investment required, it is generally not economically feasible for new animal drug applicants to pursue approvals for these species, diseases, and conditions.

(4) Because the populations for which such new animal drugs are intended may be small and conditions of animal management may vary widely, it is often difficult to design and conduct studies to establish drug safety and effectiveness under traditional new animal drug approval processes.

(5) It is in the public interest and in the interest of animal welfare to provide for special procedures to allow the lawful use and marketing of certain new animal drugs for minor species and minor uses that take into account these special circumstances and that ensure that such drugs do not endanger animal or public health.

(6) Exclusive marketing rights for clinical testing expenses have helped encourage the development of ''orphan'' drugs for human use, and comparable incentives should encourage the development of new animal drugs for minor species and minor uses.

(b) AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—

(1) DEFINITIONS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

''(nn) The term 'major species' means cattle, horses, swine, chickens, turkeys, dogs, and cats, except that the Secretary may add species to this definition by regulation.

''(oo) The term 'minor species' means animals other than humans that are not major species.

''(pp) The term 'minor use' means the intended use of a drug in a major species for an indication that occurs infrequently and in only a small number of animals or in limited geographical areas and in only a small number of animals annually.''.

(2) THREE-YEAR EXCLUSIVITY FOR MINOR USE AND MINOR SPECIES APPROVALS.—Section 512(c)(2)(F) (ii), (iii), and (v) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''(other than bioequivalence or residue studies)'' and inserting ''(other than bioequivalence studies or residue depletion studies, except residue depletion studies for minor uses or minor species)'' every place it appears.

(3) SCOPE OF REVIEW FOR MINOR USE AND MINOR SPECIES APPLICATIONS.—Section 512(d) of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new paragraph:

''(5) In reviewing an application that proposes a change to add an intended use for a minor use or a minor species to an approved new animal drug application, the Secretary shall reevaluate only the relevant information in the approved application to determine whether the application for the minor use or minor species can be approved. A decision to approve the application for the minor use or minor species is not, implicitly or explicitly, a reaffirmation of the approval of the original application.''.

(4) MINOR USE AND MINOR SPECIES NEW ANIMAL DRUGS.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

"Subchapter F—New Animal Drugs for Minor Use and Minor Species

"SEC. 571. CONDITIONAL APPROVAL OF NEW ANIMAL DRUGS FOR MINOR USE AND MINOR SPECIES.

''(a)(1) Except as provided in paragraph (3) of this section, any person may file with the Secretary an application for conditional approval of a new animal drug intended for a minor use or a minor species. Such an application may not be a supplement to an application approved under section 512. Such application must comply in all respects with the provisions of section 512 of this Act except sections 512(a)(4), 512(b)(2), 512(c)(1), 512(c)(2), 512(c)(3), 512(d)(1), 512(e), 512(h), and 512(n) unless otherwise stated in this section, and any additional provisions of this section. New animal drugs are subject to application of the same safety standards that would be applied to such drugs under section 512(d) (including, for antimicrobial new animal drugs, with respect to antimicrobial resistance).

''(2) The applicant shall submit to the Secretary as part of an application for the conditional approval of a new animal drug—

''(A) all information necessary to meet the requirements of section 512(b)(1) except section 512(b)(1)(A);

''(B) full reports of investigations which have been made to show whether or not such drug is safe under section 512(d) (including, for an antimicrobial new animal drug, with respect to antimicrobial resistance) and there is a reasonable expectation of effectiveness for use;

''(C) data for establishing a conditional dose;

''(D) projections of expected need and the justification for that expectation based on the best information available;

''(E) information regarding the quantity of drug expected to be distributed on an annual basis to meet the expected need; and

''(F) a commitment that the applicant will conduct additional investigations to meet the requirements for the full demonstration of effectiveness under section 512(d)(1)(E) within 5 years.

''(3) A person may not file an application under paragraph (1) if—

''(A) the application seeks conditional approval of a new animal drug that is contained in, or is a product of, a transgenic animal,

''(B) the person has previously filed an application for conditional approval under paragraph (1) for the same drug in the same dosage form for the same intended use whether or not subsequently conditionally approved by the Secretary under subsection (b), or

''(C) the person obtained the application, or data or other information contained therein, directly or indirectly from the person who filed for conditional approval under paragraph (1) for the same drug in the same dosage form for the same intended use whether or not subsequently conditionally approved by the Secretary under subsection (b).

''(b) Within 180 days after the filing of an application pursuant to subsection (a), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

''(1) issue an order, effective for one year, conditionally approving the application if the Secretary finds that none of the grounds for denying conditional approval, specified in subsection (c) of this section applies and publish a Federal Register notice of the conditional approval, or

''(2) give the applicant notice of an opportunity for an informal hearing on the question whether such application can be conditionally approved.

''(c) If the Secretary finds, after giving the applicant notice and an opportunity for an informal hearing, that—

''(1) any of the provisions of section 512(d)(1) (A) through (D) or (F) through (I) are applicable;

''(2) the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such drug, is insufficient to show that there is a reasonable expectation that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or

''(3) another person has received approval under section 512 for the same drug in the same dosage form for the same intended use, and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended;

the Secretary shall issue an order refusing to conditionally approve the application. If, after such notice and opportunity for an informal hearing, the Secretary finds that paragraphs (1) through (3) do not apply, the Secretary shall issue an order conditionally approving the application effective for one year and publish a Federal Register notice of the conditional approval. Any order issued under this subsection refusing to conditionally approve an application shall state the findings upon which it is based.

''(d) A conditional approval under this section is effective for a 1-year period and is thereafter renewable by the Secretary annually for up to 4 additional 1-year terms. A conditional approval shall be in effect for no more than 5 years from the date of approval under subsection (b)(1) or (c) of this section unless extended as provided for in subsection (h) of this section. The following shall also apply:

''(1) No later than 90 days from the end of the 1-year period for which the original or renewed conditional approval is effective, the applicant may submit a request to renew a conditional approval for an additional 1-year term.

''(2) A conditional approval shall be deemed renewed at the end of the 1-year period, or at the end of a 90-day extension that the Secretary may, at the Secretary's discretion, grant by letter in order to complete review of the renewal request, unless the Secretary determines before the expiration of the 1-year period or the 90-day extension that—

''(A) the applicant failed to submit a timely renewal request;

''(B) the request fails to contain sufficient information to show that—

''(i) the applicant is making sufficient progress toward meeting approval requirements under section 512(d)(1)(E), and is likely to be able to fulfill those requirements and obtain an approval under section 512 before the expiration of the 5-year maximum term of the conditional approval;

''(ii) the quantity of the drug that has been distributed is consistent with the conditionally approved intended use and conditions of use, unless there is adequate explanation that ensures that the drug is only used for its intended purpose; or

''(iii) the same drug in the same dosage form for the same intended use has not received approval under section 512, or if such a drug has been approved, that the holder of the approved application is unable to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended; or

''(C) any of the provisions of section 512(e)(1) (A) through (B) or (D) through (F) are applicable.

''(3) If the Secretary determines before the end of the 1-year period or the 90-day extension, if granted, that a conditional approval should not be renewed, the Secretary shall issue an order refusing to renew the conditional approval, and such conditional approval shall be deemed withdrawn and no longer in effect. The Secretary shall thereafter provide an opportunity for an informal hearing to the applicant on the issue whether the conditional approval shall be reinstated.

''(e)(1) The Secretary shall issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that another person has received approval under section 512 for the same drug in the same dosage form for the same intended use and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended.

''(2) The Secretary shall, after due notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that—

''(A) any of the provisions of section 512(e)(1) (A) through (B) or (D) through (F) are applicable; or

''(B) on the basis of new information before the Secretary with respect to such drug, evaluated together with the evidence available to the Secretary when the application was conditionally approved, that there is not a reasonable expectation that such drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

''(3) The Secretary may also, after due notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that any of the provisions of section 512(e)(2) are applicable.

''(f)(1) The label and labeling of a new animal drug with a conditional approval under this section shall—

''(A) bear the statement, 'conditionally approved by FDA pending a full demonstration of effectiveness under application number'; and

''(B) contain such other information as prescribed by the Secretary.

''(2) An intended use that is the subject of a conditional approval under this section shall not be included in the same product label with any intended use approved under section 512.

''(g) A conditionally approved new animal drug application may not be amended or supplemented to add indications for use.

''(h) 180 days prior to the termination date established under subsection (d) of this section, an applicant shall have submitted all the information necessary to support a complete new animal drug application in accordance with section 512(b)(1) or the conditional approval issued under this section is no longer in effect. Following review of this information, the Secretary shall either—

''(1) issue an order approving the application under section 512(c) if the Secretary finds that none of the grounds for denying approval specified in section 512(d)(1) applies, or

''(2) give the applicant an opportunity for a hearing before the Secretary under section 512(d) on the question whether such application can be approved.

Upon issuance of an order approving the application, product labeling and administrative records of approval shall be modified accordingly. If the Secretary has not issued an order under section 512(c) approving such application prior to the termination date established under subsection (d) of this section, the conditional approval issued under this section is no longer in effect unless the Secretary grants an extension of an additional 180-day period so that the Secretary can complete review of the application. The decision to grant an extension is committed to the discretion of the Secretary and not subject to judicial review.

''(i) The decision of the Secretary under subsection (c), (d), or (e) of this section refusing or withdrawing conditional approval of an application shall constitute final agency action subject to judicial review.

''(j) In this section and section 572, the term 'transgenic animal' means an animal whose genome contains a nucleotide sequence that has been intentionally modified in vitro, and the progeny of such an animal; Provided that the term 'transgenic animal' does not include an animal of which the nucleotide sequence of the genome has been modified solely by selective breeding.

"SEC. 572. INDEX OF LEGALLY MARKETED UNAPPROVED NEW ANIMAL DRUGS FOR MINOR SPECIES.

''(a)(1) The Secretary shall establish an index limited to—

''(A) new animal drugs intended for use in a minor species for which there is a reasonable certainty that the animal or edible products from the animal will not be consumed by humans or food-producing animals; and

''(B) new animal drugs intended for use only in a hatchery, tank, pond, or other similar contained man-made structure in an early, non-food life stage of a food-producing minor species, where safety for humans is demonstrated in accordance with the standard of section 512(d) (including, for an antimicrobial new animal drug, with respect to antimicrobial resistance).

''(2) The index shall not include a new animal drug that is contained in or a product of a transgenic animal.

''(b) Any person intending to file a request under this section shall be entitled to one or more conferences to discuss the requirements for indexing a new animal drug.

''(c)(1) Any person may submit a request to the Secretary for a determination whether a new animal drug may be eligible for inclusion in the index. Such a request shall include—

''(A) information regarding the need for the new animal drug, the species for which the new animal drug is intended, the proposed intended use and conditions of use, and anticipated annual distribution;

''(B) information to support the conclusion that the proposed use meets the conditions of subparagraph (A) or (B) of subsection (a)(1) of this section;

''(C) information regarding the components and composition of the new animal drug;

''(D) a description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such new animal drug;

''(E) an environmental assessment that meets the requirements of the National Environmental Policy Act of 1969, as amended, and as defined in 21 CFR Part 25, as it appears on the date of enactment of this provision and amended thereafter or information

to support a categorical exclusion from the requirement to prepare an environmental assessment;

''(F) information sufficient to support the conclusion that the proposed use of the new animal drug is safe under section 512(d) with respect to individuals exposed to the new animal drug through its manufacture or use; and

''(G) such other information as the Secretary may deem necessary to make this eligibility determination.

''(2) Within 90 days after the submission of a request for a determination of eligibility for indexing based on subsection (a)(1)(A) of this section, or 180 days for a request submitted based on subsection (a)(1)(B) of this section, the Secretary shall grant or deny the request, and notify the person who requested such determination of the Secretary's decision. The Secretary shall grant the request if the Secretary finds that—

''(A) the same drug in the same dosage form for the same intended use is not approved or conditionally approved;

''(B) the proposed use of the drug meets the conditions of subparagraph (A) or (B) of subsection (a)(1), as appropriate;

''(C) the person requesting the determination has established appropriate specifications for the manufacture and control of the new animal drug and has demonstrated an understanding of the requirements of current good manufacturing practices;

''(D) the new animal drug will not significantly affect the human environment; and

''(E) the new animal drug is safe with respect to individuals exposed to the new animal drug through its manufacture or use.

If the Secretary denies the request, the Secretary shall thereafter provide due notice and an opportunity for an informal conference. A decision of the Secretary to deny an eligibility request following an informal conference shall constitute final agency action subject to judicial review.

''(d)(1) With respect to a new animal drug for which the Secretary has made a determination of eligibility under subsection (c), the person who made such a request may ask that the Secretary add the new animal drug to the index established under subsection (a). The request for addition to the index shall include—

''(A) a copy of the Secretary's determination of eligibility issued under subsection (c);

''(B) a written report that meets the requirements in subsection (d)(2) of this section;

''(C) a proposed index entry;

''(D) facsimile labeling;

''(E) anticipated annual distribution of the new animal drug;

''(F) a written commitment to manufacture the new animal drug and animal feeds bearing or containing such new animal drug according to current good manufacturing practices;

''(G) a written commitment to label, distribute, and promote the new animal drug only in accordance with the index entry;

''(H) upon specific request of the Secretary, information submitted to the expert panel described in paragraph (3); and

''(I) any additional requirements that the Secretary may prescribe by general regulation or specific order.

''(2) The report required in paragraph (1) shall—

''(A) be authored by a qualified expert panel;

''(B) include an evaluation of all available target animal safety and effectiveness information, including anecdotal information;

''(C) state the expert panel's opinion regarding whether the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks to the target animal, taking into account the harm being caused by the absence of an approved or conditionally approved new animal drug for the minor species in question;

''(D) include information from which labeling can be written; and

''(E) include a recommendation regarding whether the new animal drug should be limited to use under the professional supervision of a licensed veterinarian.

''(3) A qualified expert panel, as used in this section, is a panel that—

''(A) is composed of experts qualified by scientific training and experience to evaluate the target animal safety and effectiveness of the new animal drug under consideration;

''(B) operates external to FDA; and

''(C) is not subject to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

The Secretary shall define the criteria for selection of a qualified expert panel and the procedures for the operation of the panel by regulation.

''(4) Within 180 days after the receipt of a request for listing a new animal drug in the index, the Secretary shall grant or deny the request. The Secretary shall grant the request if the request for indexing continues to meet the eligibility criteria in subsection (a) and the Secretary finds, on the basis of the report of the qualified expert panel and other information available to the Secretary, that the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks to the target animal, taking into account the harm caused by the absence of an approved or conditionally-approved new animal drug for the minor species in question. If the Secretary denies the request, the Secretary shall thereafter provide due notice and the opportunity for an informal conference. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

''(e)(1) The index established under subsection (a) shall include the following information for each listed drug—

''(A) the name and address of the person who holds the index listing;

''(B) the name of the drug and the intended use and conditions of use for which it is being indexed;

''(C) product labeling; and

''(D) conditions and any limitations that the Secretary deems necessary regarding use of the drug.

''(2) The Secretary shall publish the index, and revise it periodically.

''(3) The Secretary may establish by regulation a process for reporting changes in the conditions of manufacturing or labeling of indexed products.

''(f)(1) If the Secretary finds, after due notice to the person who requested the index listing and an opportunity for an informal conference, that—

''(A) the expert panel failed to meet the requirements as set forth by the Secretary by regulation;

''(B) on the basis of new information before the Secretary, evaluated together with the evidence available to the Secretary when the new animal drug was listed in the index, the benefits of using the new animal drug for the indexed use do not outweigh its risks to the target animal;

''(C) the conditions of subsection (c)(2) of this section are no longer satisfied;

''(D) the manufacture of the new animal drug is not in accordance with current good manufacturing practices;

''(E) the labeling, distribution, or promotion of the new animal drug is not in accordance with the index entry;

''(F) the conditions and limitations of use associated with the index listing have not been followed; or

''(G) the request for indexing contains any untrue statement of material fact,

the Secretary shall remove the new animal drug from the index. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

''(2) If the Secretary finds that there is a reasonable probability that the use of the drug would present a risk to the health of humans or other animals, the Secretary may—

''(A) suspend the listing of such drug immediately;

''(B) give the person listed in the index prompt notice of the Secretary's action; and

''(C) afford that person the opportunity for an informal conference.

The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

''(g) For purposes of indexing new animal drugs under this section, to the extent consistent with the public health, the Secretary shall promulgate regulations for exempting from the operation of section 512 minor species new animal drugs and animal feeds bearing or containing new animal drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of minor species animal drugs. Such regulations may, at the discretion of the Secretary, among other conditions relating to the protection of the public health, provide for conditioning such exemption upon the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer or the sponsor of the investigation of such article, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of such article, as the Secretary finds will enable the Secretary to evaluate the safety and effectiveness of such article in the event of the filing of a request for an index listing pursuant to this section.

''(h) The labeling of a new animal drug that is the subject of an index listing shall state, prominently and conspicuously—

''(1) 'NOT APPROVED BY FDA.—Legally marketed as an FDA indexed product. Extra-label use is prohibited.';

''(2) except in the case of new animal drugs indexed for use in an early life stage of a food-producing animal, 'This product is not to be used in animals intended for use as food for humans or other animals.'; and

''(3) such other information as may be prescribed by the Secretary in the index listing.

''(i)(1) In the case of any new animal drug for which an index listing pursuant to subsection (a) is in effect, the person who has an index listing shall establish and maintain such records, and make such reports to the Secretary, of data relating to experience, and other data or information, received or otherwise obtained by such person with respect to such drug, or with respect to animal feeds bearing or containing such drug, as the Secretary may by general regulation, or by order with respect to such listing, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (f). Such regulation or order shall provide, where the Secretary deems it to be appropriate, for the examination, upon request, by the persons to whom such regulation or order is applicable, of similar information received or otherwise obtained by the Secretary.

''(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

''(j)(1) Safety and effectiveness data and information which has been submitted in support of a request for a new animal drug to be indexed under this section and which has not been previously disclosed to the public shall be made available to the public, upon request, unless extraordinary circumstances are shown—

''(A) if no work is being or will be undertaken to have the drug indexed in accordance with the request,

''(B) if the Secretary has determined that such drug cannot be indexed and all legal appeals have been exhausted,

''(C) if the indexing of such drug is terminated and all legal appeals have been exhausted, or

''(D) if the Secretary has determined that such drug is not a new animal drug.

''(2) Any request for data and information pursuant to paragraph (1) shall include a verified statement by the person making the request that any data or information received under such paragraph shall not be disclosed by such person to any other person—

''(A) for the purpose of, or as part of a plan, scheme, or device for, obtaining the right to make, use, or market, or making, using, or marketing, outside the United States, the drug identified in the request for indexing; and

''(B) without obtaining from any person to whom the data and information are disclosed an identical verified statement, a copy of which is to be provided by such person to the Secretary, which meets the requirements of this paragraph.

''SEC. 573. DESIGNATED NEW ANIMAL DRUGS FOR MINOR USE OR MINOR SPECIES.

''(a) DESIGNATION.—

''(1) The manufacturer or the sponsor of a new animal drug for a minor use or use in a minor species may request that the Secretary declare that drug a 'designated new animal drug'. A request for designation of a new animal drug shall be made before the submission of an application under section 512(b) or section 571 for the new animal drug.

''(2) The Secretary may declare a new animal drug a 'designated new animal drug' if—

''(A) it is intended for a minor use or use in a minor species; and

''(B) the same drug in the same dosage form for the same intended use is not approved under section 512 or 571 or designated under this section at the time the request is made.

''(3) Regarding the termination of a designation—

''(A) the sponsor of a new animal drug shall notify the Secretary of any decision to discontinue active pursuit of approval under section 512 or 571 of an application for a designated new animal drug. The Secretary shall terminate the designation upon such notification;

''(B) the Secretary may also terminate designation if the Secretary independently determines that the sponsor is not actively pursuing approval under section 512 or 571 with due diligence;

''(C) the sponsor of an approved designated new animal drug shall notify the Secretary of any discontinuance of the manufacture of such new animal drug at least one year before discontinuance. The Secretary shall terminate the designation upon such notification; and

''(D) the designation shall terminate upon the expiration of any applicable exclusivity period under subsection (c).

''(4) Notice respecting the designation or termination of designation of a new animal drug shall be made available to the public.

''(b) GRANTS AND CONTRACTS FOR DEVELOPMENT OF DESIGNATED NEW ANIMAL DRUGS.—

''(1) The Secretary may make grants to and enter into contracts with public and private entities and individuals to assist in defraying the costs of qualified safety and effectiveness testing expenses and manufacturing expenses incurred in connection with the development of designated new animal drugs.

''(2) For purposes of paragraph (1) of this section—

''(A) The term 'qualified safety and effectiveness testing' means testing—

''(i) which occurs after the date such new animal drug is designated under this section and before the date on which an application with respect to such drug is submitted under section 512; and

''(ii) which is carried out under an investigational exemption under section 512(j).

''(B) The term 'manufacturing expenses' means expenses incurred in developing processes and procedures associated with manufacture of the designated new animal drug which occur after the new animal drug is designated under this section and before the date on which an application with respect to such new animal drug is submitted under section 512 or 571.

''(c) EXCLUSIVITY FOR DESIGNATED NEW ANIMAL DRUGS.—

''(1) Except as provided in subsection (c)(2), if the Secretary approves or conditionally approves an application for a designated new animal drug, the Secretary may not approve or conditionally approve another application submitted for such new animal drug with the same intended use as the designated new animal drug for another applicant before the expiration of seven years from the date of approval or conditional approval of the application.

''(2) If an application filed pursuant to section 512 or section 571 is approved for a designated new animal drug, the Secretary may, during the 7-year exclusivity period beginning on the date of the application approval or conditional approval, approve or conditionally approve another application under section 512 or section 571 for such drug for such minor use or minor species for another applicant if—

''(A) the Secretary finds, after providing the holder of such an approved application notice and opportunity for the submission of views, that in the granted exclusivity period the holder of the approved application cannot assure the availability of sufficient quantities of the drug to meet the needs for which the drug was designated; or

''(B) such holder provides written consent to the Secretary for the approval or conditional approval of other applications before the expiration of such exclusivity period.''.

(5) CONFORMING AMENDMENTS.—

(A) Section 201(u) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''512'' and inserting ''512, 571''.

(B) Section 201(v) of the Federal Food, Drug, and Cosmetic Act is amended by inserting the following after paragraph (2): ''Provided that any drug intended for minor use or use in a minor species that is not the subject of a final regulation published by the Secretary through notice and comment rulemaking finding that the criteria of paragraphs (1) and (2) have not been met (or that the exception to the criterion in paragraph (1) has been met) is a new animal drug.''.

(C) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''512(a)(4)(C), 512(j), (l) or (m)'' and inserting ''512(a)(4)(C), 512 (j), (l) or (m), 572(i).''

(D) Section 301(j) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''520'' and inserting ''520, 571, 572, 573.''

(E) Section 502 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new subsection:

''(w) If it is a new animal drug—

''(1) that is conditionally approved under section 571 and its labeling does not conform with the approved application or section 571(f), or that is not conditionally approved under section 571 and its label bears the statement set forth in section 571(f)(1)(A); or

''(2) that is indexed under section 572 and its labeling does not conform with the index listing under section 572(e) or 572(h), or that has not been indexed under section 572 and its label bears the statement set forth in section 572(h).''.

(F) Section 503(f) of the Federal Food, Drug, and Cosmetic Act is amended—

(i) in paragraph (1)(A)(ii) by striking ''512'' and inserting ''512, a conditionally-approved application under section 571, or an index listing under section 572''; and

(ii) in paragraph (3) by striking ''section 512'' and inserting ''section 512, 571, or 572''.

(G) Section 504(a)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''512(b)'' and inserting ''512(b), a conditionally-approved application filed pursuant to section 571, or an index listing pursuant to section 572''.

(H) Sections 504(a)(2)(B) and 504(b) of the Federal Food, Drug, and Cosmetic Act are amended by striking ''512(i)'' each place it appears and inserting ''512(i), or the index listing pursuant to section 572(e)''.

(I) Section 512(a) of the Federal Food, Drug, and Cosmetic Act is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for purposes of section 501(a)(5) and section 402(a)(2)(C)(ii) unless—

''(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and such drug, its labeling, and such use conform to such approved application;

''(B) there is in effect a conditional approval of an application filed pursuant to section 571 with respect to such use or intended use of such drug, and such drug, its labeling, and such use conform to such conditionally approved application; or

''(C) there is in effect an index listing pursuant to section 572 with respect to such use or intended use of such drug in a minor species, and such drug, its labeling, and such use conform to such index listing.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

''(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for purposes of section 501(a)(6) unless—

''(A) there is in effect—

''(i) an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such approved application;

''(ii) a conditional approval of an application filed pursuant to section 571 with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such conditionally approved application; or

''(iii) an index listing pursuant to section 572 with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such index listing; and

''(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed.''.

(J) Section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''under paragraph (1) or a request for an investigational exemption under subsection (j)'' and inserting ''under paragraph (1), section 571, or a request for an investigational exemption under subsection (j)''.

(K) Section 512(d)(4) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''have previously been separately approved'' and inserting ''have previously been separately approved pursuant to an application submitted under section 512(b)(1)''.

(L) Section 512(f) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''subsection (d), (e), or (m)'' and inserting ''subsection (d), (e), or (m), or section 571 (c), (d), or (e)''.

(M) Section 512(g) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''this section'' and inserting ''this section, or section 571''.

(N) Section 512(i) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''subsection (b)'' and inserting ''subsection (b) or section 571'' and by inserting ''or upon failure to renew a conditional approval under section 571'' after ''or upon its suspension''.

(O) Section 512(l)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''subsection (b)'' and inserting ''subsection (b) or section 571''.

(P) Section 512(m)(1)(C) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''applicable regulations published pursuant to subsection (i)'' and inserting ''applicable regulations published pursuant to subsection (i) or for indexed new animal drugs in accordance with the index listing published pursuant to section 572(e)(2) and the labeling requirements set forth in section 572(h)''.

(Q) Section 512(m)(3) of the Federal Food, Drug, and Cosmetic Act is amended by inserting ''or an index listing pursuant to section 572(e)'' after ''subsection (i)'' each place it appears.

(R) Section 512(p)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''subsection (b)(1)'' and inserting ''subsection (b)(1) or section 571(a)''.

(S) Section 512(p)(2) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''subsection (b)(1)'' and inserting ''subsection (b)(1) or section 571(a)''.

(T) Section 108(b)(3) of Public Law 90–399 is amended by striking ''section 201(w) as added by this Act'' and inserting ''section 201(v)''.

(6) REGULATIONS.—On the date of enactment of this Act, the Secretary of Health and Human Services shall implement sections 571 and 573 of the Federal Food, Drug, and Cosmetic Act and subsequently publish implementing regulations. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 573 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 573 of the Federal Food, Drug, and Cosmetic Act. Not later than 18 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 572 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 36 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 572 of the Federal Food, Drug, and Cosmetic Act. Not later than 30 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 571 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 42 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 571 of the Federal Food, Drug, and Cosmetic Act. These timeframes shall be extended by 12 months for each fiscal year, in which the funds authorized to be appropriated under subsection (i) are not in fact appropriated.

(7) OFFICE.—The Secretary of Health and Human Services shall establish within the Center for Veterinary Medicine (of the Food and Drug Administration), an Office of Minor Use and Minor Species Animal Drug Development that reports directly to the Director of the Center for Veterinary Medicine. This office shall be responsible for overseeing the development and legal marketing of new animal drugs for minor uses and minor species. There is authorized to be appropriated to carry out this subsection $1,200,000 for fiscal year 2004 and such sums as may be necessary for each fiscal year thereafter.

(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 573(b) of the Federal Food, Drug, and Cosmetic Act (as added by this section) $1,000,000 for the fiscal year following publication of final implementing regulations, $2,000,000 for the subsequent fiscal year, and such sums as may be necessary for each fiscal year thereafter.

TITLE II—FOOD ALLERGEN LABELING AND CONSUMER PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Food Allergen Labeling and Consumer Protection Act of 2004''.

SEC. 202. FINDINGS.

Congress finds that—

(1) it is estimated that—

(A) approximately 2 percent of adults and about 5 percent of infants and young children in the United States suffer from food allergies; and

(B) each year, roughly 30,000 individuals require emergency room treatment and 150 individuals die because of allergic reactions to food;

(2)(A) eight major foods or food groups—milk, eggs, fish, Crustacean shellfish, tree nuts, peanuts, wheat, and soybeans—account for 90 percent of food allergies;

(B) at present, there is no cure for food allergies; and

(C) a food allergic consumer must avoid the food to which the consumer is allergic;

(3)(A) in a review of the foods of randomly selected manufacturers of baked goods, ice cream, and candy in Minnesota and Wisconsin in 1999, the Food and Drug Administration found that 25 percent of sampled foods failed to list peanuts or eggs as ingredients on the food labels; and

(B) nationally, the number of recalls because of unlabeled allergens rose to 121 in 2000 from about 35 a decade earlier;

(4) a recent study shows that many parents of children with a food allergy were unable to correctly identify in each of several food labels the ingredients derived from major food allergens;

(5)(A) ingredients in foods must be listed by their ''common or usual name'';

(B) in some cases, the common or usual name of an ingredient may be unfamiliar to consumers, and many consumers may not realize the ingredient is derived from, or contains, a major food allergen; and

(C) in other cases, the ingredients may be declared as a class, including spices, flavorings, and certain colorings, or are exempt from the ingredient labeling requirements, such as incidental additives; and

(6)(A) celiac disease is an immune-mediated disease that causes damage to the gastrointestinal tract, central nervous system, and other organs;

(B) the current recommended treatment is avoidance of glutens in foods that are associated with celiac disease; and

(C) a multicenter, multiyear study estimated that the prevalence of celiac disease in the United States is 0.5 to 1 percent of the general population.

SEC. 203. FOOD LABELING; REQUIREMENT OF INFORMATION REGARDING ALLERGENIC SUBSTANCES.

(a) IN GENERAL.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

''(w)(1) If it is not a raw agricultural commodity and it is, or it contains an ingredient that bears or contains, a major food allergen, unless either—

''(A) the word 'Contains', followed by the name of the food source from which the major food allergen is derived, is printed immediately after or is adjacent to the list of ingredients (in a type size no smaller than the type size used in the list of ingredients) required under subsections (g) and (i); or

''(B) the common or usual name of the major food allergen in the list of ingredients required under subsections (g) and (i) is followed in parentheses by the name of the food source from which the major food allergen is derived, except that the name of the food source is not required when—

''(i) the common or usual name of the ingredient uses the name of the food source from which the major food allergen is derived; or

''(ii) the name of the food source from which the major food allergen is derived appears elsewhere in the ingredient list, unless the name of the food source that appears elsewhere in the ingredient list appears as part of the name of a food ingredient that is not a major food allergen under section 201(qq)(2)(A) or (B).

''(2) As used in this subsection, the term 'name of the food source from which the major food allergen is derived' means the name described in section 201(qq)(1); provided that in the case of a tree nut, fish, or Crustacean shellfish, the term 'name of the food source from which the major food allergen is derived' means the name of the specific type of nut or species of fish or Crustacean shellfish.

''(3) The information required under this subsection may appear in labeling in lieu of appearing on the label only if the Secretary finds that such other labeling is sufficient to protect the public health. A finding by the Secretary under this paragraph (including any change in an earlier finding under this paragraph) is effective upon publication in the Federal Register as a notice.

''(4) Notwithstanding subsection (g), (i), or (k), or any other law, a flavoring, coloring,

or incidental additive that is, or that bears or contains, a major food allergen shall be subject to the labeling requirements of this subsection.

''(5) The Secretary may by regulation modify the requirements of subparagraph (A) or (B) of paragraph (1), or eliminate either the requirement of subparagraph (A) or the requirements of subparagraph (B) of paragraph (1), if the Secretary determines that the modification or elimination of the requirement of subparagraph (A) or the requirements of subparagraph (B) is necessary to protect the public health.

''(6)(A) Any person may petition the Secretary to exempt a food ingredient described in section 201(qq)(2) from the allergen labeling requirements of this subsection.

''(B) The Secretary shall approve or deny such petition within 180 days of receipt of the petition or the petition shall be deemed denied, unless an extension of time is mutually agreed upon by the Secretary and the petitioner.

''(C) The burden shall be on the petitioner to provide scientific evidence (including the analytical method used to produce the evidence) that demonstrates that such food ingredient, as derived by the method specified in the petition, does not cause an allergic response that poses a risk to human health.

''(D) A determination regarding a petition under this paragraph shall constitute final agency action.

''(E) The Secretary shall promptly post to a public site all petitions received under this paragraph within 14 days of receipt and the Secretary shall promptly post the Secretary's response to each.

''(7)(A) A person need not file a petition under paragraph (6) to exempt a food ingredient described in section 201(qq)(2) from the allergen labeling requirements of this subsection, if the person files with the Secretary a notification containing—

''(i) scientific evidence (including the analytical method used) that demonstrates that the food ingredient (as derived by the method specified in the notification, where applicable) does not contain allergenic protein; or

''(ii) a determination by the Secretary that the ingredient does not cause an allergic response that poses a risk to human health under a premarket approval or notification program under section 409.

''(B) The food ingredient may be introduced or delivered for introduction into interstate commerce as a food ingredient that is not a major food allergen 90 days after the date of receipt of the notification by the Secretary, unless the Secretary determines within the 90-day period that the notification does not meet the requirements of this paragraph, or there is insufficient scientific evidence to determine that the food ingredient does not contain allergenic protein or does not cause an allergenic response that poses a risk to human health.

''(C) The Secretary shall promptly post to a public site all notifications received under this subparagraph within 14 days of receipt and promptly post any objections thereto by the Secretary.

''(x) Notwithstanding subsection (g), (i), or (k), or any other law, a spice, flavoring, coloring, or incidental additive that is, or that bears or contains, a food allergen (other than a major food allergen), as determined by the Secretary by regulation, shall be disclosed in a manner specified by the Secretary by regulation.''.

(b) EFFECT ON OTHER AUTHORITY.—The amendments made by this section that require a label or labeling for major food allergens do not alter the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) to require a label or labeling for other food allergens.

(c) CONFORMING AMENDMENTS.—

(1) Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) (as amended by section 102(b)) is amended by adding at the end the following:

''(qq) The term 'major food allergen' means any of the following:

''(1) Milk, egg, fish (e.g., bass, flounder, or cod), Crustacean shellfish (e.g., crab, lobster, or shrimp), tree nuts (e.g., almonds, pecans, or walnuts), wheat, peanuts, and soybeans.

''(2) A food ingredient that contains protein derived from a food specified in paragraph (1), except the following:

''(A) Any highly refined oil derived from a food specified in paragraph (1) and any ingredient derived from such highly refined oil.

''(B) A food ingredient that is exempt under paragraph (6) or (7) of section 403(w).''.

(2) Section 403A(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–1(a)(2)) is amended by striking ''or 403(i)(2)'' and inserting ''403(i)(2), 403(w), or 403(x)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any food that is labeled on or after January 1, 2006.

SEC. 204. REPORT ON FOOD ALLERGENS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that—

(1)(A) analyzes—

(i) the ways in which foods, during manufacturing and processing, are unintentionally contaminated with major food allergens, including contamination caused by the use by manufacturers of the same production line to produce both products for which major food allergens are intentional ingredients and products for which major food allergens are not intentional ingredients; and

(ii) the ways in which foods produced on dedicated production lines are unintentionally contaminated with major food allergens; and

(B) estimates how common the practices described in subparagraph (A) are in the food industry, with breakdowns by food type as appropriate;

(2) advises whether good manufacturing practices or other methods can be used to reduce or eliminate cross-contact of foods with the major food allergens;

(3) describes—

(A) the various types of advisory labeling (such as labeling that uses the words ''may contain'') used by food producers;

(B) the conditions of manufacture of food that are associated with the various types of advisory labeling; and

(C) the extent to which advisory labels are being used on food products;

(4) describes how consumers with food allergies or the caretakers of consumers would prefer that information about the risk of cross-contact be communicated on food labels as determined by using appropriate survey mechanisms;

(5) states the number of inspections of food manufacturing and processing facilities conducted in the previous 2 years and describes—

(A) the number of facilities and food labels that were found to be in compliance or out of compliance with respect to cross-contact of foods with residues of major food allergens and the proper labeling of major food allergens;

(B) the nature of the violations found; and

(C) the number of voluntary recalls, and their classifications, of foods containing undeclared major food allergens; and

(6) assesses the extent to which the Secretary and the food industry have effectively addressed cross-contact issues.

SEC. 205. INSPECTIONS RELATING TO FOOD ALLERGENS.

The Secretary of Health and Human Services shall conduct inspections consistent with the authority under section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374) of facilities in which foods are manufactured, processed, packed, or held—

(1) to ensure that the entities operating the facilities comply with practices to reduce or eliminate cross-contact of a food with residues of major food allergens that are not intentional ingredients of the food; and

(2) to ensure that major food allergens are properly labeled on foods.

SEC. 206. GLUTEN LABELING.

Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with appropriate experts and stakeholders, shall issue a proposed rule to define, and permit use of, the term ''gluten-free'' on the labeling of foods. Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule to define, and permit use of, the term ''gluten-free'' on the labeling of foods.

SEC. 207. IMPROVEMENT AND PUBLICATION OF DATA ON FOOD-RELATED ALLERGIC RESPONSES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Commissioner of Food and Drugs, shall improve (including by educating physicians and other health care providers) the collection of, and publish as it becomes available, national data on—

(1) the prevalence of food allergies;

(2) the incidence of clinically significant or serious adverse events related to food allergies; and

(3) the use of different modes of treatment for and prevention of allergic responses to foods.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

SEC. 208. FOOD ALLERGIES RESEARCH.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall convene an ad hoc panel of nationally recognized experts in allergy and immunology to review current basic and clinical research efforts related to food allergies.

(b) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the panel shall make recommendations to the Secretary for enhancing and coordinating research activities concerning food allergies, which the Secretary shall make public.

SEC. 209. FOOD ALLERGENS IN THE FOOD CODE.

The Secretary of Health and Human Services shall, in the Conference for Food Protection, as part of its efforts to encourage cooperative activities between the States under section 311 of the Public Health Service Act (42 U.S.C. 243), pursue revision of the Food Code to provide guidelines for preparing allergen-free foods in food establishments, including in restaurants, grocery store delicatessens and bakeries, and elementary and secondary school cafeterias. The Secretary shall consider guidelines and recommendations developed by public and private entities for public and private food establishments for preparing allergen-free foods in pursuing this revision.

SEC. 210. RECOMMENDATIONS REGARDING RESPONDING TO FOOD-RELATED ALLERGIC RESPONSES.

The Secretary of Health and Human Services shall, in providing technical assistance relating to trauma care and emergency medical services to State and local agencies under section 1202(b)(3) of the Public Health Service Act (42 U.S.C. 300d–2(b)(3)), include technical assistance relating to the use of different modes of treatment for and prevention of allergic responses to foods.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi (Mr. PICKERING) and the gentlewoman from New York (Mrs. LOWEY) each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. PICKERING).

GENERAL LEAVE

Mr. PICKERING. 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 S. 741.

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

There was no objection.

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

Mr. Speaker, I rise today to highlight a problem faced by livestock and food animal producers, animal and pet owners, zoo and wildlife biologists, and animals themselves, as well as to present a policy remedy that can lead to a solution for this often unnoticed threat.

We face a severe shortage of approved animal drugs for use in minor animal species. These include sheep, goats, game birds, ranched deer, rabbits and all fish and shellfish. A similar shortage of pharmaceutical medicines exist for major animal species for diseases that occur infrequently or which only occur in limited geographic areas. These species include horses, cattle, dogs, cats, swine, and others. Millions of animals go either untreated for illnesses or treatment is delayed, due to the lack of availability of these minor use drugs. This produces not only unnecessary animal suffering, but could also pose a serious threat to human health, while undermining our agricultural industry.

An unhealthy animal left untreated can spread disease through an entire stock of its fellow species, resulting in severe economic losses and hardships to our farmers and ranchers. Ultimately, these costs are passed on to consumer food costs.

One example that is reported in my home State of Mississippi is the catfish industry, the fifth largest agricultural sector in my home State. Every year, they lose approximately $60 million attributable to minor diseases for which drugs are not available to treat aquaculture and catfish. In this industry alone, we have approximately 800 different species, yet the industry has only six drugs approved for use in treating aquaculture diseases. It creates tremendous economic hardship and animal suffering within the industry.

Restricted market opportunity, low profit margin, and the requirement of massive capital investment prevents the economic feasibility of drug manufacturers in pursuing research, development, and government approval for medicines used in minor species and infrequent conditions and diseases.

As a sponsor of this bill, or one similar to the one we introduced in the House, it is an honor today to resolve this issue with the passage of S. 741, the Minor Use and Minor Species Act, or affectionately referred to as the MUMS Act. This legislation will allow companies the opportunity to develop and approve minor use drugs which are of vital interest to a large number of animal industries. Our legislation incorporates the major proposals of the FDA's Center for Veterinary Medicine to increase the availability of drugs for minor animal species and rare diseases in major species.

The Animal Drug Availability Act of 1996 required the Food and Drug Administration to provide Congress with a report describing administrative and legislative proposals to improve and enhance the animal drug approval process for minor uses and minor species of new animal drugs. This report by FDA delivered to Congress in December of 1998 laid out nine proposals. Tonight, eight of these FDA proposals require statutory changes, and this bill before us reflects those changes called for in the report. Today's MUMS Act creates incentives for animal drug manufacturers to invest in product development and obtain FDA marketing approvals. Furthermore, it creates a program very similar to the successful Human Orphan Drug Program that over the past 20 years has dramatically increased the availability of drugs to treat rare human diseases.

Mr. Speaker, besides providing benefits to livestock producers and animal owners, this measure will develop incentives in sanctioning programs for the pharmaceutical industry, while maintaining and ensuring public human health. This measure is supported by the Food and Drug Administration, the American Farm Bureau, the Animal Health Institute, the American Veterinary Medical Association, and virtually every organization representing all genres of minor animal species. This is vital legislation which will fill a great need in the animal health world.

S. 741 will alleviate much animal suffering. It will promote the health and well-being of minor animal species, while increasing and protecting human health. It benefits pets and provides the emotional security of the pets and their owners. It will provide greater health security to various endangered species of aquatic species, and it will reduce economic hardships and risks to farmers and ranchers.

This is a commonsense piece of legislation which will benefit millions of Americans, from our farmers to our pet owners. I call on all of my colleagues in the House to support S. 741, and I take personal privilege to thank my staff who have worked on this, John Rounsaville and Cade King. They have worked hard and worked effectively to bring this bill to passage in the House, to passage in the Senate, and to the President's signature soon.

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

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

I rise in support of S. 741, the Minor Use and Minor Species Animal Health Act of 2004. The bill, known as MUMS, will make an important contribution to animal health.

This legislation is very similar to H.R. 2079 sponsored by the gentleman from Louisiana (Mr. JOHN) and the gentleman from Mississippi (Mr. PICKERING); and although we are taking up the Senate bill, they, along with my colleague, the gentleman from Ohio (Mr. BROWN), deserve credit for leadership on this issue.

The bill is supported by the MUMS Coalition and the Keep Antibiotics Working Coalition. The MUMS coalition includes the American Farm Bureau Federation, the American Veterinary Medical Association, the Animal Health Institute, the National Fisheries Institute, and many other organizations. The Keep Antibiotics Working Coalition includes the Union of Concerned Scientists, Environmental Defense, and the Center For Science in the Public Interest. In sum, the proverbial delicate balance has been found.

Mr. Speaker, I am also greatly pleased that MUMS includes the Food Allergen Labeling and Consumer Protection Act, Title II of S. 741. I authored the food allergy bill 4 years ago; and since the bill's inception, everyone, from food-allergic consumers to members of the food industry, has rallied behind the bill.

However, we would not be here today without the backing of the gentleman from Michigan (Ranking Member DINGELL), the gentleman from Texas (Chairman BARTON), the gentleman from Florida (Mr. BILIRAKIS), the gentleman from Ohio (Mr. BROWN), Secretary Thompson, and Commissioner Crawford. I am truly grateful to them for their involvement and support.

I also owe the gentleman from Pennsylvania (Mr. GREENWOOD) and Senators KENNEDY and GREGG special thanks for being my partners in this effort. We spent a few years and many hours hashing out the bill before us, committed to crafting a noncontroversial, bipartisan product. And I believe we accomplished our goal.

Yesterday, I was surprised to learn that my good friend, the gentleman from Pennsylvania (Mr. GREENWOOD), will be retiring at the end of the year. While I am disappointed to be losing such a tremendous colleague, one I have worked with on so many issues of importance for so many years, I know that the gentleman from Pennsylvania (Mr. GREENWOOD) will continue to lead

and be a strong advocate for great causes. Good luck in all your future endeavors. And please know, Jim, that your fair, bipartisan manner will be missed.

Mr. Speaker, the 11 million Americans with food allergies face a daily struggle. Because there is no cure for allergies, the only way to stay healthy is to avoid certain foods. But maintaining an allergen-free diet is incredibly difficult. Food ingredient statements use scientific jargon commonly used by only those wearing lab coats, not average citizens.

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Take, for example, a recent study which found that fewer than one in ten parents restricting milk from their allergic children's diet were actually able to correctly recognize terms for milk on a label. Statistics like this make you think if adults cannot easily determine terms like whey, casein, lactose, how can you expect food-allergic children to remember so many complicated terms? The answer is, we cannot and we should not.

Today up to 200 allergic reactions to foods result in death each year, and 30,000 require life-saving emergency treatments. Moreover, within just the last five years, the number of children with a peanut allergy has doubled. If we do not take action to improve food labels, the number of deaths and incidents will rise.

Navigating insufficient labels is much more than an irritation for the millions with food allergies. It is a matter of life and death. Unfortunately, the situation is the same for those with celiac disease, a lifelong digestive disorder that damages the small intestine and interferes with absorption of nutrients from food. Although celiac sufferers do not go into anaphylactic shock if they consume gluten, the consequences of leaving the disease undiagnosed or untreated can be just as grave and deadly, potentially leading to additional autoimmune disorders, infertility, osteoporosis or cancer.

With no treatment for this disease, the only alternative is to follow a strict gluten-free diet, which means not eating wheat, rye or barley. However, it is a regimen difficult to adhere to, because food ingredient statements are written more for scientists than consumers.

The bill before us provides a common-sense solution for those with food allergies and celiac disease. It will require that food ingredient statements list in everyday language the eight major food allergens: milk, egg, peanuts, tree nuts, fish, crustacean shellfish, soy and wheat. It will also give those with celiac disease the green light to consume foods without hesitation by establishing and setting guidelines for the use of the term ''gluten-free.''

Simply put, the Food Allergen Labeling and Consumer Protection Act requires minimal but life-saving changes to food ingredient statements. Upon its implementation, millions of Americans will finally be able to let out a collective sigh of relief, something we can all be proud of.

Before I close, I hope the Speaker and my colleagues will indulge me for just a moment. This bill has been a work in progress for 4-plus years. There are many people who worked diligently behind the scenes to craft it and secure its implementation. I would be remiss if I did not personally thank some key staffers, including John Ford, Ed Walz, Ryan Long, Alan Eisenberg, David Dorsey and Kate Winkler.

Additionally, we would not be standing here without the expertise of Tina Harper, Bob Lake and Felicia Satchell from the Food and Drug Administration.

The Food Allergy Initiative, American Celiac Task Force, Food Allergy and Anaphylaxis Network and so many others also deserve thanks for their continued dedicated advocacy.

I urge my colleagues to support S. 741 so that those with food allergies and celiac disease will have the dietary information they need at their fingerprints.

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

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

I want to commend the gentlewoman from New York for all of her hard and good and effective work and that of her staff. It is a great accomplishment after a long path to get to this place, both on the allergens and on the MUMS. I am glad that we could find a coalition that could make something during a difficult Congress actually pass, and we will send this to the President. It will be signed, and we can celebrate soon.

So I thank the gentlewoman for her good and hard work and the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Texas (Mr. BARTON) and the gentleman from Michigan (Mr. UPTON) and many from the committee. Again, my staff, Cade King and John Rounsaville, I wish that they could be here with us tonight to celebrate.

Mr. SHUSTER. Mr. Speaker, I rise today in strong support of S. 741, the Minor Use and Minor Species Animal Health Act. This legislation contains provisions that will better the lives and ease some of the frustrations for the more than 7 million Americans that suffer from food allergies every day.

I have had the unfortunate experience to learn more about the trials and tribulations of food allergen sufferers when one of the members of my staff, Christy Farmer, was diagnosed with Celiac Disease earlier this year. Celiac Disease is an immune-mediated disease that causes damage to the gastrointestinal tract and is triggered by the consumption of gluten. Gluten is the protein part of wheat, rye, barley, oats, and other related grains, which are found in many of the foods that people eat on a day-to-day basis. The only treatment for Celiac Disease is adherence to a strict lifelong, gluten-free diet. In order to comply with this, individuals must carefully read all food labels, which can often be inaccurate and extremely confusing. Many times, food products may contain a derivative of a known food allergen, however the food label does not make that clear. This can lead to people unknowingly consuming exactly what they have been trying so hard to avoid. This painstaking process of carefully examining every food label and determining the exact ingredient of each product can be extremely frustrating and difficult for individuals.

This legislation will help tremendously in taking some of the guesswork out of reading food labels. Manufacturers in the food industry must now include the commonly accepted names of the eight most common allergens—milk, eggs, fish, crustacea, tree nuts, wheat, peanuts, and soybeans. Food allergen sufferers will now be able to scan food labels with greater ease and many incidents of accidental ingestion can be avoided.

Having a food allergy, especially to something that is found in so many different foods, can add a level of complication to a person's life that can be difficult to imagine. Christy was required to undergo a total lifestyle change due to her gluten sensitivity. Spontaneously stopping at a restaurant for dinner is no longer possible, traveling not knowing in advance what foods will be available is no longer an option, and giving up your favorite foods is not as easy as it sounds.

I am pleased that this legislation will help ease some of the frustrations and make adhering to an allergy-free diet a little easier for the millions of Americans that suffer from food allergies. I strongly urge my colleagues in joining me to support S. 741.

Mr. DINGELL. Mr. Speaker, I rise in support of S. 741, the ''Minor Use and Minor Species Animal Health Act of 2004.'' The bill known as ''MUMS'' will make an important contribution to animal health. This legislation is very similar to H.R. 2079 sponsored by Reps. JOHN and PICKERING, and although we are taking up the Senate bill, they, along with my colleague SHERROD BROWN, deserve credit for leadership on this issue.

The bill is supported by the MUMS Coalition and the Keep Antibiotics Working Coalition. The MUMS Coalition includes the American Farm Bureau Federation, the American Veterinary Medical Association, the Animal Health Institute, the National Fisheries Institute, and many other organizations. The Keep Antibiotics Working Coalition includes the Union of Concerned Scientists, Environmental Defense, and the Center for Science in the Public Interest. In sum, the proverbial ''delicate balance'' has been found.

I also note that the MUMS bill contains a specific provision on food allergens. I want to acknowledge the hard work in the House on the issue by the gentlelady from New York, Mrs. LOWEY. Eight food allergens cause over ninety percent of serious allergic reactions from food. This legislation will require that food labels bear the name of any of these allergens if they are in the food and are not already noted on the ingredient label.

S. 741 is a good bill and I urge my colleagues to support this legislation.

Mr. RADANOVICH. Mr. Speaker, upon reading S. 741, there appears to be some confusion over the application of the allergen labeling requirements. It is my understanding

that the requirements contained in this bill only apply to food subject to regulation by the Food and Drug Administration (FDA). I would like to clarify that wine and other alcoholic beverages are regulated by the Alcohol and Tobacco Tax and Trade Bureau. Subject to a Memorandum of Understanding with the FDA, the Tax and Trade Bureau has primary jurisdiction over the production and labeling of most wine and other alcoholic beverages.

In this regard, the Tax and Trade Bureau is sensitive to the issue of allergens in alcoholic beverages. For example, wine with levels of sulfites over 10 parts per million has been required to state "Contains Sulfites" since 1987. The Tax and Trade Bureau works closely with the FDA in determining whether such labeling is appropriate.

Because of the manner in which wine and other alcoholic beverages are produced, there are significant questions whether substances that Tax and Trade Bureau allows to be used in the production of wine would have any allergenic effect. In this connection, other countries have implemented or are considering additional regulation of allergens in their food supply. Due to the potential impact of this on the international wine trade, research specifically directed to the allergenic effect of certain substances used in production of wine in being conducted in Australia and elsewhere. In light of this research, the industry section of the World Wine Trade Group (WWTG) (an intergovernmental organization which seeks to facilitate trade in wine among its members, including the U.S., Canada, Australia, New Zealand, and Chile), submitted the following statement to their Governments:

ALLERGEN LABELING FOR WINE

Several countries, including WWTG members countries, have introduced or are considering the introduction of labeling for potential allergens including, inter alia, fish, milk and egg products. The WWTG industry group recommends that any such labeling must be based on sound science.

To date the scientific community has no evidence on the allergenic affects of these products in wine. Australia is currently undertaking extensive research in this area. Therefore, the WWTG industry group urges the WWTG governments to take full account of the scientific findings, expected within 12 months, in formulating or revising their labeling regulations in this area.

I anticipate that the Tax and Trade Bureau, in consultation with the FDA, will take the results of this international research into account in determining whether additional regulations requiring allergen labeling would be appropriate for wine and other alcoholic beverages. Among other things, the Tax and Trade Bureau should evaluate whether any such regulation would create an inadvertent international trade barrier. In this regard, I would like to work with the Chairman and Ranking Member, as well as the author of this bill, to ensure there are no unintended consequences resulting from this legislation.

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

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Mississippi (Mr. PICKERING) that the House suspend the rules and pass the Senate bill, S. 741.

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

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO THE SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Mr. LINCOLN DIAZ-BALART of Florida (during consideration of S. 741), from the Committee on Rules, submitted a privileged report (Rept. No. 108–620) on the resolution (H. Res. 731) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4837, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

Mr. LINCOLN DIAZ-BALART of Florida (during consideration of S. 741), from the Committee on Rules, submitted a privileged report (Rept. No. 108–621) on the resolution (H. Res. 732) providing for consideration of the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. STENHOLM. Mr. Speaker, I offer a motion to instruct.

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

The Clerk read as follows:

Mr. Stenholm moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 1308 be instructed to agree, to the maximum extent possible within the scope of conference, to a conference report that—

(1) extends the tax relief provisions which expire at the end of 2004, and

(2) does not increase the Federal budget deficit.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Texas (Mr. STENHOLM) and the gentleman from Wisconsin (Mr. RYAN) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. STENHOLM).

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

This is a very simple motion. The motion calls on Congress to extend middle-class tax relief without increasing the deficit. There is a broad, bipartisan support for extending the middle-class tax provisions which expire at the end of this year. There is also bipartisan support for the concept of pay-as-you-go to avoid further increasing the record budget deficits facing our Nation. Our motion would put the House on record in support of a conference report that achieves both of these goals.

I strongly support middle-class tax relief. I support extending marriage penalty relief. I support continuing the $1,000 per child tax credit and the expanded 10 percent tax bracket.

What I oppose is passing those tax cuts with borrowed money and leaving our children and grandchildren to pay our bills.

The Blue Dog budget and Spratt budget substitute called for extension of middle-class tax relief offset by suspending a portion of additional tax cuts for upper-income taxpayers.

More recently, a bipartisan group of Senators has put forward a proposal to expand the three middle-class tax cuts for 1 year, offset by an extension of customs user fees and closing corporate tax loopholes.

The question is not whether or not we should provide tax relief to middle-class families. The debate is whether we should do so with borrowed money, adding more debt on top of our $7.1 trillion national debt.

We should not pay for tax cuts by borrowing money against our children's future. Congress should be required to sit down and figure out how to make things fit within a budget, just like families across the country do every day. If we do not pay for tax cuts by cutting spending or replacing the revenues, every dime of the tax cuts will be added to the debt we will leave for our children and grandchildren.

At a time when our national debt is approaching $8 trillion and our Nation faces tremendous expenses for our troops overseas, it is irresponsible to continue passing legislation that would put our Nation even deeper in debt.

As of the close of business last Friday, our total national debt stood at $7,273,792,456,490.62. It appears very likely the debt limit will be reached sometime in late September or October, with the most likely date being early October, and here let me pause for a moment and say instead of working in a bipartisan way, which we could achieve in a heartbeat to increase the debt ceiling, what we continue to face are more and more bills to increase spending and decrease revenue and increase the deficit.

We offer the hand of bipartisan cooperation on this amendment tonight, and in my opinion, if this would suddenly become the leadership's position, we would pass the tax cuts that the folks on this side of the aisle are talking about unanimously tomorrow or the next day, and it would conference out of the Senate.

But instead, it appears very likely the debt limit that will be reached

sometime in late September or October will come and go, and we will have a crisis.

Secretary Snow has publicly urged Congress to increase the debt limit as soon as possible, even before recessing in August, and we should do that. The most responsible thing for this Congress to do is do exactly what Secretary Snow is asking us to do.

As of the end of April, $1.726 trillion of our debt was held by foreign investors, more than $1 trillion held by official institutions of foreign countries. Despite this, the leadership of this body is talking about bringing up legislation that would add another $75 to $180 billion to that debt. And some folks even have the nerve to say with a straight face they are taking a conservative position.

Those who want to extend expiring tax cuts or make the tax cuts permanent should be willing to put forward the spending cuts or other offsets necessary to pay for them.

Applying pay-as-you-go rules to tax cuts do not prevent Congress from passing more tax cuts. All it says is that if we are going to reduce our revenues, we need to reduce our spending by the same amount.

If Republicans actually mean what they say about controlling spending, you should have no problem with applying pay-as-you-go to tax cuts, because it would force Congress to actually control spending when we pass tax cuts instead of just promising to do so in the future and having what apparently seems to be a good campaign issue.

The problem is that actions of Republicans have not matched their rhetoric. They cut taxes without cutting spending, in fact, increasing spending at the most dramatic rate that we have seen in many, many years. They charge the difference to our children and grandchildren by increasing the deficit. We should provide tax relief to working men and women, but we must do so without increasing taxes on our children and grandchildren. That is what the Stenholm amendment to instruct conferees would provide.

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

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

Mr. Speaker, I want to be very brief about this. This is a similar motion to instruct that we have seen before. The practical result of this motion to instruct is to make sure that a tax increase hits all middle-income families next year.

□ 1930

We have a problem and the problem is when the tax cuts passed into law last July and in the original tax cuts when they passed in 2001, the intention of this body was to make those tax cuts permanent. The tax cut that passed the House originally was that the child tax credits would be doubled, the marriage tax penalty would be vastly eliminated, and the 10 percent bracket would be expanded, and that that would be the law of the land in perpetuity.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. RYAN of Wisconsin. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, I know the gentleman did not intend to mischaracterize my amendment.

Mr. RYAN of Wisconsin. I am getting there.

Mr. STENHOLM. I guess I did not hear what I thought I heard you say.

Mr. RYAN of Wisconsin. Reclaiming my time, I am making a larger point that will come around to the practical effect of this motion to instruct.

The point I was trying to make, Mr. Speaker, is that because of an arcane rule in the other body, those tax cuts were made temporary, meaning next year if Congress does not act, the per child tax credits will go from $1,000 down to $700. The marriage penalty relief will go away and the marriage penalty will come back into full force which costs the average married couple $1,400 in higher taxes. And the 10 percent bracket which is income tax relief to low-income Americans will go away and go back to the 15 percent tax bracket.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. RYAN of Wisconsin. I yield to the gentleman from Texas.

Mr. STENHOLM. You are mischaracterizing my amendment. We are suggesting that the tax cuts be extended through next year. You are describing something that is not going to happen in my amendment, leaving a wrong impression with the people that might be listening to us right now.

Mr. RYAN of Wisconsin. Reclaiming my time, the point I am coming to is that the practical effect of this by saying ''does not increase the Federal budget deficit,'' is to say that this will not, in effect, end up happening. And what we want to do is make sure these tax cuts stay in place.

The point is this, Mr. Speaker, when the House passed its budget resolution, when the House deemed its budget resolution passed, we budgeted for this. We planned for this. It is within our budget, which is also a broader plan to reduce the budget deficit. The point is if you put this emphasis as this motion to instruct is created, it will put a bias in to keep these taxes high. It will put pressure not on reducing spending, but keeping taxes high. That is my concern with the gentleman's motion to instruct.

By saying, ''extend the tax relief provisions that expired at the end of 2004 and does not increase the Federal budget deficit,'' that puts emphasis on keeping taxes high or raise raising taxes somewhere else to make this tax cut extended, rather than putting the emphasis where it ought to be, and that is reducing spending like we budget for in the budget resolution which we have deemed here.

So the points is this: we want these tax cuts to be permanent. It was always the intention they be permanent. By having these kinds of motions to instruct which will have the practical effect, in my opinion, of derailing these tax relief measures, we will have a tax increase on the middle-income family earners.

This is in our budget resolution. We budget for these tax cuts to be made permanent. That is what should happen. That is why I urge a ''no'' vote on this motion to instruct.

With that, I understand my friend from Texas disagrees with my assessment of this, but that is my assessment. I think that is exactly what would happen if this were to be the case. That is why I urge a ''no'' vote.

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

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

I think it is a fascinating argument. We have heard it time and time and time again. My friend talks about the lack of controlling of spending. Let me remind, Mr. Speaker, you control this House. You control the Senate. You control the White House. All of the great speeches that are made about controlling spending are your responsibility.

This amendment will not stop that from happening. In fact, I suggest just the opposite has been happening because we continue to pay tax cuts but spending goes up. Nothing in my amendment suggests that spending would not go down. If you want to have a tax cut, pass the spending cuts first. Do not just do it on the promise of a theory that so far has not worked. Did not work in the 1980s, has not worked in the 1990s. But yet we hear the same rhetoric; and with all due respect, my colleague mischaracterizes our amendment.

I would be happy to yield at any time to my friend.

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. As this motion to instruct is written, number one, under the PAYGO rules that you are advocating, you will have to raise taxes somewhere else to pay for this tax cut or you will cut entitlements because that is how PAYGO works for these tax reliefs.

Mr. STENHOLM. Reclaiming my time, I take back time because again you are totally misleading the body when you make that statement.

If you go back to PAYGO as was originally passed in this body in 1990, repassed in 1993, repassed in 1997 with Republican votes for it and Democrats joining, like myself, in putting that in place, it worked. There is nothing in this amendment that suggests that you, the majority party, must cut entitlement spending in order to achieve a tax cut.

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Does PAYGO allow for cuts in discretionary spending to be used to pay for tax relief?

Mr. STENHOLM. Yes.

Mr. RYAN of Wisconsin. I have a different understanding on that.

Mr. STENHOLM. That is the problem. That is the problem. It is a lack of understanding.

PAYGO means you have got to come up with the spending cuts to take care of the amount of tax cut.

Mr. RYAN of Wisconsin. If the gentleman is suggesting that when the budget resolution sets its 302(a) and reconciles its provisions, then the answer is you can put credit on the PAYGO score card to pay for a tax cut. But given the fact that we already have a budget resolution that is deemed, that accommodates this tax relief provision extending this tax cut so that it does not expire, we already have in our budget this budgeted for.

Mr. STENHOLM. The gentleman has misstated the facts again. There is no budget. There is no budget until we get a House-Senate conference and we have a budget. If we had a budget, I would probably be standing up here agreeing with parts of what you are saying.

Mr. RYAN of Wisconsin. The House deemed a budget, so we for practical purposes are operating under the House budget resolution which we deemed to be the budget of the House because we could not get a budget agreement with the other body.

Mr. STENHOLM. Reclaiming my time, that is precisely why I am standing here tonight offering a solution for the House and the Senate.

There is a bipartisan family tax relief proposal in the other body. It calls for a clean 1-year extension of the present law, $1,000 tax credit. It calls for the marriage tax penalty relief and the standard deduction, clean 1-year extension of present law so that married couples get twice the standard deductions of single filers. It calls for the 10 percent rate bracket clean 1-year extension. It calls for 1-year acceleration of the scheduled 2005 increase from 10 to 15 percent. It provides for the benefit of the child credit to military families by expanding the definition of earned income.

There is not a bit of this that you are opposed to. We all agree on that.

Now, what my proposal does is the offsets that they put in their bill. The Concord Coalition today has endorsed what this bipartisan group of Senators, let me read the names, Senator SNOWE, Republican of Maine; Senator BAUCUS, Democrat of Montana; Senator MCCAIN, Republican of Arizona; Senator BREAUX, Democrat of Louisiana; Senator CHAFEE, Republican of Rhode Island; Senator LINCOLN, Democrat of Arkansas.

The other body is showing some signs of saying, look, it is time for us to deal with a very serious problem. If we do not act, these tax cuts are going to become tax increases on the middle-income folks. If we do not act. To act you are going to have to eventually get some kind of bipartisan agreement. You will never get bipartisan agreement by standing up in this body and saying, we passed a budget in this House. Whoopee. We passed one in this House. But you have got to have a Senate concurrence if you are going to, in fact, achieve something that we all agree needs to be done. That is my point.

We can do this. It is not that difficult. Unless you just believe we can borrow unlimited amounts of money.

There are some misconceptions flowing around. I have been in this body now for 13 terms. And when I look at spending as a percent of gross domestic product when I arrived here in 1979 and compare it with spending today, total spending as a percent of GDP, it is one half of 1 percent less today than it was in 1979. Revenue has dropped by 5 percent. The amount of revenue that we have available to fund the programs, including fighting three wars, has dropped by 5 percent; and in dropping the revenue by 5 percent, we are adding to the deficit at an alarming rate.

It does not seem to bother you, Mr. Speaker. It does not seem to bother my friend. As long as we were out here arguing about tax cuts, it does not bother anyone. And why should it? The folks that this should bother are our children and grandchildren, and they have about as much knowledge of this as my friend arguing on the other side here today and they cannot vote. That is the problem. Our grandchildren cannot vote.

Adding to the deficit under a political theory that has not worked, did not work in the 1980s, is not working today, is dangerous to the future health of this country. I believe that.

My friends on the other side apparently do not believe that. And that is fine. As long as you stand up and say, honestly, I do not believe it is going to harm the United States of America that we borrow another 75 to $180 billion, because tonight I do not know what my friends are proposing in this mysterious conference. Very unusual procedure that we are talking about in doing what no one knows until the leadership deems that it is going to be on the floor, and deems the way it is going to be carried out, and deems the way that it is going to, in fact, effect the future economy of this country.

Now, that is perfectly within the purview of the majority party, to continue to allow business as serious as the economic future of this country to be decided in a very small cadre of Members who happen to be in the leadership. And if you continue to do as you have been doing, you are going to be successful in this body. But then what happens if we cannot get an agreement with the other body?

Why would we not come together tonight and say, okay, we can have a 1-year extension and we can pay for it, either with the way the Senate has proposed it or by finding some other spending cuts up front. Not doing it like we did it 2 weeks ago, and spending 7 hours in this body debating all these wonderful amendments and then having nothing. Some got 100 votes and some got 105. And that is perfectly within the purview of any Member to stand up and speak for what they are for. But, ultimately, when you are in the majority party you have to accept the responsibility, the responsibility of your actions.

Just as I took the hand of your party in the 1980s when we were in the majority in this body and we worked together for some compromises regarding the economy of this country, we offer that hand tonight. This amendment, if you look at it honestly, again, is a very simple motion. It calls on Congress to extend middle-class tax relief without increasing the deficit. What is wrong with that? I ask my colleagues, what is wrong with extending middle-class tax relief without increasing the deficit? Why are my friends on the other side of the aisle so bound and determined that you want to continue to increase the deficit because you have a theory, a theory, that by cutting taxes without paying for them that it will do something other than increase the deficit?

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. I was thinking we were going to yield all time back.

I want to be very brief. We do want to reduce the deficit. We are trying to reduce the deficit. I think there is a better way than this vehicle. That is the point I am trying to make.

I do believe there is a difference of opinion on how the PAYGO rules work. But also I think it is important to point out the fact that the tax cuts that took place last year, since then we have actually raised more money in tax receipts under these new lower tax rates than we did last year under the higher tax rates. So the facts are there; but, nevertheless, the point of this is we passed budget resolutions. We have not gotten one with the other body for a lot of reasons, but we have deemed it here. We passed the budget to try to get a handle on spending and reduce the deficit. I would have done even more on spending control in our budget resolution.

This is not the vehicle to do it because I believe this vehicle will make it harder to extend this tax relief; and, therefore, you will have a tax increase on middle-income workers. And I believe the better vehicle to get a hold of our deficit is to pass a good budget that gets down our deficit, that reduces our deficit.

I thank the gentleman for giving me the time.

□ 1945

Mr. STENHOLM. Mr. Speaker, I do. I respect the sincerity of the gentleman

and his belief. I happen to believe that he is wrong and is being proven wrong every day by the facts. And let the facts speak for themselves.

That is the whole question today, and this is something that we can continue to argue, but if we do not get some agreements fairly soon, middle-income folks will get a tax increase, and it will not be my fault.

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

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

There was no objection.

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

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

Mr. STENHOLM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

CITIZENSHIP DAY

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

Mr. GREEN of Texas. Mr. Speaker, on June 12 our office hosted our 10th annual Citizenship Day event. This is a one-stop application processing opportunity for residents who wish to become U.S. citizens. With the help of local volunteers, elected officials and community-based organizations, we were able to help over 150 residents take their first step to becoming a U.S. citizen. Over 10 years we have assisted thousands of people to become citizens of this great Nation.

The Citizenship Day process involves completing United States Customs and Immigration Service forms, taking photographs, and having volunteer attorneys and U.S. Customs and Immigration Service representatives review the application and actually mailing it that day.

Every year this event can bring tears to your eyes at the number of people who want to become citizens of our great country. While some of us tend to take for granted that we live in a great country, others wait in line all night long simply to submit an application to become a U.S. citizen.

Although an event like this takes many months of coordinating, the rewards are remarkable. Not only does it provide a service to our community, but it increases awareness among legal residents about how important it is to become a citizen.

Mr. Speaker, I would like to list in the RECORD all the volunteers and groups that helped us on this event, as follows:

Houston Community College—Northeast Campus, Harris County Constable Victor Trevino, U.S. Customs and Immigration Service, United States Postal Service, JP Morgan Chase, Alma Latina Taqueria, League of United Latin American Citizens LULAC, National Association of Latino Elected Officials, Hispanic Organization of Postal Employees HOPE, Telemundo, Univision, Quan, Burdette & Perez, Attorneys at Law, Hipolito Acosta-Houston District Director of USCIS, Rose Aguilar, Mary Almendarez, Norma Ambriz, Carmen Bermudez, Graciela Caballero, Rob Caballero, John Cedillo, Mary Closner, Tolanda Crombie, Anselmo Davila, Zonia Davila, Elias De La Garza, Cesar De Paz, Hector DeLeon, Olivia Del Bosque, Raul Diaz, Debbie Dimas, Jaime Elizondo, Armando Entenza, Linda Escamilla, Fernando Espadin, Pedro Espadin, Silvia Espadin, Charles Flores, Tim Floyd, Carmen Galle, Jaime Garcia, Juan Garcia, Rose Garcia, Martina Garcia, Sophie Ha, Krystal Hernandez, Ernest Hill, Amalia Huerta, Natasha Jabbar, Andres Lara, Dorothy Ledezma, Teresa Longoria, John Martinez, Leticia Martinez, Frances Munoz, Valerie Noyoda, Anna Nunez, Isela Obregon, Rafael Palafox, Clauia Pulido, Isabel Ramirez, Sylvia Ramirez-Martinez, Mary Ramos, Christina Ramos Avila, Francisco Rodriguez III, Margaret Rodriguez, Catalina Rosas, Patrese Ruffin-Bush, David Ruiz, Rosalinda Salazar, Noe Sanchez, Cathy Shuler, Teri Smith, Christie Nga, Glida Treadway, Theresa Turnini, Frank Urteaga, Moses Villapando, Juana Wilson.

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.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to speak out of order.

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

There was no objection.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, when Ronald Reagan was running for President in 1980, he asked voters the question, ''Are you better off now than you were 4 years ago?'' Ronald Reagan won the 1980 election, becoming the 40th President of the United States.

Now, in the year 2004, the disarray of world events and the failed economic policies of the Bush administration force us to ask of the American people once more, ''Are you better off than you were 4 years ago?''

Since he became President in 2001, George W. Bush has enacted the infamous policy of preemption. This doctrine asserts that the United States has the right to attack any country that the President thinks may seek to attack the United States without having any proof to back up that assumption.

Claiming this policy makes America safer against the threat of terrorism ignores the truth, that the war in Iraq has struck a hornet's nest of hatred in the Arab world against the United States for what it sees as a war against Islam.

In his annual budget request, President Bush has pushed hard for billions of dollars to fund an unproven missile defense system and research on new, illegal nuclear weapons. He claims these enormous weapons systems will make America safer against the threat of terrorism, but vast defense spending has squandered money that should be spent at home on health care for the millions of uninsured, on retirement benefits for our Nation's veterans, and funding for new energy sources to stop our dependence on foreign oil.

The time has come for a new national security strategy, and I have introduced H. Con. Res. 392, legislation to create a SMART security platform for the 21st century. SMART stands for Sensible, Multilateral, American Response to Terrorism.

In crafting this legislation, my staff and I received brilliant support and counsel from Ira Shorr, from Physicians For Social Responsibility; from Bridget Moix, from the Friends Committee on National Legislation; and Marie Rietmann, from Women's Action for New Directions. Without them, this legislation would not have happened.

SMART security will make the world safer by preventing future acts of terrorism. Because terrorism is an international problem, our response to terrorism must involve the international community.

SMART security emphasizes multilateral partnership because we are stronger when we work together than when we alienate our friends and allies, rejecting their participation, rejecting their help.

The possibility of nuclear weapons falling into the wrong hands is possibly the biggest threat we face as a Nation, and SMART takes the threat of weapons of mass destruction seriously.

SMART takes the Cooperative Threat Reduction program, which has been successful in dismantling nuclear weapons and materials in the states of the former Soviet Union, and replicates this program in other nuclear powers like Iran and North Korea.

It invests not only in new, effective weapons systems and equipment, but in peacekeeping and reconstruction efforts to prevent terrorism, exactly the kind of support that is needed in places like Haiti, Liberia, Sudan.

Mr. Speaker, every country in the world knows that America is the strongest nation in the world, particularly when it comes to defense. We have billions of dollars in weapons to prove it, but sometimes situations call for more than just brute strength.

Let us not look back in another 4 years and wish we had done things differently. It is time America got smart about its national security.

I urge all my colleagues to cosponsor this vitally important resolution, H. Con. Res. 392. Let us be smart about our future. SMART security is tough, pragmatic and patriotic, and it will keep America safe.

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 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 gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to speak out of turn.

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

There was no objection.

ADMINISTRATION WILL HAVE TO ACCOUNT TO THE AMERICAN PEOPLE

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 is the administration that lays claim to security. They have got it under control. They have got it covered. They know, so Americans should trust them and reward them with another 4 years.

Well, it sure does not look that way. It took an independent, bipartisan panel to uncover 3 years later the fact that many of the 9/11 terrorists had crossed Iran's border with the knowledge and approval of the Iranian Government.

Why did the administration not know this? They made claims about their leadership in the war on terror. The administration's word rings hollow in the light of the 9/11 Commission's revelations.

When it comes to the war on terror, this revelation demonstrates this administration does not know what it does not know, but they claim to be the leaders and they claim it now. Clearly, they do not. Three years after 9/11 occurred there is no excuse for them having to find out from the 9/11 Commission.

The 9/11 Commission, with nothing close to the resources the administration has at its disposal, was able to uncover that many of the hijackers passed through Iran. Why did the administration not know this?

What else do they not know? Why have 3 years gone by without an investigation into Iran? Why is that? What does this revelation mean about Iran? We do not know and neither does this administration.

How could this happen? Very simply. The administration's obsession with Iraq. It is that simple. The administration diverted attention, resources and global support away from Afghanistan and the hunt for Osama bin Laden. This administration launched a war in Iraq on thinner evidence than what has been discovered about Iran and al Qaeda.

The President talked tough today. Is he signaling the start of another prewar campaign? That was the pattern in Iraq. Start the rhetoric out in the open and plan behind the closed doors.

Is that what is going on here? Considering the overwhelming U.S. military commitment in Iraq, the truth is, the United States has limited, if any, real ability to launch another significant military action while 160,000 troops remain in Iraq.

What does that mean? It means we are overextended for one thing. It means that diversion into Iraq diverted the war on terror. It means the President's decision to invade Iraq deprived us of the right to investigate Iran. We have lost invaluable time, measured in years, when this administration beat a drum beat that turned war rhetoric with Iraq into reality.

The 9/11 Commission has given us a glimpse of what we do not know. The rhetoric only goes so far. In the aftermath of the truth about Iraq, the administration's rhetoric is long on words but very short on credibility. That is not leading a war on terror.

Today, America strains under the weight and the consequences of a misguided war that substituted rhetoric for evidence. Today, America sees firsthand the consequences of a war that diverted us away from the real fight we have. Today, America is beginning to see what was overlooked, left behind or simply ignored in the administration's rush to judgment against Iraq.

Three years later, the consequences of the administration policy makes clear the real intelligence failure began not in the CIA but in the White House. Intelligence failure was not in the agencies. It was at the top, from the people who directed them. It should never have happened, and this administration will have to account with the America people in 105 days.

We cannot afford an administration that wastes 3 years on the investigation of a country with nuclear power and other issues.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana 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 gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO 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 gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

(Mr. PENCE 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 gentleman from Georgia (Mr. BURNS) is recognized for 5 minutes.

(Mr. BURNS 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 gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE 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 gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

(Mr. WELDON of Pennsylvania 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 gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

(Mr. EMANUEL 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 gentleman from Pennsylvania (Mr. PETERSON) is recognized for 5 minutes.

(Mr. PETERSON of Pennsylvania 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 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.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes.

(Ms. SCHAKOWSKY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

PROBLEMS THAT OHIO FACES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 60 minutes as the designee of the minority leader.

Mr. STRICKLAND. Mr. Speaker, I thank the Speaker for his recognition, and I am happy to be joined this evening by the gentleman from Ohio (Mr. RYAN) and the gentlewoman from Ohio (Mrs. JONES), and later we will be joined by the gentleman from Ohio (Mr. BROWN). We are going to be talking this evening about the Nation, but especially about some of the problems that are faced by those of us who live in the State of Ohio.

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Mr. Speaker, Ohio's theme has been ''Ohio, The Heart of It All.'' It is true that Ohio is the heartland of our Nation. Ohio probably more than any other State is a microcosm of this great Nation. We have the Great Lakes to the north, the majestic Ohio River along the eastern and southern boundaries. We have some of the richest, most productive farmland in the world. We have great cities: Akron, Toledo, Youngstown, Cincinnati, Columbus. They are wonderful metropolitan areas. We have small towns. And many of those small towns are in my district. Certainly Youngstown and Steubenville, Marietta, Portsmouth, Lisbon, Ohio, all wonderful towns. And we have a great diversity of population. We have great ethnic and racial diversity. We have religious diversity. We have high tech and some of the greatest universities that exist in this country.

Although the American people are hurting tonight economically and otherwise, the people of Ohio are especially hurting. In the month of June, Ohio lost 14,100 jobs, bringing the total number of jobs lost since President Bush came to office, the number of jobs lost in Ohio, to 231,500 jobs. In June, Ohio lost 3,400 manufacturing jobs, bringing the total number of manufacturing jobs lost under President Bush to 173,300 jobs. That is only 200 jobs behind those jobs lost in Texas, and third in the entire Nation.

The number of unemployed persons in Ohio grew by 111,121 since President Bush took office in 2001, rising to a total number of 3,338,831 persons unemployed last month. That is in Ohio. Nationwide, job creation is still anemic with only about 110,000 jobs created nationally in the last month.

The middle class in America is being squeezed. Senator JOHN KERRY has been talking about this middle-class squeeze. Over 90 percent of the new jobs created since August 2003 are service-sector jobs that pay an hourly wage of less than the national wage average. About 1.4 million of the jobs created are service-sector jobs with an average wage of $15.24 an hour, which is 41 cents less than the national average. And 203,000 of these jobs are temporary in nature, providing no stability to the people and the families who depend upon them. Approximately 370,000 of these jobs were in low-paying domestic industries such as wait staff in restaurants and bars and retail workers.

In addition to this, and most Americans know this, wages are at a record low. Over the last year, the average hourly wage has fallen. When adjusted for inflation, wages are now at the lowest point in 2 years, and the typical American family is making $1,500 less per year under President Bush.

The portion of the national economy going to wages is lower than it has been since 1966. In contrast, after-tax corporate profits are the highest since the government began keeping track in 1947. So the wages of America's workers are declining and the income of the corporate giants are increasing.

Now as we approach a month-long recess, instead of this Congress taking steps to help the American working family, Congress is spending its last remaining days debating what is likely to be an unconstitutional effort to block gay marriage and a bill to further extend tax cuts to those who are already wealthy. No wonder that this Congress has come to be known as the ''do-nothing Congress.'' Instead of taking up bills which focus on issues which are really important to the average American, congressional leaders are focusing on issues which are important to their very narrow political constituency. The priorities of this Congress do not reflect the priorities of the American people.

Tonight, my colleagues, the gentlewoman from Ohio (Mrs. JONES) and the gentleman from Ohio (Mr. RYAN) and the gentleman from Ohio (Mr. BROWN), and I will be talking about some of these issues to inform the American people and to try to alert our colleagues to what is really happening in this country.

Mr. Speaker, I yield to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman. The gentleman talks about an area in his district which is near and dear to my heart. My grandfather lived in Portsmouth, Ohio, and raised nine children in Portsmouth, and I still have cousins and relatives there.

Mr. STRICKLAND. Mr. Speaker, every time I mention a town in Ohio, the gentlewoman from Ohio (Mrs. JONES) has relatives there. I do know the gentlewoman's relatives in Portsmouth, Ohio, and they are delightful folk, and I am so pleased the gentlewoman is joining us today, and it is wonderful to have her as a colleague because I do feel like we come from the same part of the country.

Mrs. JONES of Ohio. Mr. Speaker, I also recognize the gentleman from Ohio (Mr. RYAN) from the Youngstown area. He has come to Congress, and he has not missed a beat; and I am so proud and pleased he is doing such a wonderful job.

Tonight I am going to focus on gas prices because gas prices have significantly affected Ohioans. I rise to express my disdain that gasoline prices have increased dramatically, exceeding $2 per gallon, and reached record levels in May 2004. Although recent decisions by OPEC are expected to have some impact on gas prices, the Energy Information Administration has indicated that gasoline price levels are still expected to remain high by historical standards.

These high gasoline prices have significant impacts on family budgets and on the economy as a whole. We were talking about the middle-class squeeze; I am going to talk about middle-class and lower-class squeeze. Who can expect that they are going to have to pay $2 a gallon for gas? Last night in Cleveland at a gas station right around the corner from my house, a guy walked up to the window and said $40 worth of gas.

Increased expenditures for gasoline reduce families' discretionary income and can result in inflation in the price of consumer goods. On May 17, 2004, the Federal Reserve Chairman, Alan Greenspan, indicated that the dramatic increase in oil and gas prices is ''an economic event that can significantly affect the long-term path of the U.S. economy.''

A recent report by the staff of the Committee on Government Reform of the House of Representatives found that increased cost of gasoline prices can force motorists in Ohio to pay $483 million more for gasoline in the summer driving season than they did last summer. The increased cost will be approximately $62 million in the Cleveland area alone. For the average family in Ohio, the increasing gasoline prices can increase fuel costs by $125 between Memorial Day and Labor Day.

In recent months, gasoline prices have increased rapidly in Ohio and in the Columbus area. On July 6, 2004, the average price for a gallon of gasoline in Ohio was $1.81. Compared to 1 year ago, that represents a 35-cent-per-gallon increase.

Prices have increased by a similar amount in metro areas throughout the State. On July 6, 2004, average gasoline prices were $1.82 in the Cleveland area, an increase of 32 cents a gallon compared to prices 1 year ago. In 2004, drivers in Ohio will purchase approximately 5.5 billion gallons of gasoline, an estimated 460 million gallons per month. Assuming that the prices remain at the statewide average of 35

cent per gallon average higher this summer than in 2003, increased gasoline prices could cost Ohio drivers an additional $161 million monthly. Over the 3-month summer driving season from Memorial Day through Labor Day, the total increased cost for drivers in Ohio would be $483 million. An estimated 12 percent of all gasoline used in Ohio is used in the Cleveland area. That means that Cleveland drivers purchase approximately 57 million gallons of gasoline monthly. Assuming gasoline prices in the region remain 36 cents per gallon higher this summer than last year, increased gasoline prices will cost Cleveland drivers almost $21 million monthly. For the 3-month summer driving season from Memorial Day through Labor Day, the increased cost for Cleveland drivers would be approximately $62 million.

There are 7.7 million registered drivers in Ohio. On a per-driver basis, the increased gasoline prices will cost the average driver in Ohio $60 over the summer months. An average two-car family in Ohio will spend an additional $125 for gasoline during the summer driving season, and the list goes on.

I am here to say that under this administration, we have not seen any efforts to decrease the cost of gasoline, which continues to put a pinch on our families.

Mr. STRICKLAND. Mr. Speaker, in the last Presidential election, then-candidate, now President, Bush said, I am an oil man. He said, I am not a big oil man, but I am an oil man, and I know how to jawbone, and I will jawbone OPEC and I will tell them to turn on the spigots.

The Saudi regime, I believe, only remains in power because of the support they receive from this country. In my judgment, if we were to withdraw our support from Saudi Arabia and that regime governing that country, they would be gone in a split second. And yet at a time when we really needed their help, when our economy was struggling to recover, they participated in a decision to cut oil production which sent the cost of gasoline in this country skyrocketing. To my knowledge, President Bush has said nothing to OPEC, nothing to the Saudi regime. He has not jawboned. We have gone through this spring and summer with all of these high prices. The gentlewoman talked about the price of gasoline in Ohio, and that situation exists across this country.

Now, are we going to have lower prices soon? I suspect we may because I think there is reason to believe that an arrangement has been made with OPEC and especially the Saudi government as the election comes nearer and nearer, that they will take steps to increase production and thereby decrease the price pressure, and the result may be lower gasoline prices. But I hope the American people remember what they have gone through over the last 5 or 6 months. I hope they remember the hundreds and hundreds of dollars that have come out of their family budgets as a result of these high gasoline prices.

Mr. Speaker, I thank the gentlewoman from Ohio (Mrs. JONES) for sharing her thoughts.

Mrs. JONES of Ohio. Mr. Speaker, I heard on the news that a Saudi person, a representative said in fact they do this every time a Presidential year comes up, nearer to the Presidential election, they reduce the cost of gasoline in an effort to support the President.

I want to remind Members of one more thing. I heard candidate Bush, then-candidate, now President Bush, say if Bill Clinton wanted to reduce the cost of gasoline in the United States, all he would have to do was pick up the phone, call the OPEC leaders and say, turn on the spigot.

My statement to President Bush is practice what you preach. Pick up the phone, call the OPEC leaders, and tell them to turn on the spigots. It is a much more complicated process than that. He knows it, but now he is not willing to step up and do what he said back when he was a candidate.

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I want to again thank the gentleman from Ohio (Mr. STRICKLAND) for his leadership. I thank the gentleman from Ohio (Mr. RYAN) for the opportunity to be a colleague of his.

Mr. STRICKLAND. I thank the gentlewoman from Ohio (Mrs. JONES).

Mr. Speaker, I yield to the gentleman from Ohio (Mr. RYAN), our newest representative from the Youngstown/Trumbull County area.

Mr. RYAN of Ohio. I thank the gentleman for the opportunity here tonight and for taking the leadership to put this together for us for the Ohio delegation.

We have suffered unlike any other State, I think in the country, as far as job loss goes. The one statistic that former Secretary Reich shared with us last week was that one in five of the jobs in the United States of America that were lost have been lost in the State of Ohio. One out of every five. And so if there is any constituency, if there is any State that has something at stake in the upcoming election, I think it is the great State of Ohio.

I would like to shift gears a little bit, not too much, but to talk a little bit within the same context of job loss and talk a little bit about China.

Ohio has had over the years an extremely strong manufacturing base in a variety of sectors, an opportunity to really grow our economy over the last 30 or 40 years and to provide a great opportunity for immigrants who have moved into the State of Ohio an opportunity to have a good wage and a pension and health care benefits and be able to send their kids on to school. We are now competing with, really, the great country as far as manufacturing goes that is China. We cannot deny it any longer. In many ways we have let this happen, but we have to deal with the facts as they present themselves today.

I was going through Wired Magazine last week, and I want to share with the American people and the citizens of the State of Ohio some statistics and some pie charts here. I do not know if they can read them at home so I will share them with them, but they can get this at Wired Magazine. I do not know if it is on their Web site or not, but their last publication had these, or maybe it was two publications ago, had these statistics in there. I want to share them with the American people because I think they are very indicative of the situation we are facing, the critical situation that we are facing in the United States of America.

Let me just say, first, that this is not an issue that we can deal with 10, 20, 30 years down the line. This is not an issue where we can say, ''We're just going to wait. We're the United States. We're the superpower, the only superpower. We're going to wait and we'll deal with that later. We've got to deal with Iraq, and we've got the budget deficits.''

Mr. STRICKLAND. The fact is if we do not wake up and smell the coffee in a few years, and I am talking about a handful of years, we are going to find that China is going to eat our lunch economically. They have billions of people. They do not have the same kind of requirements that we have here in terms of environmental requirements, labor standards. Their wages are pathetic. We are talking about pennies a day. And they use slave labor; they use child labor.

They are an authoritarian government. I have been told that when a Chinese worker is injured on the job, they are just shuttled aside and they bring on someone else. So there are all kinds of reasons why the playing field is not level when it comes to China and dealing with China and this trade issue.

We made a mistake, in my judgment; this Congress, this administration made a mistake in granting to China most-favored-nation trading status. We gave them the advantages that come with that designation.

We supported their entry into the World Trade Organization, although they are authoritarian, although they are oppressive, although they routinely abuse their own citizens in terms of human rights and civil rights; and yet now we are allowing them to engage in a trade relationship with us which is out of balance, unfair, unequal.

I think my friend is right, and I believe he has some charts there showing what is happening in terms of certain sectors of our economy.

Mr. RYAN of Ohio. And staggering, staggering in the sense, and the gentleman has been here a lot longer than I have, but he will remember, every trade agreement that we have signed, from NAFTA on, the great phrase, the permanent normal trade status that we have granted to China, at one point it

was most-favored-nation, and Singapore and Chile and then Australia and now Morocco later this week.

In each instance, when we were talking about this, we were told that the high-wage jobs were going to stay here and that we were going to give the lower-paying jobs, the jobs that Americans did not want, we would let them go to China. We were told that all this new high technology, all these new high-tech jobs that we were going to be creating here in the United States of America would stay here, so our people would benefit with the jobs and health care and everything else.

I want to just share with the American people these pie charts. This is the top five exporters of electronics in the billions of dollars in 2002. Top five exporters of electronics, one of the industries that we thought when everyone was talking about these trade agreements, we could keep here.

Who is actually exporting these electronics? The United States of America in 2002, $2.5 billion; China exporting electronics, $8.8 billion worth. The United States, $2.5 billion; China, $8.8 billion. That was in 2002, top five exporters. Then it goes on, it has Italy is at $5.9 and Germany and the Republic of Korea.

Then we get to the top five exporters of telecom equipment in the billions of dollars in 2002. United States of America, $21.6 billion; China, $36.4 billion. In electronics, in telecommunications equipment, we are getting our clock cleaned. Wake up and smell the Starbucks.

Next pie chart. I will start over here. The top five exporters of assembled computers. When we were hearing NAFTA and GATT and permanent normal trade, these were the jobs. We are going to start making computers in the United States of America. You are going to go from making steel to computers. It is going to be great. You are going to make good wages. You are going to be able to move your community forward and increase your tax base.

Top five exporters of assembled computers, United States, $2.4 billion; China, $3.8 billion. They are cleaning our clock in the computer industry as well. Ireland, $4.6, Mexico, Malaysia.

So the point is well taken. Electronics, telecommunications equipment, assembled computers, we are getting our clock cleaned by China.

And so the point I want to make is, it is easy to sit up here and say, what do we do? We are getting beat up. We look like Rocky Balboa at the end of Rocky I. We have the bloody eye and we cannot see. We have the Band-Aid and our nose is broke. That is how the United States looks as we are competing with China.

And so what do we do? It is easy to make that analysis. The only thing that we can do is invest in education in the United States of America, and we have not done it.

This is a staggering statistic that I want to share with the American people that will explain and illustrate why we are having the problems that we are having today with China and why, if we do not fix this problem, we are going to continue to have these kinds of troubles.

Top five sources of engineering graduates: United States of America, 59,000 in 2001; China, 219,563 engineering graduates.

If we want to create the new economy, if we want to compete in electronics and computers and telecommunications equipment, if we want to start exporting, we need to have engineers graduating from universities in the United States of America who are going to go out into our economy, who are going to create jobs, start businesses, work for American companies. There are not many Americans that want to move to China. There just are not that many. That is not a jingoistic statement. That is not slamming the Chinese. The Chinese have a proud culture, as they should, as every country does in some capacity.

But quite frankly, I was not elected in China. I was elected in the United States of America. And when you see a problem like this, a problem that can be fixed, 219,000 engineers in China graduating every year compared to 59,000 in the United States of America, that is something that the United States of America can fix. We can make it a national priority. We can fund Pell grants. We can lower tuition costs around the country. We can provide incentives for people to graduate in math and science and engineering and the different kind of technological industries that we need them to graduate in.

We need to fund No Child Left Behind. We need to start at the beginning and we are not doing the job here in the United States of America.

There are a lot of problems here that we cannot fix. There are some problems that you hope, you say your prayers at night that the problems get fixed. This is not one of them. This is a problem we can fix. The unfortunate thing is, as I go through these educational statistics here, title I, underfunded by $7.2 billion. The No Child Left Behind Act that was passed by this administration and the Congress, the last Congress, just in Ohio, the No Child Left Behind Act with all the Federal mandates in Ohio, Ohio local school districts are underfunded by $1.5 billion this year, $1.5 billion.

Pell grants, in the 1970s when they started, they accounted for 80 percent of a person's college tuition. Now they account for 40 percent. Student loans being run by the banks. The banks are in on the deal now. We have to worry about making sure the banks make their cut instead of making sure students have the opportunity to go to school. There are 250,000 people that are college eligible that do not go to college because they cannot afford it, 250,000.

Mr. STRICKLAND. Speaking about China, job loss, the needs that we have, I have a chart here that shows that since President Bush has been in office, I am talking about the period from January 2001 through April of 2004, 48 of our 50 States have lost manufacturing jobs. These are jobs that traditionally pay decent wages, have benefits, enable a person to support their families, pay their taxes, support their communities. If we can just look at the heartland of our country here, and I am talking about our great State of Ohio, Ohio has lost 163,500 manufacturing jobs.

That job loss is continuing. We now know from the recent statistics that just last month, Ohio lost more than 3,000 manufacturing jobs.

Mr. RYAN of Ohio. I thought the economy was doing great. Did I miss something?

Mr. STRICKLAND. There are people who live in Never-Never Land. People in this administration must live in Michael Jackson's Never-Never Land because they seem totally out of touch. The President comes to Ohio and he talks about how the economy is doing better than it has done in decades. Where is he talking about? What is he talking about?

The job loss continues. You look at our surrounding States. Pennsylvania lost 157,400 jobs. West Virginia, a fairly small State, 9,500 manufacturing jobs. The great State of Kentucky where I got my education, my higher education, lost 38,600 jobs. Indiana lost 66,500 jobs. Michigan, 133,200 jobs. The job loss is horrendous, and it is continuing. Even the jobs that are coming back do not pay nearly as much as the jobs that have been lost.

Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY) who is kind enough to join us tonight.

Ms. SCHAKOWSKY. I appreciate this discussion tonight and just wanted to make a few points. The gentleman said that there has been talk from the Bush administration, from the President himself, on how there has been this great recovery. I wanted to point out what was in the Wall Street Journal today that talks about that, yes, for some sectors of the economy, there has been a recovery.

□ 2030

They talk about a two-tier recovery that is going on where wealthier households are the big beneficiaries of a stronger stock market and higher corporate profits and bigger dividend payments and boom in housing, but ordinary people are not seeing that same kind of recovery.

And they show some very telling statistics here. For example, hotel revenue was up 11 percent in the first 5 months of 2004 at luxury and upscale chains, but just up 3 percent at economy chains. At the five-star Broadmoor Hotel in Colorado Springs, Colorado, $600-a-night lakeside suites are sold out every day through mid-October.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I think this may indicate something that I think we intuitively feel, that under this administration the wealthy have done very well. There are people in this country who have got significant tax breaks, who are capable of paying $600 a night for a hotel room. Most of my constituents certainly could not do that, and I think this is just one example of how the rich are being well cared for by the Bush administration. The working middle class is being squeezed, as Senator JOHN KERRY and Senator EDWARDS have been talking about as they have traveled around this country. There is a middle-class squeeze. The wealthy are doing very well.

Ms. SCHAKOWSKY. Mr. Speaker, let me give the gentleman a couple of other examples that will kind of surprise him, I think. At least I do not know people who spend this kind of money. At high-end Bulgari stores, and I may not be pronouncing it right because I am not sure what they are, but ''at high-end Bulgari stores, meanwhile, consumers are gobbling up $5,000 Astrale gold and diamond 'cocktail' rings made for the right hand, a spokeswoman says. The Italian company's U.S. revenue was up 22 percent in the first quarter. Neiman Marcus Group, Inc., flourishing on sales of pricey items like $500 Manolo Blahnik shoes, had a 13.5 year-over-year sales rise at stores open at least a year. By contrast some 'same stores' sales at Wal-Mart Stores, Inc., retailer for the masses, were up just 2.2 percent in June. Wal-Mart believes higher gasoline costs are pinching its customers. At Payless ShoeSource, Inc.,'' and I know about Payless Shoes, ''which sells items like $10.99 pumps, June same-store sales were 1 percent below a year earlier.

''A similar pattern shows up in cars. Luxury brands like BMW, Cadillac, and Lexus saw double-digit U.S. sales increases in June from a year earlier. Sales of lower-tier brands such as Dodge, Pontiac, and Mercury either declined or grew in the low single digits.''

So it is not just the gentleman that thinks that maybe there is a difference, but this economist from J.P. Morgan, Dean Maki, says: ''To date the recovery's primary beneficiaries have been upper-income households.'' He said, ''Two of the main factors supporting spending over the past year, tax cuts and increases in stock wealth, have sharply benefited upper-income households relative to others.''

So we have the good times for upper-income Americans and pretty hard times or certainly not better times for most other Americans.

If I could just go on for another minute, there was an article also in the New York Times on July 18. The headline was: ''Hourly Pay in U.S. not Keeping Pace with Price Rises,'' and the lead is: ''The amount of money workers receive in their paychecks is failing to keep up with inflation.'' So this is really the relevant number. Even though we may be seeing some increase in jobs, what we are finding is that wages are going down, that American workers are having a hard time keeping up with inflation.

Last Friday, the Bureau of Labor Statistics reported that hourly earnings of production workers, nonmanagement workers ranging from nurses and teachers to hamburger flippers and assembly-line workers fell, wages fell, 1.1 percent in June after accounting for inflation. The June drop, the steepest decline since the depths of the recession in mid-1991, came after a 0.8 percent fall in real hourly earnings in May.

And one other article I wanted to quote from the New York Times on Sunday, if I could, and that will end my comments: ''If President Bush was correct when he asserted recently that the economy was strong and getting stronger, why are so many people not only out of work but also looking for jobs?

''Mr. Bush noted with evident relief that the Nation had added 1.5 million jobs since last August. Senator Kerry and his supporters complain that the country still has about a million fewer jobs than when Mr. Bush took office.

''But,'' the New York Times says, ''neither statement captures properly the shortfall of jobs that has built up over the last 3 years. An accurate estimate is not 1 million but 4 million, and possibly higher.''

So the real job numbers, the real numbers of the shortfall of jobs, is about 4 million jobs. This tells us average workers are not even keeping up with inflation, and this Wall Street Journal article tells us today for some people they can go out and buy $5,000 cocktail rings made for the right hand, that there is a boom business in that. We have a two-tier recovery. Ordinary people are not feeling it.

Mr. STRICKLAND. Mr. Speaker, I want to thank the gentlewoman from Illinois for sharing with those of us from Ohio tonight.

As I said earlier, and this reinforces what she has said, wages are now at the lowest point in terms of the purchasing power that they have been in 2 years, and the typical American family is making nearly $1,500 less per year than they were when George Bush was elected President.

I yield to the gentleman from Ohio (Mr. RYAN), and I noticed the gentleman from Ohio (Mr. BROWN) has joined us.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding to me, and I welcome our good friend from Lorain, who is here.

A couple of points. We are, talking about how the wealthy are doing very well, and I think most Americans would say George Bush is an all right guy, and this is not a personal debate that we are having here. These are statistics that we have. These are facts that we are presenting to the American people and let them make the decision that they need to make in the fall.

But I really think that this administration, very similar to the first President Bush's administration, has really gotten out of touch with average American families.

The gentlewoman from Illinois (Ms. SCHAKOWSKY) was just saying $600 for a hotel room. For people in my district, that is 2 months' rent. They are spending it for one night in a hotel room. I mean, that is out there. But I think this President has really become out of touch, and a couple of examples, one in particular, that I want to use.

Last year, last Labor Day, the President came to Ohio, and all the problems that we have talked about tonight, all of the issues that we have talked about with all the different cities in our communities and Youngstown, this President on Labor Day, the most job loss since Herbert Hoover, goes to Richfield, Ohio, which is one of the wealthiest suburbs in the State. He does not go to Toledo or Youngstown or Lorain or Akron or Cleveland or Steubenville. He goes to Richfield. I mean, if one really wants to empathize with the people who are suffering in our country, one does not go to the suburb. Go to where the people are hurting.

And two times ago when he came to Ohio, he was in a very small little county that had the best unemployment rate in Ohio. In the city of Youngstown, the unemployment rate is almost 17 percent. In the city of Warren, it is 14 percent. He goes to an area that is doing okay and says the economy is really turning around.

So I think that this administration is clearly out of touch. They are not understanding that we have lost 14,000 jobs in the State of Ohio just in June. This was not over the last year. Just in June we lost 14,000 jobs. Tuition has gone up by 10 percent. We are getting our clock cleaned by China. So I think all of these issues tell me, as a new Member of Congress, that this administration is not really getting the point.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I think what my friend is describing is the middle-class squeeze. The fact that in America today the people who play by the rules, who work, who want to work, who want to pay their taxes, support their churches, invest in their communities, educate their kids, these are the people who are being squeezed. And those at the very upper limits of the income ladder are being richly rewarded by this administration.

I yield to the gentleman from Ohio (Mr. BROWN), my long-time friend.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Ohio (Mr. STRICKLAND) for yielding to me, and the gentleman from Ohio (Mr. RYAN) and earlier the gentlewoman from Illinois (Ms. SCHAKOWSKY) for joining us.

I got here late, but I heard the comments of each of my three colleagues about job loss, and Ohio has suffered

probably more than any other State. Maybe the gentleman from Michigan's (Mr. HOEKSTRA) State has been hit just about as hard. But we have lost one sixth of our manufacturing jobs in my State, the State of Ohio. We have lost over 200,000 jobs. In fact, if we look at it, we have literally lost 180 jobs every single day of the Bush administration.

They are saying that we are seeing job growth now, and we have seen a few jobs created; but there are a couple of issues there. One is we have not nearly come back to where we were. In fact, as the gentleman from Ohio (Mr. RYAN) pointed out, George Bush will be the first President since Herbert Hoover to have lost a net loss of jobs. We have had a net loss of 215,000 jobs, and now we have just had a net loss this past month, heavily manufacturing jobs, 160, 165,000 manufacturing job loss.

And it is not just the people that lose their jobs. It is what it does to these communities. Cleveland laid off 800 school teachers because of job loss, and that means that the average schoolroom in Cleveland will have 30 students per teacher in an average schoolroom. The city of Lorain, my hometown, has been forced to cut its number of teachers to lay teachers off. It means worse police and fire protection for those people who live in these communities. So job loss does not just hit the families who lose their jobs, as bad as this is. It also can really devastate a community.

That is the first part of it. And even though we are now seeing some job growth, and that is a good thing, as we said, those jobs do not pay as much as the jobs, as the gentleman from Ohio (Mr. STRICKLAND) said, that were lost. We lose a steel job, an auto job, and we create a job maybe, not as many as we lost, but we create a few jobs that pay $5 an hour less. Better than nothing, but certainly not what we need to build the kind of middle-class economy and middle-class communities that we would like.

But the other part of it, as the gentleman from Ohio (Mr. STRICKLAND) said, is those who have jobs, and most people, of course, have not lost their jobs. Most people still have jobs. But those who have jobs are feeling that squeeze. Gas prices are up almost $2 a gallon. I guess I should not be surprised because the President and the Vice President both were oil company executives. Vice President CHENEY is still receiving $3,000 a week from the Halliburton Company, the oil company that he used to work for that is now doing so much business in Iraq. Oil prices are up. Health care costs are way up. The cost of prescription drugs is through the roof.

Yet this Congress and the President have done absolutely nothing to bring drug prices down. The drug industry has given President Bush and the Republican Congress for their campaigns literally, literally, tens of millions of dollars. And it has been a good investment for the drug companies because their profits continue to be the best, the highest profits by a factor of three or four of any industry in America.

So gas prices are up. Health insurance prices are up. College tuition, if people want to send their kids to college, Ohio State is going up 13 percent next month, I believe, or in September, whenever school starts. Tuition at Akron University a year ago, in the gentleman from Ohio's (Mr. RYAN) and my district, for freshmen went up about 16 percent. So they are getting gas prices increasing, health care costs increasing, college tuition increasing. At the same time, wages are stagnant. There has been no wage increase.

And I think the best example of sort of the Bush economy, we can see it at the Timken Company.

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Timken, for those who are not from Ohio that are listening and for those perhaps unfamiliar, Timken is one of the major success stories of American manufacturing, a fourth generation family running a steel company, ball bearings and steel supply company, in Canton, Ohio.

The Timken Company, the fourth generation owners of the company and managers of the company are very good friends of President Bush. The Bush family and the Timken family have gone back for years together.

The Timken Company a year ago was the site of a visit by President Bush celebrating the productivity of the workers and the success of the company. President Bush said, and we all applaud this, that Timken workers' productivity has increased 10 percent from 2 years ago to last year. A 10 percent productivity increase, almost unprecedented.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I would ask the gentleman, what was the result of that increased productivity? What did the workers get out of that?

Mr. BROWN of Ohio. Mr. Speaker, if the gentleman will continue to yield, that is the rest of the story. That is exactly right. A 10 percent productivity increase a year ago. Then earlier this year, in April, Timken announced record sales, the highest sales of any quarter in its history, in its almost 100-year history, and Timken announced a 63 percent increase in earnings per share over the first quarter of 2003. So immensely more productive workers, 10 percent more. A year later, record sales, a year later highest earnings, a great increase in earnings per share.

Do you know what happened a week later? You know, obviously. Timken announced it was going to shut down its three remaining Canton, Ohio, plants; 1,300 workers would lose their jobs, good-paying jobs, industrial workers, and Timken was going to build another plant in China.

This is sort of the Bush economy. It is more productive workers, more corporate profits, higher pay for executives; squeeze the workers, squeeze their health care, make them pay more, squeeze wages; shut the plant down, more production in China. Then a whole other cycle: more profits, more sales, bigger executive pay, more squeeze on the workers.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I make a prediction to my good friend, the gentleman from Ohio (Mr. BROWN). My prediction is this: President Bush will not return to Canton, Ohio, to the Timken plant during this election year, because the people there are hurting. They know that although they worked hard, although they increased productivity, although the company continued to make money, it wanted to move to where it could earn more money, and that was China.

I just want to share with my friend something that is in the President's economic report to the Congress that was presented to us in February of this year. On page 25 of that report, is this statement: ''Whenever a good or a service can be produced at lower cost in another country, it makes sense to import it, rather than to produce it domestically.''

That is the philosophy that drove Timken to China: more money, greed, higher profits. But that is the philosophy of the Bush administration. ''Whenever a good or a service can be produced at lower cost in another country, it makes sense to import it, rather than to produce it domestically.''

I say to my friend, the gentleman from Ohio (Mr. BROWN), nearly every product can be produced at lower cost in another country if you are going to pay slave wages, if you are not going to have environmental standards, if you are not going to have safety requirements for the workplace.

That is what we face with the George W. Bush economic philosophy, and we are going to lose jobs until we change our course.

Mr. BROWN of Ohio. Mr. Speaker, if the gentleman will yield further, it is interesting what the gentleman says about these companies moving to China, because I have heard executives say to me, some from my district, some from Ohio, some from around the country, ''The global economy forces us to have to move to China.''

But it is those same executives, and the gentleman from California (Mr. HUNTER) has been part of these debates in the past, a Republican friend from California opposed to these trade agreements, but these same executives come to this Congress and ask for trade agreements, ask for PNTR for China, as for the North American Free Trade Agreement.

President Bush is wanting to double the size of NAFTA in population with the Central American Free Trade Agreement and the Free Trade Area of the Americas and quadruple the number of low-income workers. So the companies push for the trade agreements which serve to bring in more low-income workers, weak environmental

laws, no labor standards. Then the companies throw their hands up and say, ''We have to move because our competitors do.''

It is all part of the Bush economic plan, to do these trade agreements that lower wages, that force down wages, that weaken food safety standards, that weaken environmental laws; that really do pave the way, invite those companies, really invite those companies to go overseas, at forced slave labor wages for totalitarian governments.

These are not democratic governments. They are countries that suppress labor, that keep laborers from organizing, that keep workers docile. Then we are surprised they are ''outcompeting'' us. Of course they are.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I am sometimes amazed and sometimes appalled at what I perceive to be the hypocrisy of this administration. Recently, with the approval of the Bush administration and this Congress, a decision was made that Cubans living in this country could only visit their relatives on the island once every 3 years. Why? Because Cuba is a Communist country. Fidel Castro is an authoritarian dictator. Yet, at the very same time, we continue to expand our efforts to accommodate China, to encourage Americans to invest in China, to encourage trade with China.

Mr. BROWN of Ohio. If the gentleman will yield further, to encourage China to take our jobs, the best example, when the gentleman from Ohio (Mr. STRICKLAND) and I came to this Congress in 1992, our trade deficit with China, meaning the number of dollars we bought from them more than we sold to them, was about $1 billion. In those days, 1992, we bought from China about $1 billion more than we sold to China. We had a trade deficit of about $1 billion.

A year-and-a-half ago, that trade deficit passed $100 billion. This year it will exceed $120 billion. So we are buying from China every day about $300 million more than we are selling to China. We have a daily trade deficit with China of between $300 and $400 million.

What does that translate to? According to the first President Bush, who really lost his job because he was out of touch with the workaday problems of American workers, but what President Bush I said is, $1 billion in trade deficit translates into 18,000 jobs.

If we have a trade deficit every day of $300 million, we are losing hundreds of thousands of jobs as a result of that trade deficit.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I thank the gentleman for pointing out those really outrageous facts. But can you imagine the American citizen is being told, you cannot voluntarily travel to Cuba. You cannot go down there and enjoy a few days vacation or interact with your friends or families except once every 3 years, because they are a bad Communist country and Fidel Castro is a authoritarian dictator, and they persecute people of religious faith.

Does anyone in this Chamber or who serves in this Chamber or in this administration, are they unaware that China routinely persecutes people of religious faith, puts them in jail, in prison; uses slave labor; is an authoritarian country? And yet we encourage this free trade with China.

I think it is hypocritical. I do not think it is consistent. I think the American people should be asking, what kind of rationale or reason is behind such duplicitous policy and behavior?

Mr. Speaker, I yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, when the gentleman from Ohio (Mr. BROWN) was talking about Timken and all the issues with China and how it really has tilted the playing field to benefit really the top 1 or 2 percent of the people who can benefit from the increase in stock prices and the increase in their own personal wages because they have to pay someone 50 cents an hour, as opposed to $50 an hour with health care benefits and all that, I think what we are trying to say here, beginning to wrap up, is all we are trying to do here is to create a system where everybody gets to play along.

It is like there are only certain kids that can get into the sandbox, and if you are not born to the right gene pool or you are not born in the right hospital or in the right neighborhood or belong to the right church, somehow you do not get to play.

All we are saying is, there are ways that the government throughout the history of this country has played a role in moving these people along.

We mentioned earlier with the Title I funding, which deals with at-risk youths who need help, Title I funding, the 2005 President's budget underfunded it by $7.2 billion. $7.2 billion.

So we could talk about China, and we are getting our clock cleaned, and the top 1 percent is really benefiting. The question the American people are asking and the people in my district are asking is, how do we help those people who are not able to play along? And the answer that we always have come up with in this country is to make sure everybody is educated, that everybody has health care, that everybody has a shot. You may not finish the same, but you should start the same at the beginning.

All I am saying is, we are trying to argue that if the system does not help everybody, the system is not working; and this system is not working. The threat when people do not move along with everyone else is, the whole system collapses.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I want to thank my friend.

Earlier this evening I had the privilege of meeting with a group of Ohioans who are involved with projects and agencies that try to help the homeless. They were from Cincinnati and Cleveland and Portsmouth and all of the areas throughout Ohio.

I said to them, ''You are the people who are really doing God's work, because you believe in community. You understand that none of us really gets through this life as individuals. All of us need help and receive help. It may be from our parents, our relatives, our neighbors, our church, our schools.''

But I think what the gentleman from Ohio (Mr. RYAN) is trying to describe is the fact that we are a large national family, and we have differences. We have ethnic and religious and racial, philosophical differences. We have different skills and abilities, different educational levels. The fact is, we are not all the same, but we are all a part of the same great Nation.

What we have been describing tonight is a nation that is out of balance, that has great unfairness, has inconsistencies, and quite frankly, I believe, a nation that is lacking in leadership.

What we need is a Congress that will come together and work for the real benefit of the American people, and we need a President who is aware of the real problems. I think what we have described tonight is a government administration that is out of touch.

I want to thank my friend, the gentleman from Ohio (Mr. RYAN), the gentleman from Ohio (Mr. BROWN), earlier our colleague, the gentlewoman from Ohio (Mrs. JONES), and our colleague, the gentlewoman from Illinois (Ms. SCHAKOWSKY) for participating in this discussion tonight.

NEUTRALIZING THE IRAQI THREAT

The SPEAKER pro tempore (Mr. HENSARLING). Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. HUNTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. HUNTER. Mr. Speaker, I want to follow my good colleagues who just talked about what they consider to be the free trade debacle of the 1990s with a gentle reminder that that debacle commenced with the 1994 NAFTA vote under the Clinton administration, strongly supported by President Clinton, and I think, strongly supported by then Senator KERRY. At the time when we started that, I think we had a $3 billion trade surplus with Mexico. Shortly thereafter, we had a $15 billion annual trade loss.

I am reminded with respect to China that one of Mr. Clinton's strongest contributors, who happened to be the chief executive officer of the Loral Corporation, found that he had, after he had seriously violated the rules of transferring technology, had transferred technology to the Chinese with respect to their launch capability, because in their satellite launches they use these Long March rockets to do their satellite launches, and they use that same

rocketry to aim nuclear warheads at their adversary cities, several of which are in the United States of America.

□ 2100

And when Loral violated the restrictions on transferring this weapons technology, which puts all Americans at risk, he was allowed to continue to make those sales; and Loral was allowed to continue to make those sales, prematurely, in my judgment, and there was, I think, a very strong link to the Clinton administration manifested in a $300,000-plus contribution to President Clinton.

So I remember the free trade, the threshold free trade vote well, which a lot of my Republican colleagues do not agree with me on, and a number of Democrats do not agree with me on; but I do remember that it was done by President Clinton, and I wanted to add that little historic footnote.

I wanted to engage in a little dialogue with my good friend, the gentleman from Michigan (Mr. HOEKSTRA), who has been to Iraq a number of times, four times, I believe, and is one of the Members who has really focused on Iraq. I would just start off by saying, Mr. Speaker, that it is a long, hard road in Iraq. We understand that. It has been tough for our soldiers. It is a difficult environment. It is full of sweat and dust and high temperatures, and sometimes blood. But we are undertaking and are now well on our way to making this hand-off, both politically and militarily, to the Iraqi people in Iraq, and giving them the best running start at freedom that country has ever had. And, in doing so, we are on our way to neutralizing Iraq as a potential springboard for terrorism in the years to come, which will accrue to the benefit of many, many generations of Americans.

So the cause is right. It is a just cause. We are standing up that military right now. We have General David Petraeus, one of our best military leaders, former commander of the 101st Airborne in Iraq, as a leader of that standup and training of the Iraqi forces. He has put together the schools for officers, for noncoms, for enlisted personnel; and those forces are starting to pick up that weight a little bit now and carry it in various battles and clashes that they have had around Iraq with the insurgents.

So, Mr. Speaker, I would simply want to report that while this is not an easy task, it is a very difficult task, the United States is carrying the ball and the folks who wear the uniform of the United States are doing a wonderful job for us.

Having said that, I would like to yield to the gentleman from Michigan (Mr. HOEKSTRA) for his observations on this very important issue.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for yielding. He, like myself, has been to Iraq a number of different times. And as chairman of the Committee on Armed Services, I just want to congratulate the gentleman on the tremendous work that the gentleman and his committee have done to demonstrate to our armed services, our men and women in uniform, that we stand with them, that we are providing them with all of the resources necessary to conduct this war effectively, and that our presence in Iraq is a testament to the courage that we witness from them each and every day.

I was over there on Father's Day, really, just to go over there and to say thank you. We have 130,000 men and women over there who are giving up their time with their families, who are over there on Father's Day, they are over there on Christmas, they are over there on Easter, all of the important holidays for our families. It was really meaningful to be there and to have lunch and dinner with some of our troops.

As we talked with them, we found out the effectiveness of the Committee on Armed Services. We found out that this is a little different type of a war than what we expected, a little bit different than an occupation. The gentleman and his committee have done just a tremendous job in altering the procurement process and the types of things that we are buying to get them what they need in Iraq to be successful and to be safe. I know that they appreciate all of the work that the gentleman and his committee have done. I know there are lots of other things.

The gentleman may want to respond to some of the things that the gentleman's committee has done in terms of getting armored Humvees and these types of things to our troops, to enable them to be successful to go after these insurgents.

Mr. HUNTER. Mr. Speaker, I thank the gentleman. I will tell him that I am just one of many, many great folks on that committee, I am just part of the group there, because we have really wonderful people on both sides of the aisle on the Committee on Armed Services. The committee has been working hard. Our members have been working very hard. This has been a challenge. The IEDs, these Improvised Explosive Devices that are detonated remotely now, are an enormous challenge; and the deadliness of those is manifested and can be illustrated as you walk the halls of the hospital there in Ramstein, Germany, or over here in Bethesda at Walter Reed when they come back.

So we moved out smartly and the services moved out very quickly to armor up some 8,000-plus Humvee vehicles, basically our follow-on utility vehicle, and we are also working hard on other means of trying to stop these very deadly systems.

But in the end, if we look at the combat that took place in Iraq, it is interesting, with this high-tech world, a lot of it is just great, great people. So we have done a few good things; but we have had some really, really wonderful people wearing the uniform of the United States.

The last citation I picked up before I went over there was for a Marco Martinez, who was a sergeant in the Marine Corps who won the Navy cross for taking an enemy position, taking on and taking out four insurgents with grenades and rifle fire. That is one of hundreds of high awards for valor and literally thousands of lesser awards. We have issued some 16,000 Bronze Stars in that theater and over 127 Silver Stars. Mr. Speaker, those people, the television this year and the movie screens were filled with the invasion of Normandy, but the kids that wear the uniform of the United States, and they are kids, because a lot of them are teenagers, a few of them just in their early 20s, are every bit as courageous and dedicated as that great generation that hit the beaches in Normandy and hit the beaches in the South Pacific.

So I want to thank the gentleman for all the great work that he has done, all the intelligence work that he has done along with his colleagues.

Saddam Hussein really rattled on when he was there in the court, and I do not know if that is an equivalent to a preliminary hearing or a time in which one enters their plea; but he said as he rattled on, he said one thing that was true. He said, in essence, if it was not for George Bush and those Americans, this would not be taking place, and that was true. He would not be there if it was not for George Bush and about 300,000 great Marines and soldiers and sailors and airmen.

And I think of all of those great units, the First Marine Division, 101st Airborne, the Third Army, the Fourth Infantry Division, now taken over by the Big Red One, the first infantry division up there in Tikrit, and the First Cav and the First Armored Division, which has been centered there in Baghdad for so long, right in the heart of the tough operations, and now the First Striker Brigade up in the north, if it was not for the Americans, the people of Iraq would have no chance at freedom and we, the Free World, would have no chance at neutralizing Iraq as a potential springboard for terrorism.

So I want to thank the gentleman. I also want to thank the gentleman from New Hampshire (Mr. BRADLEY) and the gentleman from Florida (Mr. MILLER) for coming on down here. We have spent a lot of time working this issue and going over to theater, and all of the great work that they have done.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman will yield, I just want to put some of that in context of what our men and women are doing in Iraq as to the shameful event that was outlined yesterday here in the United States, last night. This war on terrorism has evolved through the 1990s. It was not brand-new on September 11, 2001. It started when the World Trade Centers were bombed the first time in the early 1990s, when the Khobar Towers in Saudi were attacked, when our embassies in Africa were attacked, when the USS

Cole was attacked. We know that during much of the 1990s, the Clinton administration did not appear to take this war on terror very seriously. Mr. Speaker, it was not identified.

What we found out last night was we may never know the decision-making process that the Clinton administration went through as it developed its policies. Because after 9/11, we have had a joint inquiry between the House and the Senate as to what happened, what went wrong, and what went right; and there has been talk about the failure in decision-making, both in the executive branch and in Congress, and in other areas. And we now have a 9/11 Commission report coming out.

What we found out last night, what America learned last night, is that JOHN KERRY's foreign policy adviser, Sandy Berger, who was the National Security Adviser to President Clinton, removed highly classified documents from a secure area; and these documents, we are not quite sure what they are anymore, because they are gone. But we do know that he went into a secure area, and the gentleman and I have gone into these rooms ourselves. you go in with maybe a couple of pieces of paper, a pen, they bring in the documents, you have the opportunity to review the documents, to read them, to study them, to take notes on them, to organize your thoughts. But when you leave that room, you leave all of the paper and you leave all of your notes in the room. Nothing comes out with you, because these are secret documents.

Sandy Berger, the National Security Adviser, last night revealed, and he has been under investigation by the FBI I guess now for over a year, last night publicly admitted that he inadvertently took documents from the National Archives that outlined Clinton administration decision-making policies, practices, whatever, in relationship at least to the millennium threat; he removed those documents inadvertently. We do not know exactly how many. We do not know what was in them. But he inadvertently removed them; and then, some time later, when he was home or in his office, he inadvertently destroyed these documents.

I think some of the news media said, Berger said he deeply regretted the sloppiness involved. Well, to American citizens, to the folks that are involved in the 9/11 Commission, and to our troops who are fighting in Iraq, and for the troops that may be fighting sometime in the future, I am sorry, America deserves better than that. Our troops deserve better than that, and taking highly classified, secret documents out of a secure room inadvertently and then destroying them inadvertently means that the 9/11 Commission, this Congress, and others will probably never really know what we knew in the 1990s, what we could and maybe should have acted on in the 1990s, and how we could have improved this process so that it would not happen again.

Critical documents were taken out and they were destroyed, and we have a National Security Adviser who was involved in this for years. He knows, the gentleman from California (Mr. HUNTER) and I know the rules going into that room. How is it characterized? I think the sloppiness is characterized as somebody stuffing papers into their coat and into their pants. Excuse me. This is a National Security Adviser with top secret documents who takes them out of there, and the only question that one can really ask is, because I believe that he probably knew that somewhere along the line someone would discover that these documents were missing; why was he willing to risk taking these documents out of this security facility and taking them home and destroying them? What was in those documents that he probably did not want the American people to see?

I yield back to the chairman, because it is an unbelievable assertion from Sandy Berger that he inadvertently took documents. I mean, when the gentleman from California (Mr. HUNTER) and I go into these rooms, do we walk in with a binder of our own notes and our own documents and then put the classified stuff next to it and kind of put it through each other and then walk out with a binder and say, oh, man, I just happened to take a few extra documents? Is that the process that we go through? I yield back to the chairman.

□ 2115

Mr. HUNTER. Well, I would just say to my friend that, at worst, we do not put documents in our socks; and I have not seen the definitive statement on this, but one, at least according to the news reports, and I think that is why we need to get more information on this, one of the staff members at the Archives said he put some of them into his socks.

Now, I think that they keep the temperature fairly temperate in that room, and you do not need to warm your feet. And just the idea of a national security adviser putting documents into his socks, I think raises a few questions.

There are more questions here than there are answers, and I think we all want to believe the best of our fellow man, our fellow government servant, who, as you said, was national security adviser. But another thing that I think the American people have to ponder on is that he did not, according to the news reports, say, Yes, I have got them until he was called by the archivists, who said, ''You have got secure documents.'' And at that point he said, ''Yes, I believe I do.''

So you are right. These are not documents that are mixed up.

It is a standard procedure to divest yourself of any notes that you have written, but also divest yourself of the documents, as it is to turn your car off when you pull your car into the parking garage. You turn it off. And the idea that you left the car running, and then you did not go down and turn the car off until somebody called you and told you the car was still running and that that was all done unintentionally is, I think, something that Mr. Berger needs to continue to explain.

Because one thing about the 9/11 Commission, the reports are out, one they were afraid of, and I need to yield to my friend from Florida, is that bits and pieces, little bitty statements out of that report, two and three words, will be used for news triggers, little statements that people made. And they will be plucked out and they will be used politically on one side or the other and they will be used by the news media, and so just a couple of words, one sentence, can have enormous effect, enormous effect.

I know the more liberal members of the media have pointed to one sentence that somebody used in one of the weapons of mass destruction analyses, where said it does not matter what we find, because this war is going to happen. Now, that was not a statement of policy. That was a statement by some guy who did not control policy, but it was plucked out and used and probably put in front of 50 million people. So little bitty words and little bitty sentences and little bitty phrases can be pulled out. And so the idea that we now have an incomplete reservoir of facts is, I think, disturbing to the American people.

If you lined up all the people in the United States and said, who would take those documents out, the President's former national security adviser would be the last gentleman that you would suspect. And on the other hand, apparently truth is stranger than fiction. It has happened. I think there is some explaining to do.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman would yield for a second, I think we need to put this in context to the American people.

He removed those documents as he was preparing his testimony for the 9/11 commission. It just does not feel right. The context of going into a secure room, reviewing documents, knowing that these documents are going to be scrutinized by the 9/11 Commission, and as the chairman said, word for word for word, and then perhaps stuffing them into his coat, into his pants and perhaps even into his socks as he is preparing that testimony, and the disappointing thing is, now the American people will probably never know what was in those documents.

Those were original documents. They were not copies of documents, at least the evidence that we have or the information we have today said that those were original documents, they were not copies. There are not multiple versions of this available. He had the originals.

And the other thing we have to know about Sandy Berger, very different than the current President in the way that he operates, Sandy Berger was the gatekeeper to the President, meaning that George Tenet, John Deutsch and the CIA and other folks who wanted to

get to the President and brief the President had to go through Sandy Berger, and Sandy Berger was the gatekeeper.

It is not like this President, who gets briefed by a wide variety of people on a pretty regular basis. Sandy Berger was the gatekeeper. He had all of the information. These were documents that he prepared. Most likely, these are documents that are now missing. We will never know what is in them.

As those of us here on Capitol Hill are involved in the process of trying to improve the Intelligence Community, improve the intelligence capability and the analysis, we will never have the benefit of reviewing how these documents influence decision-making, and that will impair our ability to come up with the right recommendations to try to make sure or to minimize the possibility that a 9/11 will ever happen again.

I thank the chairman for yielding.

Mr. HUNTER. Mr. Speaker, I thank the gentleman, and I think he has raised probably the most important question for the next several weeks.

One other question we might ask is when Mr. Berger took these documents home, he obviously took them home for a purpose, and presumably he reviewed them at home, he looked at them. That would be another opportunity to say, I have got classified documents; they should go back. And it would certainly be a time when you would not scrunch one of them up and destroy it, because you realize you have got something that the Archives needs.

And so it is a very, very strange situation, and I think the gentleman has posited the most important questions. And maybe in the next 5 or 6 or 7 days we are going to have some answers.

I hope the gentleman would stay around and we will talk about Iraq, because the gentleman, along with the gentleman from Florida (Mr. MILLER) and the gentleman from New Hampshire have a wealth of experience with respect to the Iraq theatre.

I would be happy to yield to the gentleman from Florida, a great member of the committee.

Mr. MILLER of Florida. Mr. Speaker, I thank the chairman very much.

We all intended to come down to the floor tonight and speak about Iraq and the successes that are taking place in that region, having been there myself, planning to go back there in August again on behalf of the committee.

But I do think attention needs to be drawn, as my good friend, the gentleman from Michigan (Mr. HOEKSTRA) and the chairman have already alluded to, the fact that the information that was provided to most of us today and some last night that Sandy Berger has in fact admitted that he did take information out of a secure area.

It has already been alluded to that we can take notes while we are in an area looking at specific Top Secret information, but we by no means are allowed to take any of that information out, much less the notes that we make to take out, and the facts that are coming to light now that he apparently used his jackets, his pants and possibly his socks. And I would tell my good friend that I understand today that while they all were original documents, there may, in fact, have been three different drafts of a single document that were there. And apparently, Mr. Berger went back and got all three drafts of that particular document. For what reason, I do not know.

Mr. HOEKSTRA. Mr. Speaker, would the gentleman yield?

Mr. MILLER of Florida. I would certainly yield to my good friend.

Mr. HOEKSTRA. I think this is another critical point. Again, the information that we have to date is that this was not a single occurrence, but this was a pattern on a series of visits that he on multiple occasions inadvertently took documents. Again, that is what some of the press reports are indicating, which makes it even more suspect that by accident you took documents on a number of occasions.

I thank my colleague for yielding.

Mr. MILLER of Florida. Exactly, and I think that the additional question that needs to be asked, and apparently now the presumed Democratic nominee, Mr. KERRY has accepted Mr. Berger's resignation as his national security adviser in regards to his political campaign.

Interestingly enough, I think it should have been the reverse. I think that the good Senator probably should have immediately, once he found out what was going on, should in fact asked Mr. Berger to step aside instead of waiting for Mr. Berger to make that decision. Again, I think it shows a lack of leadership on the Senator's side in regards to how he would handle an issue in regards to Top Secret information.

I would be glad to yield to our chairman.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding at this point, because I think that it does reflect on the judgment of Senator KERRY, but I think more reflective of his judgment with respect to intelligence is the fact that Senator KERRY voted to cut intelligence all during the 1990s.

Now what we have discovered is that we cut intelligence, we cut our operatives, our operating officers by more than 20 percent during the 1990s, during the Clinton administration; and that meant that we cut all of the people that gave us information because each of those operating officers has stables of people who talk to them, whether they are taxicab drivers or people in a bureaucracy in some foreign country or just people that have a certain insight into knowledge, people who are in the room when somebody bad makes a decision to hurt Americans. We lost 40 percent of our assets, of our intelligence assets.

So we had all this information coming in, and we cut out 40 percent of it. So we are like Ford Motor Company cutting out 40 percent of its dealerships and then wondering why the number of Fords sold has dropped dramatically.

Well, while we were doing that during the Clinton administration in the 1990s, Senator KERRY tried to cut it more, and in 1994 he offered a massive cut that received from fellow Democrats extreme criticism, one of them saying this was going to cut the eyes and ears out of our Permanent Select Committee on Intelligence, and another one saying that this was going to be a disservice to our troops.

And then in 1996, Senator KERRY offered a bill, and I understand that he did not get a single cosponsor. There was not anybody in the Senate, Democrat or Republican, who was liberal enough to sign up to this one, because this cut $1.5 billion out of the intelligence budget. This is in 1996 when we really needed it, when we needed to rebuild intelligence; and he cut what would have been $300 million per year for 1996, 1997, 1998, 1999 and the year 2000. Luckily, not a single Senator was liberal enough to join him in that.

And it goes back to a statement that he made that was reported in one of the Harvard newspapers when he was first running for office, and he said that for practical purposes, he was going to for practical purposes defund the CIA, just take away the money.

I think that Senator KERRY always looked at the CIA in the same way as people look at it when they go into these movies and the movie is made through the prism of some left-winger in Hollywood; and in these Hollywood movies the CIA is always out there moving drugs and hurting people and being basically a bad influence. In reality, the people that serve in the CIA and our other intelligence agencies are wonderful people who serve this country, get no kudos, get no parades down Main Street, put themselves in dangerous positions for our country and often die in small, isolated places around the world for the United States of America.

But the problem in judgment is not Sandy Berger, the image of Sandy Berger stuffing stuff into his clothes and leaving the classified intel room, as JOHN KERRY's adviser. The real crisis in judgment, I think, is when JOHN KERRY got up and tried to cut an already debilitated CIA, one where the Clinton administration had sliced the top right off of it, cut out 40 percent of our assets, and he came in with further cuts. And he called our programs, the intelligence programs, silly programs.

Nobody calls them silly programs today. We wish we had had more. We wish we had had people sitting in those meetings when decisions were made to hurt Americans.

I would be happy to yield to the gentleman.

Mr. MILLER of Florida. And I appreciate the chairman's remarks, and in

fact, President Bush has been working diligently, as the chairman knows, for months and months trying to rebuild that Intelligence Community that has been decimated so terribly.

Looking for that great peace dividend that was out there and slashing the intelligence budget was a foolish thing to do, and we now see, and in fact people are telling us, that it will take 1, 2, 3, maybe 5 years, in order to rebuild that human intelligence. You do not just rely on all of the whiz-bang things that we have now and the great ways that we have to gather intelligence, but you certainly have to take the opportunity to get the human intelligence.

But what bothers me even more is the fact that it appears that the information that Mr. Berger took out of that Top Secret room in that area where he should not have taken anything out of that room possibly dealt with very credible information in regards to our vulnerability at airports and seaports and what was going on in those general areas; and I think it is very coincidental, at best, that Mr. KERRY, Senator KERRY's advertisements, as he has been running for the Democratic nomination and has in fact been beating on our President time and time again, have in fact been homed in on our vulnerability at our airports and our seaports. And I am just concerned as to what Mr. Berger did with the information once he removed it from that Top Secret classified room and took it supposedly to his home, who may have seen it, who gained from the information that was there; and in fact, is there any type of tie that can be made to the campaign of Mr. KERRY, because it is beginning to appear we have a very convoluted web at this point in regards to some of the issues that the Senator has been raising.

□ 2130

Mr. HUNTER. I thank the gentleman. Another question I think is a commonsense question that the average American would ask is, well, if you took this stuff home that was highly classified, very sensitive, it is against the law to take it home, and you took it home. And you are reading it and you are a former security advisor, you know that it is highly classified, well, if you wad it up and throw it in the garbage, which is almost unthinkable, almost unthinkable, would you not, when you get called up by the people who have run the collection of that information, would you not then go try to retrieve it?

Would you not go out to your garbage and dig through it and say, why did I just lose it and throw it away?

Mr. MILLER of Florida. I understand that it was not just papers that were taken, but there possibly were bound books or folders of some type that you, in fact, could not just crunch up as a bunch of papers. You would know, in fact, that you were disposing of them; and you had to do it deliberately, if, in fact, you did dispose of it.

So to say that it was sloppy and inadvertent kind of stretches the imagination. But, of course, a lot of this has been done in this House over recent months, unfortunately; and it is being done out on the campaign trail, so it is certainly to be expected.

Mr. HUNTER. I agree with that and I want to thank, also, the gentleman from New Hampshire (Mr. BRADLEY) for his great work on the committee and especially his focus on making sure our troops have everything that they need. I yield to the gentleman.

Mr. BRADLEY of New Hampshire. I thank the chairman.

I first want to take this opportunity to salute his leadership, the way that he works on the Committee on Armed Services in a bipartisan fashion to strengthen our Nation's military and to make sure our troops have what they need. Certainly your leadership is commendable.

The one point that your comments brought to mind from some in the Defense authorization bill that we recently just passed out of the Committee on Armed Services, when we were talking about intelligence, one of the other cut backs that was made in the 1990s was the overall troop level. And we are seeing the unfortunate consequences of that when we have gone from 18 Army divisions down to 10 today. And we have our troops, our brave, loyal troops that are being asked by all of us as Americans to win the war on terrorism and fighting in over 100 different countries. It is not just Iraq and Afghanistan. It is Bosnia, it is Kosovo, it is many different places. And we are by virtue of having made these cut backs, stressing our troops rather to a high degree.

The point that I am trying to make, and perhaps the gentleman would want to elaborate on this, is that in the Defense authorization bill which we passed as I recall unanimously out of the committee in the final vote, we upped the number of troops over the next 3 years by 30,000, 10,000 for each of the next 3 years, active members of the Army and 9,000 additional Marines over the next 3 years. And this is certainly a first step in addressing the fact that we have gone from 18 Army divisions to 10 divisions.

And certainly something that all of us have to look at to make sure that not only, like intelligence, but in terms of personnel that we have the troop strength that is necessary to win the war on terror, it is not just the numbers. It is ample pay. It is the appropriate level of benefits for veterans, housing allowances, all of those things that the gentleman has shown such remarkable leadership on in his tenure as a chairman to make those improvements for our troops.

Mr. HUNTER. Let me thank the gentleman for his great initiative because I am just a cog in this wheel and both gentlemen, the gentleman from Florida (Mr. MILLER), has been a leader and put together, drafted the provisions that we all got behind that gave these great survivor benefits which heretofore had not been coming. And the gentleman from Florida (Mr. MILLER) is to be congratulated on that.

The gentleman from New Hampshire (Mr. BRADLEY) has been a real leader in making sure that we have this momentum to rebuild the military; and not only do we have the 30,000 increase in Army end strength in our bill, but we also have an increase of some 9,000 Marines. I think that is important also. The Marines are out there deployed a great deal of the time. They are kind of a 911 for us. It always has one MEU or one larger unit. A MEU is a Marine Expeditionary Unit, a little bit bigger than a battalion, out on patrol, so to speak, in the world's oceans, ready to move in quickly if there is a problem.

The interesting thing is this all reflects on the people. If you have a family sitting around the breakfast table trying to decide whether to re-up or not, the fact that the dad has not been home for two or three Christmases is going to have an effect on whether he stays in. This is a corporate decision that is made by the family. So having enough people is a very, very important thing.

It is also standing military that is not committed that is an insurance policy for our country. It makes sense to have an insurance policy.

I want to thank the gentleman for his great work and just ask the gentleman, he has been to Iraq, and I would like to ask both gentlemen what their take is now. We all know it is a tough, hard road; but our troops are walking down that road. We are starting to make this hand-off. We have handed off the government of Iraq to Iraqis, and we are starting to hand off the military. What do you think?

Mr. BRADLEY of New Hampshire. As the chairman knows, I had the opportunity to visit Iraq several months ago. While there is no question what we saw there, there were six of us Members of Congress with other military personnel attached to us. We saw a war zone. There was no question about that. But we also saw the rebuilding of the country; and that is something that, unfortunately, people only see the pictures from the war zone, but they do not see the fact that the electricity is coming on, that the water is being restored, that there is adequate supplies of petroleum products in the country.

We saw a lot of traffic on the street. For instance, in northern Iraq, in Kirkuk where we were, we even saw some new construction. We were told there was plenty of food available in the country. As we flew around the country, not only in the C–130 transport planes at 18,000 feet but in Black Hawk helicopters at 150 feet, we flew over a lot of agricultural areas of the country that were starting the winter planting.

We did not have, when we were there, the opportunity to visit a school or a hospital; but certainly we have been

told, as you know, about the progress in refurbishing those critical institutions for Iraqi education and health care. So these are things that show where progress is being made to this day and certainly it was when I was there in November.

The other thing I think is really important to stress, and I think you may want to add to this, Mr. Chairman, is the morale of our troops. I had the opportunity to talk to a number of New Hampshire troops at every stop that we made, as did all of the other Members of the delegation. You are right, we are asking them to do a dangerous and dirty job. It is difficult. It is life threatening. And these kids are so dedicated to their mission and that is probably the most compelling story that I came away with. And when I say ''kids'' that is really not right. They were young Americans. They are wonderful patriots. They are fine Americans. And they are so dedicated to restoring a sense of normalcy, a representative government in Iraq; and they felt, despite the difficulty of the job that we are asking them to do, they felt that they were making significant progress and the morale was high.

All I can say is God bless them, and I pray for their safe return. They are doing a fantastic job in very difficult circumstances.

Mr. HUNTER. I thank the gentleman for his comments. I would like to ask the same question of the gentleman from Florida (Mr. MILLER), who has been a great member of the committee and who has really worked this issue.

Mr. MILLER of Florida. I thank the Chairman. I would say that all indications, I think for most Members, they would say that Baghdad is returning to normal. Yes, there still are some problems. We see them on a daily basis, but the fact of the matter is children are attending new schools, new universities, playgrounds are up. Children are actually going there. Their parents feel comfortable to allow them to go. Where the statue of Saddam Hussein was pulled down some 15 months ago in Firdos Square, adults are sitting around playing games of bingo.

Now, that sounds pretty silly, but the fact of the matter is if you are comfortable enough to sit on the ground or under the shade of a tree and play bingo, things are getting back to normal.

At the northern end of Iraq in Mosul, security forces are in almost total control up there. It has been divided into sectors. They have been going house to house, neighborhood to neighborhood; and they have got a lot of insurgents out and a lot of weapons caches there in that area to make sure our troops and coalition forces remain safe. We have thwarted hundreds of different types of IED attacks on our troops. On the banks of the Tigress River I would say that nightlife is returning to normal as well.

You look in the background of all of these TV scenes that you see of some of the car bombs that are exploded and burning. If you look in the very back, you will see that traffic is moving and progress is still going on. Commerce is taking place. People are walking in the streets.

Certainly the target is coalition forces. And recently we have seen where they have begun to target those members of the coalition that have the smallest numbers of troops because it makes them easy for them to pull out by going in and taking some of their people captive and holding them hostage and threatening to cut their heads off. Of course, the press might show that for maybe 1 or 2 days on television, but they are going to over and over and over again show the fact of our troops and the coalition forces that are being killed.

It goes back, I think, to the old adage, and I hate to be overly descriptive of this but I am a journalism major. And I can tell you that one of the things we learned, if it bleeds, it leads. That is exactly what the press want to do right now is to continue to try to turn the American situation or the American feelings and opinions against what is going on. Our opponents know that. They have been working it.

Saddam Hussein is not a dumb man. He had his people well prepared, and he thought that the American citizens and the coalition forces would be so afraid when these things started that we would pull out, and leave or we would be willing to give in to whatever demands that he may actually put out there. And that, in fact, is not what is happening.

President Bush has been very strong in his resolve. I will never forget, totally different subject, but I had an opportunity to travel to North Korea over a year ago. When we were in North Korea, the North Koreans absolutely could not understand why this American Commander in Chief would not negotiate with them. They were used to dealing with the Clinton administration who would give them whatever they asked for in order to keep the peace.

Now, the things that have been welling up inside and swelling up for so long have come to pass. We have had 9/11. We have had attacks on our soil. President Bush is doing whatever he can to make sure that does not happen in the United States again on our own soil, making sure that we take the war to the terrorists where they live and root them out, and it is not going to happen over night. I mean, Saddam Hussein ruled for over 25 years. Longer than Tojo was in Japan. Longer than Hitler was in power in his time in Germany.

So the fact of the matter is for years Saddam Hussein ruled. He killed the Kurds in the north and those in the south, and we are continuing to try to root out those people in whatever hole they may have climbed into.

Mr. HUNTER. The gentleman made a good point when he said that sometimes the news media follows the old adage, if it bleeds, it leads. Because that is what a TV station will use to get viewership for their news hour so they can sell Coca-Cola and whatever type of advertising they have got. And they know that violence does attract a certain core audience.

Now, the problem with running wall-to-wall car wrecks if you are a local TV station is that you give a misleading impression of the traffic situation in a given town. If you go in, if you are a new TV station in town and you say, because we do not have a lot of good substantial news, we will do wall-to-wall car wrecks, and your news guys may say, we only have two car wrecks a day; and you say, run them over and over again. If the average person watches that news station and sees wall-to-wall car wrecks on the news, he will be given the impression if he drives out on the freeway in that town, he has a 50 percent chance of being in an accident.

The car wrecks in isolation may be true. They are accurate pictures, but if you run them back-to-back, wall-to-wall, all the time, all car wrecks, you are going to give a misleading impression on the traffic situation on that town. Similarly, if you run wall-to-wall pictures of burning tankers. If there was one tanker blown up in a country that is as big as the State of California and has 25 million people, and you run one explosion over and over and over, you give the impression that the entire country is on fire. It is not.

That is not to say it is not dangerous, because it is dangerous; and that is not to say it is not tough.

I want to give a description of what I saw last time I was there. When we went into Balad, we were there in time for the daily mortaring, where a couple of mortar rounds are thrown in by the insurgents in this big former fighter base for Saddam Hussein, which is now one of our main logistics bases.

Well, we were out looking at the gun trucks at that time; and as these rounds came in about 1,000 yards away, all the GIs just walked, they did not panic or stampede. They just walked, did not even stop their conversations, to the shelters that were nearby.

□ 2145

Our general said, Quick, get into the nearest building. It happened to be a movie theater. We went in there, and he said, get away from the glass, go indoors. We went into the actual theater portion of this building. I opened up the door and went in. It was a big church service. It was on Sunday. There were 400 GIs there. They had a great preacher who was preaching. They had a 100 GI choir, a band, had a couple of steel guitars up there, and everybody had their combat gear sitting there.

Not only were the politicians forced to go into the church service because of mortaring, we were forced to stay there because of mortaring. We asked

when we could leave, and they said, You are going to have to wait till the service was over, and so we waited until the service was over and we left.

My point is, those folks are standing firm. Our people in uniform are standing firm. The American people should stand firm.

It was interesting to come back here and watch the talking heads on television whip themselves into a tizzy, and in my mind's eye I had those great folks in uniform who were doing their job very coolly, very professionally and with a sense of purpose; and with respect to a sense of purpose, that is an important thing.

Just saying, Well, I support the troops, but they are wasting their lives is not enough. If you tell people that what they are doing, whether they are a truck driver for a living or they are a soldier, is without value. Then you are really denigrating that person. You are really taking the value away from their occupation.

So those who say, Well, I would support the troops, but what they are doing is a waste, is not a support of the troops.

Now, you may say, Well, that is okay, I think my opinion outbalances whether or not I support the troops but I am not a supporter of the troops, and it does a disservice to the troops.

I want to let you know when we went over, and the gentleman from Texas (Mr. REYES), a great Member from El Paso, was over with us and the gentleman from California (Mr. CALVERT), we let the troops know that we valued their service and valued them.

I would be happy to continue to yield to the gentleman from New Hampshire.

Mr. BRADLEY of New Hampshire. Mr. Speaker, one of the most telling periods of time when I was there was our visit to the Abu Ghraib prison, and while that prison has gotten a certain amount of notoriety because of the abuse by our troops, a very small number of people, of Iraqi detainees, the larger story that I took away from it is what I saw in that prison.

When you walk through the execution chamber, when you go through the torture chambers, and when you see the barbaric nature of those facilities, and the fact that in this one prison, 80,000 Iraqis were first tortured and then executed, it was a life-altering experience for me and, I think, the other Members of Congress who were there to have been in that room where so many souls were so cruelly murdered.

I left, from that experience, I think, a very changed person, having seen that kind of depraved behavior and the aftermath of it; and certainly when I have come home and had the opportunity throughout New Hampshire to talk to people about that, it has been a pretty telling experience.

I had a video camera with me and took an actual picture of the execution chamber and how it worked. We were shown the grizzly details. It is a very frightening experience, and people need to know of the mass graves and the fact that Saddam Hussein started two wars; that he actually used chemical weapons against his own people, against the Iranians; that he was funding suicide bombers; that he did have a very significant weapons of mass destruction program that the United Nations was never able to account for at the end what happened to.

While there certainly have been intelligence questions, and we need to improve our intelligence as we talked about at the beginning of this hour, these are facts about what happened. Having been in that prison and having seen that execution chamber, it certainly changed the way I look at this entire situation.

Mr. HUNTER. Mr. Speaker, I will tell the gentleman about another operation that took place.

For those folks who now have given the distorted view to the world that somehow the Americans are worse than Saddam Hussein, that we have tortured people and we are the emblems of torture because they have run these pictures back to back, including the picture where a person is pretending to shock a person. In the briefings I received, they never turned on the electricity, but they have given that picture out to literally millions of viewers with the clear impression that that person is being shocked with electricity.

When I was in the hospital there at Ramstein, one of the surgeons had a disk, and on the disk was a video of Saddam Hussein's people amputating the hands of people in one of the villages because they had not done enough for the economy. They were businessmen, and the growth rate of the economy had not been high enough. So he thought he would give a little example and amputate their hands.

So for people that want to see real torture, real inhumane treatment, it is there to see, but of course, if we give that disk to the news media, I am sure that nobody will. In fact, I think those people were in the capital. I think the gentleman from Pennsylvania (Mr. WELDON) brought them over for a reception, and as I recall, there were almost no stories about those people.

There was a story or two about the young kids, the 14-year-old kids who wrote anti-Saddam graffiti on their blackboard in high school. They were promptly taken out and hanged.

Mr. BRADLEY of New Hampshire. In that prison.

Mr. HUNTER. And the Kurdish mothers who died there by poison gas, with their babies in their arms, those were representations of real inhumane treatment.

I would be happy to yield to the gentleman from Florida.

Mr. MILLER of Florida. Mr. Speaker, I want to say I think a little perspective probably needs to be added to some of the discussions tonight, and I would imagine there is not a person that looks at that hollow Manhattan skyline that does not think of the Twin Towers and where they stood. There are some that remember before the towers were ever built. Certainly, there are those that now know the towers were there and one day something will be built in its place, but I say this just to say that it is far easier to destroy something than it is to rebuild it. And rebuild is, in fact, what America and the coalition forces have been doing in Iraq and in Afghanistan as well, but tonight, we are mostly focused on Iraq.

Our military forces have been engaged in a very complex not only war on terror, but also the process of going through and rebuilding. They have been looking for weapons of mass destruction. We keep hearing people saying that it is a failure because the weapons of mass destruction have not been found.

I am more concerned because of the fact that they have not been found. Where are they? We know that they existed at one point. We know that Saddam Hussein used them on his own people. We have not found them yet. David Kay said, all we are looking for from a biological standpoint is a vial that is about this big and a two-car garage-size building that could hold 500 chemical warheads in a country, as you have already related, the size of California.

We are working on restoring basic public services: electricity, water, sewer. We hear some on the other side say, we went in and we broke it. We did not break it. It was already broken, but what is happening out of all of this is something that I think is truly revolutionary, and that is, the verge of democracy breaking out in an Arab region.

The fact of the matter is, Iraq now has a new government. They are preparing for election, but of course, the press does not want to tell the positive story that is there to be told. They want to continue to focus, as you have already said, on those car crashes in a loop over and over again, those burning cars. They want to focus on those lives that have been lost, and we are all focused on the lives that have been lost.

Not a single Member of this Congress does not mourn the loss of an American military man or woman, nor a Coalition force person; but the fact of the matter is, they are doing again, as the chairman has adequately stated tonight, very, very difficult work in a difficult region and in an area where people want to kill us. We are the enemy to them, and we understand that, and the soldiers that are there and the Marines that are there know they are there to do a job.

A great number of individuals have chosen to travel to Iraq. Some have not been yet, but they want to go to Iraq, and they are working on scheduling trips over there. And when they sit down and they talk with the soldiers, bar none, every one of them will tell them they are there for the right reason. They have, in fact, been welcomed as liberators. They have had the arms

of young Iraqi children, men and women around their neck thanking them, hugging them for what they have done relieving them of the brutal regime of Saddam Hussein; and now we are helping, along with the Coalition forces, to rebuild their country.

Mr. HUNTER. Mr. Speaker, I thank the gentleman. I thank the gentleman from New Hampshire also, and would ask if he has any closing words he would like to say.

Mr. BRADLEY of New Hampshire. Once again, it has been a pleasure to serve under the gentleman from California's (Mr. HUNTER) leadership, to have watched the Committee on Armed Services start the process of rebuilding our Nation's military, in particular, making sure that we have given a pay increase to members of the military for the last couple of years; that we have done a better job of providing the bulletproof vests and the retrofit kits for the Humvees and that type of thing. It is a process that needs to continue.

I thank you once again for your leadership and certainly look forward to continuing to work with you.

Mr. HUNTER. We will all continue to work together, and I thank all Members, Republican and Democrat, on our committee. We have got a great membership.

Let me just say one thing, if I could, with the indulgence of my colleagues.

A great gentleman, Cato Cedillo, who served as my assistant district administrator for 23 years passed away early this morning, and he was a real hero. He was a guy from San Angelo, Texas, who helped everybody, who had a heart as big as all outdoors; and I swear he could do more with a telephone, getting the problem solved, than the rest of us with a bank of computers.

Cato was a wonderful, wonderful person, and I was with him and with his family last night as we said good-bye to Cato. It is sad. He will be greatly missed around his hometown of San Angelo, Texas, and San Diego, California.

I thank the gentlemen for letting me mention him in the closing moments of our special order.

I want to thank the gentlemen for participating tonight, and again, the message from our troops was that they are staying steady and we in America should stay steady. We are making this handoff. We need to follow through with it and follow through with our mission.

I thank the gentlemen.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. HENSARLING). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes.

Mr. MEEK of Florida. Mr. Speaker, once again, it is an honor to address the American people and also Members of the U.S. Congress, and there are so many issues to talk about tonight.

As many of the Members know and the American people know, once a week the gentlewoman from California (Ms. PELOSI), the Democratic leader, has allowed the 30-something Working Group to come to the floor to share with the American people issues that are facing not only young Americans but Americans in general. We have 14 Members in our working group, and we work throughout the week and here in the Congress to make sure that we give voice to issues that are facing Americans throughout our country.

I must say that being from Miami, Mr. Speaker, I just want to share with the Members and the American people, we are so glad that the people of Los Angeles allowed for the Miami Heat to be able to receive Shaq. We look forward to the Miami Heat going to the NBA not only finals, but championship this upcoming season. Shaq is going to bring a new flavor to Miami, and all Miamians are very proud to have him there and also his family; and we welcome them all. We look forward to a successful Eastern Conference playoff and even regular season, and I will tell you, not being a season ticketholder myself, I look forward to saving up my money to get an opportunity to see him in the Magic City.

□ 2200

Mr. Speaker, let me share for a moment with the American people that week after week the 30-something Working Group has had an opportunity to come to the floor to speak to the American people about the issues. This week we had a visit from the WWE, which is the World Wrestling Entertainment Association. These are wrestlers that came to the U.S. House of Representatives to talk about their initiative that they are working on throughout the country.

Everywhere the WWE is going, they are registering voters, and they are working with the democratic way of making sure that every vote counts in this upcoming election. We know that many Americans, many of them are young; a lot of issues facing Americans right now are issues that are working towards our future. It does not matter what age you are, but especially for young people. I commend WWE for the work they are doing. They were here Monday night at the MCI Center registering voters. Their number is up to a million voters who have already registered for the upcoming election.

I am very excited about Americans who have not had an opportunity to vote in the past that are taking an opportunity to vote this time; and wrestlers, entertainers are telling them it is important that they vote. There are issues facing the economy, the environment, the war in Iraq; and we are glad they are there.

I have a picture, if I may, of three of the WWE wrestlers that came to the Capitol on Monday. This fine gentleman is myself. I wanted to wrestle once upon a time, but I do not think I can hang with these guys. We have Maven, who is an outstanding young man. We had an opportunity to hear his views on voter suppression.

This is Hurricane. We had an opportunity to see him Monday night. He is a very popular young man and has a bright future in the wrestling entertainment world. And then we have Chris Nowitski, who is a Harvard graduate. He graduated from Harvard and now wrestles in the WWE. They all have a voter consciousness. And here is our very own, the gentleman from Ohio (Mr. RYAN), who wanted to have a lights-out cage match with these gentlemen. He said as long as he has his track shoes on, he will be okay.

Mr. Speaker, we want to commend these men for coming and helping to get out the word about democracy and making sure every voter takes their American right and has an opportunity to vote so their voices are heard. It was good. We had an hour-long meeting, and we opened it to the press to allow them to come in and hear these fine gentlemen. I am glad they have taken time out to share in a bipartisan and nonpartisan way the importance of voting.

Mr. Speaker, I must share the issue of voter suppression. This is going on throughout the country, and I must say to many of those students that are going to return to colleges and institutions and even to those parents that are sending their kids off for the first time to a college in a city that they have never been in before, many of those individuals have registered in high school through their social studies programs and government classes. We do it in Florida, and in many locations throughout the country the same thing happens. We want to make sure that these young people know they can register.

In November, November 2, they are going to be at the location where they are going to school. We started getting reports of young people going to register to vote before they recessed for the spring, and now in the middle of August they are going to return for the fall semester; but they were told they were not eligible to vote because they did not live in that particular city. Taken from my good friend, David Letterman, and hopefully I will get out of here in time to be able to catch the show, if you live in Sioux City, Iowa, and you are attending university in Akron, Ohio, you should have the opportunity to vote there. The Supreme Court said in 1979, if you are a registered student, going to school there, you have a right to vote in that location.

Mr. Speaker, there is also rhetoric that is being shared with many students that want to vote at their college campus, if they register, they will lose their out-of-state or in-state aid they will receive, or their scholarship will be in jeopardy because they were brought in as an out-of-state student.

That is not true, and there are no repercussions to take part in our democracy. We want to make sure we get that word out to all Americans.

I think it is important for every parent and grandparent, for the grandparents that have given their hard-earned money to make sure their bloodline has a better opportunity than what they had, that they have the opportunity to educate themselves, and they have also an opportunity to share in this democracy. They have feelings, too. As it relates to growing and skyrocketing tuition costs, they have to be heard on that. They have to be heard on the environment. A lot of things that are happening that were not happening years ago, they have to be heard on that. They have to let it be known that we want alternative fuel sources in the United States of America. If they are not heard, it may not happen.

They have to be heard on the issue of student loans, of skyrocketing costs of college tuition, and that they are graduating in debt. We want them to take part in the American Dream. That is what it is all about, to buy a home and get a piece of the rock. And we want them to have a credit report so that they will be able to be eligible to get a loan to buy a house.

So for 18 to 30, young people being able to have an opportunity to vote, if we can raise the level in that demographic, what we call it in the political world, we will have a better America. We will have a safer America, a cleaner America, and a healthier America. I think that is very important.

That is the reason why the 30-something Working Group formed itself under the leadership of the gentlewoman from California (Ms. PELOSI), because she believes in a better America. She believes if given the opportunity to be Speaker of this House that we will be able to top-shelf many of the issues that are facing young Americans. So not only now but post-election, we will be coming to the floor to share these philosophies and issues with the American people.

Also as it relates to voter suppression, we want to make sure if anybody wants to find out more information about it, go on the rockthevote.com Web site and find out more information on voter suppression, or you can take the opportunity to contact us here in the House of Representatives. We are going to give voice to those individuals that may run into problems.

This is our Web site here. We have our e-mail address, 30somethingdems@mail.house.gov. Also our Web site, we have democraticleader.house.gov/30something. I will share the Web site and the e-mail address again later on. You will have an opportunity to be able to allow us to fight on your behalf. We are not talking about just Democrats; we are talking about Independents, Republicans, Green Party, what have you.

We feel to be able to have a stronger America, safer and healthier America, it is important that our entire country takes part in the electoral process. If one does not take part in the electoral process, we will not bring about the kinds of change that everyone cares about. That is what we are about. We are about making sure that everyone, and I mean everyone, not just folks from Florida or Ohio or the Californians or Texans, we want to make sure that everyone participates in this process. We want to make sure that everyone can have their voice heard, and that is why it is so very important.

Tonight we are going to talk about several issues. One we are going to talk about is our breach in intelligence. We are also going to talk about many issues facing Americans. And guess what, we even have a top 10 list tonight that we will give birth to tonight so when we return after Labor Day, we will continue on with our top 10 list.

I have been joined by the gentleman from Ohio (Mr. RYAN), who is an outstanding Member of the House of Representatives.

Mr. Speaker, I just want to say to the gentleman from Ohio (Mr. RYAN) that I shared our picture on the Capitol steps. I talked a little about how you wanted to have a lights-out cage match, and as long as you had your tennis shoes on that it would be okay.

Mr. RYAN of Ohio. Mr. Speaker, did the gentleman explain that I was not the man with the green hair in the picture? Was that clarified?

Mr. MEEK of Florida. I think it is obvious. The man with the green hair has more muscles.

Mr. RYAN of Ohio. That hurts me.

Mr. MEEK of Florida. It is love.

Mr. RYAN of Ohio. The Hurricane is in the green hair, along with the Maven. I have not watched professional wrestling since Jimmy Superfly Snuka and the Wild Samoans. And so to now meet the next generation, and I am sure the gentleman touched on this, how great it is that they are taking part in trying to reach young people to get out the vote. They have registered over a million kids already.

Did you get into the voter suppression?

Mr. MEEK of Florida. We talked about, but it would not be complete without your views.

Mr. RYAN of Ohio. That was really the issue yesterday when we were here. There is a huge voter suppression issue where young college kids, and I talked about it last week, how young students who live in college towns are going to register to vote at the local board of elections or supervisor's office, and they are being told they cannot vote there because they are not a permanent resident. Or if they do register to vote in that town, they will lose their financial aid, they may be prosecuted for fraud, lose their health care coverage. There are issues which have dissuaded young college students from actually registering to vote.

Once we started hearing about this, we went back and did some research. The gentleman from Florida (Mr. MEEK) did most of the research. He found a Supreme Court decision back in 1979 that said that even if you live in a dorm, you can register to vote in that community.

We have just been getting flooded with e-mails from people all over the country, young students who have tried to register to vote in certain areas and have been denied. They have been told that the local prosecutor would prosecute them for fraud or that they would lose their financial aid. So if you tell a young student that they are going to lose their financial aid if they register to vote, they are not going to vote.

Then we turn around and say why do young people not participate in the process? So to have the Hurricane and the Maven here was special. It was special.

Mr. MEEK of Florida. Mr. Speaker, if the gentleman would yield, everyone forgot about us. Walking through the halls, they wanted to touch the Hurricane and the Maven. They said these guys are just Capitol regulars.

Mr. Speaker, athletes nine times out of ten get a bad rap for being about business. This is a capital city. These gentleman could have been doing anything. They could have been somewhere relaxing, kicking back, doing what they wanted to do. They were doing what they wanted to do. They wanted to make sure that not only young people but wrestling fans throughout the country could just pause for a moment and realize the seriousness about their vote and about their voice being heard. This is serious business.

Mr. RYAN of Ohio. Big time.

Mr. MEEK of Florida. We are at war.

If I can say, 897 American troops are not coming home. We honor them, but they are not coming home. That means 897 individuals will no longer see their family members ever again.

□ 2215

That means that 5,394 American troops, not coalition troops, American troops, injured, dealing with the war in Iraq, just Iraq. This is not talking about Afghanistan, going after the Taliban and 9/11. Do not get me started.

The real issue is serious. We have to make sure that the men and women that follow the WWE, and that is what these gentlemen are trying to do, let your voice be heard. They are not telling them how to vote or who to vote for. They are just telling them that they have to get registered and that they have to get out the vote.

Mr. RYAN of Ohio. What is interesting is that after having discussions, both of those gentlemen, they were in Cleveland a few months ago, maybe last year some time, and they came to Kent State University to have this discussion. We had a chance to talk a little bit. One, and I will not say which

one, is a Republican. The other is a Democrat. And so it is a very bipartisan issue of just getting kids registered and getting them out and engaged in the process.

Last week, since you brought it up about the soldiers, and then I want to quickly move back to the voter suppression because I have someone who wrote in, e-mailed in from Ohio State University after hearing me last week talk about voter suppression.

Mr. MEEK of Florida. I must say, the gentleman from Ohio does that well. He reads the e-mails. He gives the Web site. I gave the Web site out earlier. I want to apologize to the gentleman from Ohio for giving the Web site out because that is what he does.

Mr. RYAN of Ohio. I practice reading these e-mails. I do not just come to the floor and expect myself to have the rhythm. I practice.

Mr. MEEK of Florida. The gentleman just wants to make sure that the individual who e-mails, that he does not skip a word. Every word is important. Every little nuance is important. We are not here to talk about travelogues or footlockers. We are here to talk about serious business.

Mr. RYAN of Ohio. Let me read this since we have come back to it. Here is a young kid, a young student, a graduate of Ohio State University, still residing in the 12th District in Ohio. She was told a few years ago by the local Franklin County board of elections when she registered herself to vote, told by someone in the office that if she registered in Franklin County she could lose access to college funding because her parents were of another voting district. On and On. Currently I'm an assistant manager for a bookstore across the street from the Ohio State campus. In March I went to the Franklin County board of elections office on Broad Street in Columbus to pick up 500 voting registration forms to set on display for the many students that walk through our doors each day.

So here is someone who wants to go out and try to recruit people to make sure they get registered to vote. Put them on display. The lady at the office that provided me with the registration form asked that we warn students that their financial aid could be affected if they should choose to register in Franklin County. Being that this information was consistent to what I had heard when I was a student, I assumed this was accurate information and placed a warning sign near the applications. After watching Representative RYAN on C–SPAN last night, I have realized that what I was told may be erroneous, illegal information and this really upsets me because I have noticed that some students have been hesitant to pick up the application. I would like to know if this is indeed a case of voter suppression. If not, I would be glad to help fix the problem.

So here is a student that not only wanted to vote for themselves, they were willing to go and get 500 applications, set them down at the bookstore, and say, let's register to vote, let me get these young kids involved in the process. She actually was so confused that she put up a sign saying they may lose their financial aid.

The gentleman from Florida and I are here tonight to tell the Speaker and everyone else who is listening that that is not true. The Supreme Court ruled in 1979 that students can register to vote on campus even if they live in a dorm or off campus. They can register wherever they want in most States. Do not be deterred. Do not let anyone tell you that you cannot sign up to vote. I am 31 years old. The gentleman from Florida is 37 years old. I know this is probably going to be the biggest election of my life. And there are people who are 60 or 70 years old that are telling me that this is going to be the biggest election of their life. Do not let someone tell you that you cannot register to vote. We have the 1979 Supreme Court decision. We have the WWE wrestlers. If you have a problem at the local board of elections, we will call up the Hurricane, we will call up the Maven and we will do what we have got to do.

Mr. MEEK of Florida. Nowinski, also. We cannot leave him out. Our Harvard grad.

Mr. RYAN of Ohio. We cannot leave out the Harvard grad.

Mr. MEEK of Florida. Who is a wrestler.

Mr. RYAN of Ohio. I have had conversations over the past couple of weeks with some people in the entertainment industry whom I think also are going to be willing to take this and promote it to their fans as well. This is something that is really catching on that I think we really need to make sure that everyone knows, ride the wave out and let them know. If you have a particular story like the gentleman who heard us on Friday from Columbus, Ohio, send us an e-mail to 30somethingdems@mail.house.gov. Or you can also e-mail our friends at smackdownyourvote.com. You can e-mail them or studentsuffrage.com, also, a new organization.

Mr. MEEK of Florida. Studentsuffrage.com. They have good information about voter suppression. I just want to from that e-mail let you know, we have to remind the American people and Members of the House, this is not the 30-something report. This is not the Representative TIM RYAN report nor the Representative KENDRICK MEEK report. This is for real. People who would think we are joking, it is unconscionable for someone to even put a sign out as much as we are trying to encourage young people to come out and to take part in this democracy, that anyone would say that you would suffer financially from voting. Leave alone from voting, from registering to vote. I am from Florida. Do not get me started. I am just going to say that when we look at individuals taking part in this democracy, we are not talking about Democrats only. Let us make sure we are straight on that because we will get some folks who come in on the other side of the aisle, the 30-something Dems, they have Dems on the back of 30-something, they are only fighting to make sure the Democrats have a right to vote. That is not true. We want Republicans to vote. We want independents to vote. We want democracy. We want to make sure that their voices are heard. We want to make sure that we have a better America as we move forward. If we do not have a voting America, then we are not going to have a better America. If they are not turned on or turned off about what is going on, we need individuals like WWE. We need them to have a fair shake when they go to register to vote. And for someone to a student, think of a student, and I am sorry, I am getting a little wound up here, think of a student that would even take the prerogative to register to vote when they have all of these issues to worry about, exams, term papers, making sure that they get registered in their classes. They want to do what they are supposed to do, what their parents have done, and that is register to vote. We want kids, we want parents. Parents, if you are listening to us here tonight, even Members of the House, if you have children that are attending, or of the other body or even of the Bush administration, I must add, if you have children or, I must say, let us just be bipartisan, if you work for Senator JOHN KERRY or Senator EDWARDS or what have you, we want you to be able to call your kids and make sure that they have an opportunity to vote. The bottom line is that we have to crush this. We have to crush this right now. We want people to let us know. We want to fight on behalf of those individuals. We want to make sure that they know that they have a voice, even here in the U.S. House of Representatives, that they have a voice. For all the folks who stand up here and say, I support the troops. No, I support the troops more than you do. No, you don't support the troops as much as I do. I support the troops even more. I have a tattoo saying, I support the troops.

Let me tell you something, we want some folks enthusiastic here in this House and in this democracy, I must add, here in the United States to be supportive of democracy. There may be some individuals that are actually scared that people may very well vote in this country and if they vote, they may no longer be here. But that is the price we pay for being public servants in this process. I am saying, bring it on. Allow Americans to vote, especially young people. My goodness, I am taking out my deficit chart here. $477 billion in Federal debt and this is using the Congressional Budget Office. The number is probably higher. $477 billion. That means children at birth already owe the Federal Government money. This is serious business. This is not a joke. This is $477 billion, the highest

deficit in the history of the republic. So for those of us in this House that want to drape ourselves in the flag and talk about how we support the troops and I am more American than you are, you look at this number. This is nothing to be proud of. I have two children. I have a 7-year-old and a 9-year-old. I do not want them asking the question, what were you doing when this was going on? Why don't we have Social Security now? To my uncle who is a Korean War veteran, why do I have to wait 6 months at the VA to see an ophthalmologist? Why don't I have health care, for the 43 million Americans that are working. These are not individuals that are sitting at home, looking at cable and saying the job situation looks sad. These are people that are working every day. So how are we going to resolve those issues that are facing everyday Americans? $477 billion, that is not a small number. We are knocking on the Bank of China and Japan every 3 weeks saying, guess what, we're the United States of America. We need money to pay down the debt.

So this voter suppression issue, some people may say, it's just rhetoric. This is for real. These are the individuals that are going to have to pay this. That is why we need them engaged. Everyone that comes to Capitol Hill, we have a lot of young people walking through the Capitol. We see them in the hall. They come. They identify with us. They want to talk to us. They want to talk to Members of Congress. But when they get back in the fall, do you think that it is going to be a lower tuition rate there? I do not. Why? Because of this. $477 billion because we do not have the money to be able to help State governments. State governments do not have a credit card with a U.S. Treasury here and, I must add, we are not in control. News flash to Members of the Congress and the American people. They cannot say, well, you know, the Democrats, tax-and-spend Democrats. Hey, guess what, ladies and gentlemen, the last time that the budget was actually balanced in this House, the Democrats had control. And we passed a balanced budget amendment in this House without one Republican vote. Without one. Maybe two or three could have come over. Without one. When we start talking about this issue of spending and the deficit, we need to talk to the hand. You cannot talk to me about that, because the real issue is that the Republican Congress put us in the situation that we are in now.

Believe me, there is a good argument for it, if someone was to mike up on the Republican side of this House and some of them are very good people. Some of my best friends are Republicans, okay? I am going to let you know that right now. I will tell you that many of those individuals feel the way that we feel, fiscal conservatives, concerned about the Federal deficit. They have children, too. And they are concerned, too. And every time someone from the other side of the aisle tries to step out and say I am going to do the responsible thing and make sure that we spend within reason, make sure that we invest within reason, that I will not give a tax break that I know that we cannot afford, that I will no longer send States that are over $87 billion in deficit right now, because States do not have a credit card. They pass that cost on to State universities. They pass that cost down to local governments and they have to pay the bill. So this voter suppression, I say to Members of this Congress, members of the Bush administration, I hope they are listening. This is serious business. Yes, we know November 2 is going to go and come but this deficit will be here, for our children and in many cases our grandchildren to pay the cost. Even seniors now will pay the cost. Prescription drugs, they will pay the cost.

□ 2230

Adequate health care for every American, will pay the cost. For everyday working Americans that know what it means to have a 15-minute break in the morning and a solid 30 minutes and not-a-minute-over lunch break, and 15 minutes in the afternoon, they know what I am talking about. So those are individuals that we are trying to represent. That is why their children have to have an opportunity to vote, and that is the reason why the 30-something Working Group wants an opportunity to fight on behalf of that individual that sent the gentleman from Ohio (Mr. RYAN) that e-mail to make sure that they have a right to not only vote but, guess what, a right to register.

Goodness gracious. I am from Florida. We talk about voting in Florida. Now we are having in the United States an opportunity to talk about just registering. So when we look at that, it is important that we fight. Now, the National Secretaries of State Association, which is a bipartisan organization, not a Democratic organization, but a bipartisan professional organization, has joined in this effort with us to make sure that these individuals will have an opportunity to vote.

So I want to apologize for my being a Congressman just for a few minutes because it is a great amount of frustration.

Mr. RYAN of Ohio. Mr. Speaker, the gentleman does not have to apologize. Let us go, after that passionate display, over to our e-mail, 30-somethingdems@mail.house.gov. If there is some kind of voter suppression going on where people are telling them they cannot register at their local board of elections because it is on a college campus or because they are a student or because they live in a dorm, I ask them to give us a call. We will help them negotiate the waters with Smack Down Your Vote, with Hurricane and the Maven and our guys from WWE who are helping us out; we will be happy to help them.

I know I just sent around a letter last week contacting all the local members of Congress in the State of Ohio. We are going to send a letter off to the Secretary of State in the State of Ohio. I know the gentleman from Florida (Mr. MEEK) is going to do that in Florida. So we start contacting the Secretaries of State in these different States. The National Secretaries of State Association is going to help us also communicate to their local board of elections to let them know that this is something that can really happen with young people. So 30somethingdems@mail.house.gov, send us an e-mail.

One of the issues that the gentleman from Florida was talking about, about how this is their future, the future of the country is at stake, and how we need young people to participate in the process, and I will tell my colleagues why. Not because young people are just inherently great, but young people have certain qualities that this democracy needs, and they have a way of replenishing the system here with some new ideas, and so in a way they are great. We need new ideas in this institution. And we are in the process of creating a new economy, and we need them.

And the disagreement they have with many on the other side is that they consistently have chosen to give tax cuts to people who make millions of dollars a year and are not invested in the Pell grants, not invested into low, low, low-interest student loans, not invested into the States to allow them to reduce the costs of college and reduce the tuition costs that a lot of these kids will face as they go back to school in the fall. And the gentleman said, You know how I know they are going to have higher tuition? Well, you know how I know? Because they have already said in Ohio State it is going up 13 percent. In Akron it is going to go up 10 percent.

So I want to share this, and we did this earlier. We had an Ohio working group that was out here earlier, and I shared some of these graphs, but I want to share these with the people watching here. One of the greatest threats to the United States of America, Mr. Speaker, is China. China. And give me a minute here because I am going to have to segue into making my point.

Mr. MEEK of Florida. Mr. Speaker, I further yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, I appreciate that. He is a generous man. I am getting choked up here with the gentleman's hospitality.

Exports from China. And I went over this about an hour ago here, but I want to do it again just in case we have some new people watching. This is out of Wired Magazine, and Ryan Keating on my staff ran across this, and I want to thank him for his insight into these particular issues. Top five exporters of

electronics, countries: China in 2002, $8.8 billion in exports of electronics; United States of America, $2.5 billion. Let me repeat. China, $2.5 billion; United States, $2.5 billion exporting electronics. So China is cleaning our clock. Top five exporters of telecom equipment: China, $36.4 billion, United States $21.6 billion. Getting our clock cleaned in the telecom equipment industry.

We will go over here to the green. Top five exporters of assembled computers, when we signed all these trade agreements and we said we are going to compete with all these countries, we are going to have to have the high-tech jobs. That is what everyone always told us. Top exporters of assembled computers: China, 3.8 billion; USA, 2.4 billion. Getting our clock cleaned by China for assembled computers.

Here is the point I want to make with this pie chart and two other graphs here. Top five sources of engineering graduates, if we want to get the new economy going, if we want to make sure that our economy can compete in this very competitive global economy, one of the things we need to do is we need to have engineers who are creating, finding better ways of doing things, finding more efficient ways of doing things. Engineer grads in 2001: United States, 59,000; China, 219,000 engineers in 2001, graduated from China. 59,000 in the United States of America.

And I ask the gentleman from Florida, the Speaker, and everyone else who is listening here tonight, how are we going to compete in the global economy when we have 59,000 engineers graduating, China has 219,000, European Union has 179,000, Japan has 104,000, Russia has 82,000, and the United States of America has 59,000? How are we going to compete in the global economy when we do not have enough engineers out there creating the new economy?

And we have talked here before, Mr. Speaker, about the space program and how the goal for the United States was to go to the Moon; but that was the sexy, glamorous part. We are going to land on the Moon and everyone can see it and it is great. But the idea was to make sure that we are educating mathematicians, scientists, engineers, chemists, people who are going to be able to participate. There was a goal there to go to the Moon, but all that was to make sure that we were educating people in the process of getting there. Yes, it is great to get to the Moon. Yes, we can do experiments up there. But imagine all those people who got educated in those specific sciences and never ended up working for NASA. They ended up in the private sector driving our economy.

Let me share two more charts here; and I do not like to get too statistical because, one, it makes me nervous, but we have got to wake up and smell the Starbucks. Other countries emphasize science and engineering education. This is the percentage of first degrees awarded in the natural sciences and engineering.

Mr. MEEK of Florida. Mr. Speaker, it is important. Natural sciences, engineering.

Mr. RYAN of Ohio. Natural sciences, engineering. And I am not saying I was the sharpest knife in the drawer when I went through college, but what I am saying is I know enough and the gentleman from Florida (Mr. MEEK) knows enough, and I think the American people know enough of what we need to do to compete. So look at this chart. Percentage of first degrees awarded in natural sciences and engineering: China, 73 percent; Japan, 66 percent; Germany, 59 percent; South Korea, 45 percent; United States, 32 percent. So China is at 73 percent. We are at 32 percent. And how do we expect to compete with all these people if we do not have enough people participating in the sciences and in engineering?

One final chart. These are people entering graduate school and engineering, physical sciences, math and computer sciences in U.S. institutions. The green line is U.S. students and permanent residents, 59,000, roughly, as I stated earlier. The red line is foreign students at U.S. institutions, almost 83,000.

I do not want to get bogged down in the numbers; but my point is that because we are not investing in education, because this administration, this House, this Senate, this Congress, has chosen time and time again to give tax breaks to the top 1 percent while we have 250,000 students across the United States of America who are college eligible but will not go because they cannot afford it, we have a problem.

And we have a problem that we can fix, and this is why I am here at almost 11 o'clock at night. This is why the gentleman ran for Congress. This is why we spend long hours going to parades and shaking hands and working here late at night during the week, because we believe that there is an answer to this problem that is going to make the United States stronger. And what we have been arguing here on the Democratic side, and many Republicans have been arguing this as well, but the leadership, the President, the leadership in the Senate, has not been responsive, the Pell grant now only accounts for 40 percent of one's college tuition. In 1973 or 1974 when the Pell grant was started, the Pell grant would take care of almost 80 percent of a student's college tuition. We had a commitment to education. We had a commitment to make sure that we could keep driving this economy by having engineers and scientists out in the private sector pushing it along, starting a business, working for a business, making it grow, helping it grow time and time again.

We did not have the banks involved in the student loan business. Why do the banks have to be cut in on the whole deal? I have nothing against banks. They own my house right now; so I do not have anything against them. But they do not have any business being involved in a student loan. We cannot help them make profits. We are trying to get kids educated, and that is what this country needs to do. We need to make it a priority, and I think this is something that has got to come from the President of the United States. I love JOHN KERRY's plan. He wants to double the Pell grant. He wants to give $25 billion to the States that has to be spent to lower tuition costs. He wants to help kids get low-interest loans. He wants scholarships for math and science students. These are things we need to do.

And I went off and I apologize, but the frustrating part is that this is solvable. These are solvable problems, and that is the beauty of this system. And we can fix this. I think we have to fix it because really the future of the country is at stake. When we look at trying to compete with China and they are cleaning our clock in electronics, telecommunications equipment, assembled computers, and the United States workers are losing their jobs and scrambling over to see if they can get to Wal-Mart, we have got a real problem. And I think if we made this a national commitment, and I hope President KERRY would make it a national commitment, but if we do that, I think we still have some time left. And the scary thing is the clock is ticking.

Mr. MEEK of Florida. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. RYAN) for sharing that with the American people. I know he needed those charts to make sure that he can show the picture, but he was kind of brushing against kind of like a Ross Perot kind of feeling there. I started thinking he was going to say in a minute, You are not listening. But I think it is important. We try to make this not normal C–SPAN watching for the viewing public and for the Members of Congress. We want to make sure they hear what we have to say. But if we are going to compete, guess what, we have to have players on the field that are the numbers. It is almost like football. One cannot line up with five people and expect to beat a full defense there with five people on offense.

Mr. RYAN of Ohio. Mr. Speaker, the gentleman from Florida (Mr. MEEK) is a former football player.

Mr. MEEK of Florida. That is correct.

Mr. RYAN of Ohio. What position did the gentleman play?

Mr. MEEK of Florida. I played a little defensive end. That was when I could legally hit someone. But we will leave that out here because there is no hitting in the Congress, I must add.

Mr. RYAN of Ohio. That saves lives.

Mr. MEEK of Florida. That saves lives.

Mr. Speaker, we are going to talk a little bit about intelligence for a minute, if we can.

□ 2245

Then we are going to get into our top 10 list after intelligence. I am just going to talk about that for a minute, because the American people are going to get an opportunity to hear more about intelligence as the week gets a little older.

We know that there has been a lot of talk, that there has been a Senate report released. The Senate Intelligence Committee put out a 511 page report, which is a bipartisan report. It gave a pretty good picture of what was going on in the CIA, of what possibly went on in this administration as it relates to intelligence analysts that were subject to political pressure.

There is going to be a second tier to this report, and guess what? It is going to be after the election.

Mr. RYAN of Ohio. Absolutely.

Mr. MEEK of Florida. Wow. Is that not a news flash?

Mr. RYAN of Ohio. If the gentleman will yield, we are trying to engage young people here in the voting, participating in the process, and they hear this garbage that ''we are not going to tell you until after the election. Then, you know, then we will give you the truth.''

Mr. MEEK of Florida. Once again, this is not the gentleman from Florida (Mr. MEEK), the gentleman from Ohio (Mr. RYAN) and/or the 30-something Democrats working group report. This is a report from the Senate, or the ''other body'' Intelligence Committee.

I must say that the Democrats on that committee did file a dissenting view, basically saying intelligence analysts were subject to political pressure.

I will say this: We had some very honorable Members whom I respect and, we are both members of the Committee on Armed Services, I am also a member of the Select Committee on Homeland Security, and this is serious business. We have men and women right now getting sand in their teeth over in Iraq right now based on intelligence.

Right here in this well, right above the gentleman from Ohio (Mr. RYAN), our Commander-in-Chief shared with us information that we know now is false, or was given bad information.

This is serious business. This is the reason why we have got to deal with voter suppression. This is the reason why everyone who has a voter registration card or will become eligible to get a voter registration card should make sure they let their voice be heard at the polls.

I for one and the gentleman for one and the 30-something Democrats for one are not scared of American people voting. Democrats, Republicans, Independents, Green Party, whatever party you are a member of, we want you to vote, because in this democracy things will happen better for our future.

This report will be coming out. There will be a lot of rhetoric about who did what, who did not say this. We know the CIA director, Mr. Tenet, resigned. We know that there are others that should resign.

No one gets fired from this administration, I must add. For all of the issues that have gone on in this country, no one has been asked to resign. Everyone has done a superb job.

Mr. RYAN of Ohio. They have not made a mistake.

Mr. MEEK of Florida. They have not made a mistake.

Mr. RYAN of Ohio. The first administration in the history of the United States of America that has not made one mistake.

Mr. MEEK of Florida. I will tell you this: It would be good for politics. But, do you know something? I have to go back to the numbers. The numbers speak for themselves.

The reason why this is serious business and the reason why week after week we come back and the reason why we have a Committee on Armed Services, hopefully that will have hearings that would hold the higher echelons, and I mean the secretary and undersecretary and everyone over at the Pentagon that is wearing a shirt and tie and suit that is appointed, that are calling the shots for men and women. They say well, you know, we wait to hear from our commanders in the field. We do not make those decisions.

Mr. Speaker, I remember a day when everyone at the Pentagon took credit for what was going on. Now it is like, well, we are waiting to hear from this general and this other general, and, until we hear from the field, we are not going to do anything.

Mr. Speaker, 897 and climbing. A coalition of troops that one may say is over 132,000 American troops, enlisted, Reserve, National Guard. And, guess what? Over 6,000 individuals that did not say, hey, I am ready to go. They were called up and sent. And also 4,000 troops were relocated from other parts of the world that we need them to go to Iraq.

The last I checked on 9/11, it was all about the Taliban and al Qaeda. And, guess what? They are in Afghanistan doing what they want to do.

Yes, we commend the troops. Do not get me wrong. I do not know a Member in this Congress, I have not encountered an individual out on the street, either here in Florida or Washington, D.C., that says I am not with the troops. So we can just put that debate aside.

I think it is important that the American people understand that we all support the troops. For anyone that spends 30 or 40 minutes talking about how he or she supports the troops, we need to focus on other things about the intelligence of why we are in Iraq in the first place.

Mr. RYAN of Ohio. We want to protect the troops.

Mr. MEEK of Florida. And protect the troops, and making sure that Reservists who signed up to protect this country, they will fight for 20 years if this country asked them to fight. That is not the question. It is about decisions that are being made here inside the Beltway. It is about the individuals that are being driven around with tinted windows in black cars and Suburbans with police escorts. We are talking about those individuals.

Guess what, I say to the gentleman from Ohio? The U.S. Congress and the Committee on Armed Services are the individuals charged with making sure that those individuals are held accountable. We have the leadership of this House on the other side of this aisle here that says, oh, we do not need to bother the Pentagon. They have a lot work to do. We do not need to ask the Secretary to come down here. He has a war to fight.

Well, guess what? The last I checked, we need some help, and we need some oversight.

Mr. RYAN of Ohio. Article I, Section 1. The people govern.

Mr. MEEK of Florida. So I want to move on, if we can. If the gentleman from Ohio would, he can remove that e-mail address. We want to make sure the American people get an opportunity to see it. He is going to help me out here.

Mr. RYAN of Ohio. This is unbelievable. This is unprecedented.

Mr. MEEK of Florida. Unprecedented. We want to make sure that people know that we are here, that we mean business.

Mr. RYAN of Ohio. And I am not Vanna White. I want you to know from right now, I am not Vanna White.

Mr. MEEK of Florida. No one is calling the gentleman from Ohio (Mr. RYAN) Vanna White. No one wants to.

Mr. RYAN of Ohio. Are we ready? I do not know what to do here. I just pull this off?

Mr. MEEK of Florida. What you do at the top, you start at the very top.

Mr. RYAN of Ohio. I am nervous.

Mr. MEEK of Florida. I want to let you know, this is the top 10 reasons why young Americans need a change in leadership. I just want to make sure our viewing public has their eyes on this, or our friends at C–SPAN have their eyes on this chart here, because it is important.

The top 10 reasons why Americans need a change in leadership. Can you take number 10 off.

At the top, the gentleman from Ohio (Mr. RYAN), look at that.

Mr. RYAN of Ohio. Oh, yes.

Mr. MEEK of Florida. Not sure how you will be able to pay your share of the $2.9 trillion deficit and afford Outcast tickets. That is important there. The Outcast tickets are important.

I want to add to the American people that the Congressional Budget Office says that is the next 10 years. It will be $477 billion, which is the current deficit for this fiscal year. That is right now where we stand. That is number 10.

Number 9.

Mr. RYAN of Ohio. Here we go.

Mr. MEEK of Florida. Look at the gentleman from Ohio (Mr. RYAN). The

gentleman from Ohio (Mr. RYAN) is about to get a contract here in a minute.

New dorm rooms run by Halliburton overcharge you by $900,000.

That is possible. I want to let you know that is very possible. That happened.

Mr. RYAN of Ohio. If you think your college tuition is high now, wait until we privatize your dorms and turn them over to Halliburton. Then you are in trouble.

Mr. MEEK of Florida. Let us go with number 8.

Mr. RYAN of Ohio. I am ready.

Mr. MEEK of Florida. We have to get moving here.

Mr. RYAN of Ohio. I am nervous.

Mr. MEEK of Florida. Because young people cannot get sick, 30 percent of young people do not have health insurance. That is an important issue. That is number 8.

The top reasons why young Americans need a change in leadership.

Go ahead with number 7.

Mr. RYAN of Ohio. I like this number 7. I had a chance to peek.

Mr. MEEK of Florida. You can talk about it later.

Young people concerned over the prospect of another CHENEY swearing in. Oh, wow, that is interesting.

Mr. RYAN of Ohio. That is because when he was in the Senate with Senator LEAHY, he keeps swearing.

Mr. MEEK of Florida. Let us go from there.

Number 6: MTV spring break coverage lacking. Only 15 students able to afford the Cancun getaway. Worse teen unemployment since 1949.

That is very serious.

Go ahead. We have got a couple more here. Number 5: Students dismayed that 10 Crackerjack box tops now worth the same as Bush's Pell Grant.

Go ahead, number 4: Because John Ashcroft has got to go.

So, number 3, the gentleman from Ohio (Mr. RYAN) has got to move faster. Number 3.

Mr. RYAN of Ohio. I know help me out.

Mr. MEEK of Florida. A draftee is not what you meant when you said you hope the Bush policies would help you find a job.

Mr. RYAN of Ohio. The gentleman from Florida (Mr. MEEK) has got to give me a chance to drop the thing.

Mr. MEEK of Florida. Just drop it to the floor. We will clean it up later.

Number 2, cannot buy self-help books titled ''I am da bomb'' in fear that the homeland security officers will investigate you under the Patriot Act.

Number one, the gentleman from Ohio (Mr. RYAN) is doing a fine job: Because this is your country and what is at stake is your future.

And that is very, very important, that the American people understand that that is important, and that goes for everyone and every age group.

We want to make sure this top 10 reasons why young people need to change leadership in America is all in being able to frame this issue, to let them know what the issues are. We know that we put a little humor to it, but, at the same time, it is very real, it is very accurate.

We need to give folks our website. We are running out of time. We have probably a minute or so left.

Mr. RYAN of Ohio. We have 2 minutes.

Mr. MEEK of Florida. And make sure we give them the web site so we can continue to communicate with Americans.

To the gentleman from Ohio (Mr. RYAN), I must say he is going to have the last word tonight and close this out. That it is a pleasure being here with the gentleman and a pleasure working with the 30-something group. We look forward to hopefully a democratically-controlled House when we return back here after November so we can talk about offense and not defense.

Mr. RYAN of Ohio. 30-somethingdemocrats@mail.house.gov. 30 as in the number, somethingdemocrats@mail.house.gov.

I agree. We are wrapping things up this week. This will be our last 30-something probably until September. We will be here for a few weeks, and then off to the elections. So, hopefully you can send us an e-mail. Let us know what you think.

But part of what we are trying to do here is share with the American people what we are learning while we are down here and just present the facts. It has not been partisan, but we have, I think, illustrated tonight and over the past few weeks kind of what we want and the direction we think the country needs to go in. So I appreciate the opportunity to be with the gentleman from Florida (Mr. MEEK) here. The gentleman from Florida (Mr. MEEK) does a fine job, and I am happy to be his wing man.

Mr. MEEK of Florida. Mr. Speaker, this is the conclusion of the 30-something working group. We appreciate the opportunity to address the American people and the House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CARTER). The Chair will remind Members to refrain from referring to Senators in violation of clause 1 of rule XVII and to address all remarks to the Chair rather than the viewing audience.

CONFERENCE REPORT ON H.R. 4613

Mr. LEWIS of California submitted the following conference report and statement on the bill (H.R. 4613) ''making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes'':

[The conference report will be printed in a future edition of the RECORD.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON of Indiana (at the request of Ms. PELOSI) for today and the balance of the week on account of advice of my physician.

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 Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

(The following Members (at the request of Mr. RYAN of Wisconsin) to revise and extend their remarks and include extraneous material:)

Mr. BURNS, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, July 22.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. PETERSON of Pennsylvania, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2385. An act to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the ''Santiago E. Campos United States Courthouse''; to the Committee on Transportation and Infrastructure.

ADJOURNMENT

Mr. MEEK of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 21, 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:

9218. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Brucellosis in Sheep, Goats, and Horses; Payment of Indemnity [Docket No. 00-002-2] (RIN: 0579-AB42) received July 15,

2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9219. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Classical Swine Fever Status of Chile [Docket No. 03-009-2] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9220. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Animal Welfare; Inspection, Licensing, and Procurement of Animals [Docket No. 97-121-3] (RIN: 0579-AA94) received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9221. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Japanese Beetle; Domestic Quarantine and Regulations [Docket No. 04-032-1] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9222. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Karnal Bunt; Compensation for Custom Harvesters in Northern Texas [Docket No. 03-052-2] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9223. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pesticide Environmental Stewardship (PESP) Regional Grants; Notice of Funds Availability [OPP-2004-0171; FRL-7361-8] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9224. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Spiroxamine; Pesticide Tolerance [OPP-2004-0120; FRL-7367-1] received July14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9225. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Acequinocyl; Pesticide Tolerance [OPP-2004-0141; FRL-7364-1] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9226. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Propoxycarbazone-sodium; Pesticide Tolerance [OPP-2004-0172; FRL-7365-7] received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9227. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Office of Pesticide Programs Address Changes [OPP-2004-0216; FRL-7368-4] received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9228. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting the 2004 annual report on the status of female members of the Armed Forces, pursuant to 10 U.S.C. 481 note Public Law 107—314 section 562(a); to the Committee on Armed Services.

9229. A letter from the Directors, Congressional Budget Office and Office of Management and Budget, transmitting a joint report on the technical assumptions to be used in preparing estimates of National Defense Function (050) fiscal year 2005 outlay rates and prior year outlays, pursuant to 10 U.S.C. 226(a); to the Committee on Armed Services.

9230. A letter from the Acting Under Secretary for Acquisition, Technology, & Logistics, Department of Defense, transmitting the Department's Report on Security Guards Needs Assessment and Plan, pursuant to Public Law 107—314, section 332; to the Committee on Armed Services.

9231. A letter from the Deputy Secretary, Department of Defense, transmitting notification that the DoD anticipates it will be prepared to commence chemical agent destruction operations at the Umatilla Chemical Agent Disposal Facility (UMCDF) in Hermiston, Oregon, pursuant to 50 U.S.C. 1512; to the Committee on Armed Services.

9232. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Approval of Captain Jon W. Bayless, Jr. to wear the insignia of rear admiral (lower half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9233. A letter from the Princiapl Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Approval of Rear Admiral (lower half) James G. Stavridis to wear the insignia of rear admiral (upper half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9234. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Authorization of Brigadier General Roger W. Burg to wear the insignia of the grade of major general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9235. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the grade indicated in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9236. A letter from the Secretary, Department of the Treasury, transmitting a report entitled, ''Security of Personal Financial Information—Report on the Study Conducted Pursuant to Section 508 of the Gramm-Leach-Bliley Act of 1999''; to the Committee on Financial Services.

9237. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance with the Disposal Regulations; Alternative Provisions [FRL-7787-6] (RIN: 2060-AJ07) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9238. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emissions Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks [OAR-2002-0010, FRL-7786-9] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9239. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or Before Semptember 20, 1994 and Federal Plan Requirements for Large Municipal Waste Combustors Constructed on or Before September 20, 1994 [OAR-2004-0007; FRL-7786-8] (RIN: 2060-AM11) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9240. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Sources and Modifications Including Incorporation of Marine Vessel Emissions in Applicability Determinations [TX-165-1-7610;/ FRL-7788-2] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9241. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the State Implementation Plan [R04-OAR-2004-GA-0001 200420; FRL-7788-3] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9242. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Adequacy of Indiana Solid Waste Landfill Permit Programs Under RCRA Subtitle D [FRL-7787-3] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9243. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to India for defense articles and services (Transmittal No. 04-08), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9244. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9245. A letter from the Vice Chairs, Presiden'ts Council on Integrity and Efficiency, and the Executive Council on Integrity and Efficiency, transmitting a Progress Report to the President, FY 2003, regarding the twenty-fifth anniversary of the Inspector General Act of 1978; to the Committee on Government Reform.

9246. A letter from the Deputy Chief Financial Officer, Department of Housing and Urban Development, 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 Department's report on competitive sourcing efforts; to the Committee on Government Reform.

9247. A letter from the Inspector General, General Services Administration, transmitting the Office's Audit Report Register for the six-month period ending March 31, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

9248. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Circular 2001-24; Introduction — received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9249. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Incentives for Use of Performance-Based Contracting for Services [FAC 2001-24; FAR Case 2004-004; Item I] (RIN: 9000-AJ97) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9250. A letter from the Deputy Associate Administrator, Office of Acquisition Policy,

GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Aquisition Regulation; Definitions Clause [FAC 2001-24; FAR Case 2002-013; Item II] (RIN: 9000-AJ83) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9251. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Aquisition Regulation; Procurement Lists [FAC 2001-24; FAR Case 2003-013; Item III] (RIN: 9000-AJ82) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9252. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Aquisition Regulation; Determining Official for Employment Provision Compliance — Immigration and Nationality Act (INA) [FAC 2001-24; FAR Case 2004-009; Item IV] (RIN: 9000-AJ98) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9253. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Federal Supply Schedules Services and Blanket Purchase Agreements (BPAs) [FAC 2001-24; FAR Case 1999-603; Item V] (RIN: 9000-AJ63) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9254. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Designated Countries — New European Communities Member States [FAC 2001-24; FAR Case 2004-008; Item VI] (RIN: 9000-AJ96) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9255. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Buy American Act — Nonavailable Articles [FAC 2001-24; FAR Case 2003-007; Item VII] (RIN: 9000-AJ72) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9256. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Application of Cost Principles and Procedures and Accounting for Unallowable Costs [FAC 2001-24; FAR Case 2002-006; Item VIII] (RIN: 9000-AJ65) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9257. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Gains and Losses, Maintenance and Repair Costs, and Material Costs [FAC 2001-24; FAR Case 2002-008; Item IX] (RIN: 9000-AJ69) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9258. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Technical Amendment [FAC 2001-24; Item X] received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9259. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Small Entity Compliance Guide — received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9260. A letter from the Administrator, Small Business Administration, 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 Administration's report on competitive sourcing efforts; to the Committee on Government Reform.

9261. A letter from the Chief Administrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period April 1, 2003 through June 30, 2003 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a; (H. Doc. No. 108–203); to the Committee on House Administration and ordered to be printed.

9262. A letter from the Chairman, Inland Waterway Users Board, transmitting the Board's 18th annual report of its activities; recommendations regarding construction, rehabilitation priorities and spending levels on the commercial navigational features and components of inland waterways and harbors, pursuant to Public Law 99–662, section 302(b) (100 Stat. 4111); to the Committee on Transportation and Infrastructure.

9263. A letter from the Secretary, Department of Transportation, transmitting a report entitled, ''Fundamental Properties of Asphalts and Modified Asphalts-II'' submitted in accordance with Section 6016(e) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102–240, and Section 5117(b)(5) of the Transportation Equity Act of the 21st Century (TEA–21); to the Committee on Transportation and Infrastructure.

9264. A letter from the Chairman, Medicare Payment Advisory Commission, transmitting a copy of the Commission's ''Report to the Congress: Sources of financial data on Medicare providers,'' fulfilling two Congressional requests in the Medicare Modernization Act; jointly to the Committees on Ways and Means and Energy and Commerce.

9265. A letter from the Chairman, Labor Member, and Management Member, Railroad Retirement Board, transmitting the 2004 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly to the Committees on Ways and Means and Transportation and Infrastructure.

9266. A letter from the Assistant Attorney General, Department of Justice, transmitting a report entitled ''Report from the Field: the USA Patriot Act at Work''; jointly to the Committees on the Judiciary, Intelligence (Permanent Select), and International Relations.

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. YOUNG of Alaska: Committee of Conference. Conference report on H.R. 2443. A bill to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes (Rept. 108–617). Ordered to be printed.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 730. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes (Rept. 108–618). Referred to the House Calendar.

Mr. BARTON: Committee on Energy and Commerce. H.R. 2929. A bill to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes; with an amendment (Rept. 108–619). Referred to the Committee of the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 1731. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–620). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 732. Resolution providing for consideration of the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–621). Referred to the House Calendar.

Mr. LEWIS of California: Committee of Conference. Conference report on H.R. 4613. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–622). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BECERRA (for himself, Ms. ROS-LEHTINEN, Mr. RODRIGUEZ, Mr. ORTIZ, Mr. ACEVEDO-VILA, Mr. BACA, Mr. BROWN of Ohio, Mr. CARDOZA, Mr. DOGGETT, Mr. FROST, Mr. GONZALEZ, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HINOJOSA, Ms. LEE, Mr. MEEKS of New York, Mr. MENENDEZ, Mrs. NAPOLITANO, Ms. ROYBAL-ALLARD, Mr. SERRANO, Ms. SOLIS, and Mr. UDALL of New Mexico):

H.R. 4863. A bill to establish the Commission to Establish the National Museum of the American Latino to develop a plan of action for the establishment and maintenance within the Smithsonian Institution of the National Museum of the American Latino in Washington, D.C., and for other purposes; to the Committee on House Administration.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. LIPINSKI):

H.R. 4864. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, Resources, and Science, 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. BEREUTER:

H.R. 4865. A bill to amend the National Trails System Act to authorize an additional

category of national trail known as a national discovery trail, to provide special requirements for the establishment and administration of national discovery trails, and to designate the cross country American Discovery Trail as the first national discovery trail; to the Committee on Resources.

By Mr. BURR (for himself, Ms. ESHOO, Mr. SIMMONS, Mr. RAMSTAD, Mrs. MYRICK, Ms. ROS-LEHTINEN, Ms. PRYCE of Ohio, Ms. KAPTUR, Mr. ROGERS of Michigan, and Mr. PRICE of North Carolina):

H.R. 4866. A bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DEUTSCH (for himself, Mr. HASTINGS of Florida, and Ms. CORRINE BROWN of Florida):

H.R. 4867. A bill to amend title 3, United States Code, to permit an objection to the certificate of the electoral votes of a State to be received by the Senate and the House of Representatives if the objection is signed by either a Senator or a Member of the House of Representatives; to the Committee on House Administration, and in addition to the Committee on Rules, 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. FERGUSON:

H.R. 4868. A bill to direct the Secretary of Transportation to conduct a test to determine the costs and benefits of requiring jet-propelled aircraft taking off from Newark International Airport, New Jersey, to conduct ascents over the ocean, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GILCHREST:

H.R. 4869. A bill to amend the Marine Mammal Protection Act of 1972 to authorize appropriations for the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes; to the Committee on Resources.

By Mr. GREEN of Wisconsin:

H.R. 4870. A bill to amend title 38, United States Code, to revise the effective date for payment of lump sums to persons awarded the Medal of Honor who are in receipt of special pension pursuant to section 1562 of such title, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MCCRERY (for himself, Mr. ACEVEDO-VILA, Ms. PRYCE of Ohio, Mr. RANGEL, Mr. GREENWOOD, Mr. BECERRA, and Mr. MENENDEZ):

H.R. 4871. A bill to amend title XVIII of the Social Security Act to provide for equity in the calculation of Medicare disproportionate share hospital payments for hospitals in Puerto Rico; to the Committee on Ways and Means.

By Mr. MEEKS of New York:

H.R. 4872. A bill to direct the Secretary of Health and Human Services to establish a retinoblastoma public awareness and prevention program; to the Committee on Energy and Commerce.

By Mr. MEEKS of New York:

H.R. 4873. A bill to amend the Immigration and Nationality Act to provide for flexibility in the naturalization process for aliens in active duty service in the Armed Forces abroad; to the Committee on the Judiciary.

By Mr. ROSS:

H.R. 4874. A bill to provide emergency assistance to producers that have incurred losses in a 2004 crop due to a disaster; to the Committee on Agriculture.

By Mr. SAXTON (for himself, Mr. ANDREWS, Mr. FORD, Mr. MICA, Mr. MCCOTTER, and Mr. ENGEL):

H.R. 4875. A bill to amend title 28, United States Code, to clarify that persons may bring private rights of actions against foriegn states for certain terrorist acts, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMMONS (for himself, Mr. ISRAEL, Mr. SHAYS, Mrs. JOHNSON of Connecticut, Ms. DELAURO, Mr. LARSON of Connecticut, Mrs. LOWEY, Mr. KING of New York, Mr. ACKERMAN, Mrs. MCCARTHY of New York, Mr. BISHOP of New York, Mr. SERRANO, Mr. ENGEL, and Mr. CROWLEY):

H.R. 4876. A bill to establish the Long Island Sound Stewardship Initiative; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 4877. A bill to amend title XVIII of the Social Security Act to revoke the unique ability of the Joint Commission for the Accreditation of Healthcare Organizations to deem hospitals to meet certain requirements under the Medicare Program and to provide for greater accountability of the Joint Commission to the Secretary of Health and Human Services; to the Committee on Ways and Means.

By Mr. RANGEL (for himself and Mr. FOSSELLA):

H. Con. Res. 475. Concurrent resolution encouraging the International Olympic Committee to select New York City as the site of the 2012 Olympic Games; to the Committee on International Relations.

By Mr. NEY (for himself, Mr. LARSON of Connecticut, Mr. DELAY, Mr. BLUNT, Mr. SWEENEY, Mr. BUYER, Mr. RENZI, Mr. POMBO, Mr. HOBSON, Mr. ISTOOK, Mrs. KELLY, Mr. BASS, Mr. HERGER, Mr. NEUGEBAUER, Mr. MICA, Mr. JONES of North Carolina, Mr. MCCRERY, Mr. LATOURETTE, Mr. BOEHNER, Mr. CHABOT, Mr. SESSIONS, Mr. TIAHRT, Mr. COBLE, Mrs. CUBIN, Mr. OXLEY, Ms. HART, Mr. COLE, Mr. DOOLITTLE, Mr. LUCAS of Oklahoma, Mr. MCKEON, Mr. HOSTETTLER, Mr. BACHUS, Mr. CRENSHAW, Mr. OSE, Mr. WALDEN of Oregon, Mr. HUNTER, Mr. SHIMKUS, Mr. HYDE, Ms. PRYCE of Ohio, Mr. ROGERS of Alabama, Mr. GARRETT of New Jersey, Mr. FOLEY, Mr. GOSS, Mr. PAUL, Mr. BARTLETT of Maryland, Mr. THOMAS, Mr. LEWIS of Kentucky, Mr. PORTMAN, Mr. SHUSTER, Mr. GARY G. MILLER of California, Mr. CALVERT, Mr. AKIN, Mr. WILSON of South Carolina, Mr. WHITFIELD, Mr. OTTER, Mr. SCHROCK, Mr. VITTER, Mr. LAHOOD, Mr. WALSH, Mr. SIMPSON, Mr. REHBERG, Mr. BOOZMAN, Mr. REGULA, Mr. BEAUPREZ, Mr. REYNOLDS, Mr. CARTER, Mr. HENSARLING, Mr. TIBERI, Mr. NUNES, Mr. EHLERS, Ms. LORETTA SANCHEZ of California, Mr. DEFAZIO, Ms. WOOLSEY, Mr. BISHOP of New York, Mr. RAMSTAD, Mr. GINGREY, Mr. SANDLIN, Mr. GALLEGLY, Mr. KENNEDY of Minnesota, Mr. GREEN of Texas, Mrs. MALONEY, and Mrs. MILLER of Michigan):

H. Res. 728. A resolution expressing the sense of the House of Representatives that the actions of terrorists will never cause the date of any Presidential election to be postponed and that no single individual or agency should be given the authority to postpone the date of a Presidential election; to the Committee on House Administration.

By Mr. BEREUTER (for himself and Mr. LANTOS):

H. Res. 729. A resolution expressing the sense of the House of Representatives with respect to the 50th anniversary of the food aid programs established under the Agricultural Trade Development and Assistance Act of 1954; to the Committee on International Relations, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LINCOLN DIAZ-BALART of Florida:

H. Res. 730. A resolution waiving points of order against the conference report to accompany the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes.

By Mr. REYNOLDS:

H. Res. 731. A resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules.

By Mrs. MYRICK:

H. Res. 732. A resolution providing for consideration of the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

By Mr. BEREUTER (for himself, Mr. WEXLER, and Mr. WILSON of South Carolina):

H. Res. 733. A resolution calling on the Government of Libya to review the legal actions taken against several Bulgarian medical workers; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

407. The SPEAKER presented a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 31 supporting the retention and expansion of all military bases and centers in Ohio and to urge local governments and community, industry, and labor leaders to work with the Governor's All-Ohio Task Force to Save Defense Jobs for that purpose; to the Committee on Armed Services.

408. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 764 memorializing the Congress of the United States to increase funding for the Division of Diabetes Translation (DDT) as needed for the fight against diabetes; to the Committee on Energy and Commerce.

409. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 24 urging the support of Taiwan's participation in the World Health Organization and to deplore the persecution of Falun Gong practicioners, Christians, and members of other religious groups in the People's Republic of China and to urge that specified actions be taken to end that persecution; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. VAN HOLLEN introduced a bill (H.R. 4878) for the relief of Malik Jarno; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. BROWN of Ohio, Ms. PELOSI, Mr. DINGELL, and Mr. WAXMAN.
H.R. 290: Mr. ROTHMAN and Mr. DEAL of Georgia.
H.R. 293: Mr. PORTER.
H.R. 480: Mr. NADLER, Mr. WEINER, Mr. OWENS, Ms. VELAZQUEZ, Mr. FOSSELLA, Mr. RANGEL, Mr. SERRANO, Mrs. LOWEY, Mrs. KELLY, Mr. HINCHEY, Mr. MCHUGH, Mr. BOEHLERT, Mr. WALSH, Mr. REYNOLDS, Ms. SLAUGHTER, and Mr. HOUGHTON.
H.R. 677: Mr. GREENWOOD.
H.R. 717: Ms. ESHOO.
H.R. 792: Mr. EMANUEL.
H.R. 814: Mr. RAHALL.
H.R. 871: Mr. RYUN of Kansas.
H.R. 962: Mr. DAVIS of Alabama, and Mr. SAXTON.
H.R. 979: Mr. MCNULTY.
H.R. 1043: Mr. CASTLE and Mr. WICKER.
H.R. 1057: Mrs. LOWEY.
H.R. 1102: Ms. HERSETH.
H.R. 1157: Mr. SCOTT of Virginia.
H.R. 1160: Ms. HERSETH.
H.R. 1212: Mr. MCGOVERN.
H.R. 1422: Mr. SNYDER.
H.R. 1433: Mrs. CHRISTENSEN.
H.R. 1476: Ms. HERSETH.
H.R. 1910: Ms. HERSETH.
H.R. 1919: Mr. FORD.
H.R. 1993: Mr. FATTAH.
H.R. 2305: Mrs. TAUSCHER, Mr. MARKEY, and Mr. LEWIS of Georgia.
H.R. 2466: Mr. WU.
H.R. 2528: Mr. SWEENEY.
H.R. 2536: Mr. VAN HOLLEN and Mr. FORD.
H.R. 2681: Mr. DELAHUNT.
H.R. 2792: Ms. LORETTA SANCHEZ of California and Mr. MORAN of Virginia.
H.R. 2930: Mr. FILNER.
H.R. 2950: Mr. GERLACH.
H.R. 2952: Mr. MEEHAN and Mr. TIERNEY.
H.R. 2974: Mr. SANDERS, Mr. CARDOZA, and Ms. WOOLSEY.
H.R. 3022: Ms. WOOLSEY.
H.R. 3194: Mr. STRICKLAND.
H.R. 3281: Mr. LEVIN.
H.R. 3310: Mr. ISAKSON and Mr. REHBERG.
H.R. 3361: Mr. VAN HOLLEN.
H.R. 3369: Mr. BURTON of Indiana and Mrs. CARTER.
H.R. 3438: Ms. BORDALLO, Ms. KAPTUR, Mr. STUPAK, Mr. PAYNE, and Mr. WOLF.
H.R. 3446: Mr. EVANS.
H.R. 3459: Mr. ROTHMAN and Ms. BERKLEY.
H.R. 3485: Mr. GREEN of Wisconsin.
H.R. 3729: Mr. ENGLISH.
H.R. 3888: Ms. WATERS.
H.R. 3896: Mr. KILDEE.
H.R. 3984: Mr. COLE.
H.R. 3985: Mr. COLE.
H.R. 3986: Mr. COLE.
H.R. 4057: Mr. LARSEN of Washington.
H.R. 4067: Mr. ROTHMAN.
H.R. 4100: Mr. RANGEL, Mr. SCHIFF, and Mr. UDALL of Colorado.
H.R. 4113: Mr. TANNER and Mr. RAMSTAD.
H.R. 4169: Mr. HYDE.
H.R. 4192: Mr. PRICE of North Carolina.
H.R. 4229: Mr. ETHERIDGE.
H.R. 4257: Mr. REHBERG and Mr. SKELTON.
H.R. 4335: Mr. SYNDER.
H.R. 4358: Mr. SMITH of Michigan.
H.R. 4391: Mr. LAMPSON.
H.R. 4433: Mr. FERGUSON, Mr. LATOURETTE, Mr. SMITH of New Jersey, Mr. SMITH of Washington, Mr. TIBERI, and Ms. SCHAKOWSKY.
H.R. 4440: Mr. BARRETT of South Carolina and Mr. MILLER of Florida.
H.R. 4528: Mr. REHBERG and Mr. BISHOP of Utah.
H.R. 4530: Mr. SHADEGG, Mr. GARRETT of New Jersey, and Mr. MCHUGH.
H.R. 4543: Mr. WILSON of South Carolina, Mr. BEAUPREZ, Mr. TERRY, and Mr. SOUDER.
H.R. 4571: Mr. MILLER of Florida.
H.R. 4578: Mr. TIBERI, Ms. GRANGER, Mr. GUTIERREZ, Mr. KIRK, and Mr. CANNON.
H.R. 4595: Mr. ANDREWS, Mr. LANTOS, Mr. CARSON of Oklahoma, Ms. BALDWIN, Mr. FILNER, Ms. HERSETH, Ms. LORETTA SANCHEZ of California, Mr. VISCLOSKY, and Ms. HART.
H.R. 4620: Mr. CARSON of Oklahoma.
H.R. 4629: Mrs. BLACKBURN and Mr. GOODLATTE.
H.R. 4633: Mr. BURR.
H.R. 4634: Mr. GREEN of Wisconsin, Mr. MURPHY, and Mr. JONES of North Carolina.
H.R. 4658: Mr. STRICKLAND and Mr. HOLDEN.
H.R. 4662: Mrs. MUSGRAVE.
H.R. 4669: Mr. JONES of North Carolina and Mr. FEENEY.
H.R. 4670: Mr. BEREUTER.
H.R. 4689: Mrs. CHRISTENSEN and Mr. CUMMINGS.
H.R. 4694: Mr. FROST and Mr. FATTAH.
H.R. 4712: Mr. DEAL of Georgia, Mr. KOLBE, Mr. PETRI, Mr. PAUL, Mrs. MYRICK, and Mr. DEMINT.
H.R. 4718: Mr. OSBORNE, Mr. TERRY, Mr. REHBERG, and Mr. KINGSTON.
H.R. 4730: Mr. RUPPERSBERGER.
H.R. 4785: Mr. CRANE and Mr. CLAY.
H.R. 4786: Mr. MCDERMOTT.
H.R. 4799: Mr. COSTELLO, Ms. MCCARTHY of Missouri, Mr. MCNULTY, Mr. JENKINS, Mr. DAVIS of Tennessee, Mr. DAVIS of Florida, Mr. JOHN, Mr. CASTLE, and Mr. SAXTON.
H.R. 4823: Mr. DOGGETT and Ms. MCCARTHY of Missouri.
H.R. 4839: Mr. HASTINGS of Florida.
H.R. 4849: Mr. SIMMONS.
H.R. 4853: Ms. LEE, Mr. BRADLEY of New Hampshire, Mr. CHANDLER, Mr. MARKEY, Mr. DELAHUNT, and Mr. GREENWOOD.
H.J. Res. 44: Mr. MILLER of Florida.
H.J. Res. 48: Mr. GORDON.
H. Con. Res. 99: Mr. KUCINICH and Mr. LEWIS of Georgia.
H. Con. Res. 111: Mr. PASCRELL.
H. Con. Res. 126: Mr. SMITH of Michigan.
H. Con. Res. 276: Mr. DOYLE.
H. Con. Res. 467: Mr. RODRIGUEZ, Mr. ISRAEL, Mr. WALSH, Mr. OLVER, Mrs. TAUSCHER, Mr. SCHIFF, Ms. CARSON of Indiana, Ms. LORETTA SANCHEZ of California, Mr. BALLENGER, Mr. LUCAS of Kentucky, and Mr. GEORGE MILLER of California.
H. Con. Res. 471: Mr. BARTLETT of Maryland and Mr. SNYDER.
H. Res. 313: Mr. RAMSTAD.
H. Res. 466: Mr. FORD and Ms. KILPATRICK.
H. Res. 689: Mr. SCOTT of Virginia.
H. Res. 690: Mr. GEORGE MILLER of California, Mr. GRIJALVA, Mr. RUPPERSBERGER, Mr. THOMPSON of Mississippi, Mr. WYNN, Mr. STARK, Ms. WOOLSEY, and Mrs. TAUSCHER.
H. Res. 699: Mr. SCOTT of Virginia.
H. Res. 700: Mr. SCOTT of Virginia.
H. Res. 716: Mr. FALEOMAVAEGA, Mr. SOUDER, and Ms. ROS-LEHTINEN.
H. Res. 721: Mr. EMANUEL.
H. Res. 723: Mr. FORBES, Mr. MCCOTTER, and Mr. PETERSON of Minnesota.

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. 857: Mr. SULLIVAN.
H.R. 1078: Mr. SULLIVAN.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

96. The SPEAKER presented a petition of the Board of Supervisors, Seneca County, Waterloo, New York, relative to Resolution No. 95-04 providing for unified negotiations or meetings with tribes or tribal representatives; to the Committee on Resources.

97. Also, a petition of the Board of Supervisors, Seneca County, Waterloo, New York, relative to Resolution No. 94-04 supporting efforts to fairly enforce taxation of Indian business sales to non-Indians and oppose efforts at price parity and/or exemptions; to the Committee on the Judiciary.

NOTICE

Incomplete record of House proceedings.
Conference Report on H.R. 4613 will be in Book II of today's Record.